



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 22 1991

REC'D, G-28
P.M.

AC91-1
PDR

MEMORANDUM FOR: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research


FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: CONCURRENCE ON FINAL RULE - NOTIFICATION OF INCIDENTS

We have reviewed the final rule on notification of incidents that you transmitted to us on May 6, 1991, and we have two comments:

1. The phrase "or threatens to cause" should be deleted from §20.403(a) and (b) as previously agreed in meetings between OE, RES, and NMSS staff.
2. A statement should be added to the transmittal letter explaining why Part 72 is not included in the final rule. As discussed among the staff, amending Part 72 now would delay the final rule, and basic reporting requirements would continue to apply to Part 72 licensees after this rule is issued. The RES staff intends to initiate a separate, expedited rulemaking to add new reporting requirements to Part 72.

Subject to incorporation of these comments, we concur on the final rule. Additional editorial comments are enclosed for your use.


Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: J. Lieberman
T. Murley
H. Denton
W. Parler
P. Norry
T. Martin
S. Ebner
A. Davis
R. Martin
J. Martin

9201170141 910923
PDR PR
20 55FR19890 PDR



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 11 1991

MEMORANDUM FOR: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research


FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: CONCURRENCE ON FINAL RULE - NOTIFICATION OF INCIDENTS

We have reviewed the final rule on notification of incidents that you transmitted to us on May 6, 1991, and we have two comments:

1. The phrase "or threatens to cause" should be deleted from §20.403(a) and (b) as previously agreed in meetings between OE, RES, and NMSS staff.
2. A statement should be added to the transmittal letter explaining why Part 72 is not included in the final rule. As discussed among the staff, amending Part 72 now would delay the final rule, and basic reporting requirements would continue to apply to Part 72 licenses after this rule is issued. The RES staff intends to initiate a separate, expedited rulemaking to add new reporting requirements to Part 72.

Subject to incorporation of these comments, we concur on the final rule. Additional editorial comments are enclosed for your use.


Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc: J. Lieberman
T. Murley
H. Denton
W. Parler
P. Norry
T. Martin
S. Ebner
A. Davis
R. Martin
J. Martin

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, and 70

RIN:3150 - AC 91

Notifications of Incidents

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise material licensee reporting requirements for byproduct, source, and special nuclear material regarding the incidents related to radiation safety. This action is needed to ensure that significant occurrences at material licensee facilities are promptly reported to NRC so that the Commission can evaluate whether the licensee has taken ^{appropriate} ~~the required~~ action to protect the public health and safety and whether generic safety concerns are identified that may require prompt NRC action ^{is necessary to address generic safety concerns.}

EFFECTIVE DATE: [Insert a date 60 days following publication in the Federal Register.]

criteria which more clearly define significant events which need to be reported, ^{licensee might want to direct resources to events not reported} ~~[resources of licensees can be used more efficiently by directing those resources only to those events for which reports are warranted.]~~ ^{delete} A purpose of this rulemaking is to assure that all significant events are reported, and that the NRC and industry have knowledge of and feedback from operating experience.

4. The rule is prescriptive and eliminates the need for licensee judgment.

Response: The NRC does not feel that the revised rule is overly prescriptive. The rule provides criteria and clarification as to what events need to be reported (as discussed in ^{comment} ~~item~~ 3 above). It is recognized that the reporting of some events will involve judgment on the part of the licensee. ~~Again, the objective is to assure that the NRC has immediate knowledge of significant events affecting public health and safety, and timely reporting of events which may involve important lessons of experience.~~ However, the rule must contain enough criteria to minimize disagreements and confusion over what events are reportable.

5. Establish activity thresholds for each radionuclide that would require NRC notification, such as Part 20, Appendix C. Define significant occurrences in terms of dose equivalents or concentration limits. Severity should be related to the overexposure situations.

Response: In developing the proposed rule the NRC considered the idea of providing specific activity thresholds. However, the NRC felt that such thresholds would be cumbersome and difficult to develop and use. Many licensed operations use mixtures of isotopes in different chemical forms

13. Further clarification needs to be provided regarding notification requirements for commercial nuclear power reactors. Companies holding a construction permit or operating license should be explicitly exempted for activities occurring within the protected area.

Response: The NRC does not intend for the ^{new}~~proposed~~ criteria to apply to commercial nuclear power plants. In the discussion as well as in the ~~the~~ rule (Parts 30.50 (c)(3), 40.60 (c)(3), and 70.50 (c)(3)), the NRC specifically stated that the provisions do not apply to licensees subject to the notification requirements in 10 CFR 50.72. If a nuclear power plant has only a Part 50 license, notification is required only under the provisions of 10 CFR 50.72. Although the Part 50 license for a nuclear power plant contains provisions for receipt, possession, and use of byproduct, source, and special nuclear material pursuant to 10 CFR Parts 30, 40, and 70, the Part 50 provisions do not require reports under this rule. If a nuclear power plant has a separate byproduct, source, or special nuclear materials license, notification is required under the new notification requirements in Parts 30, 40, or 70; however, these requirements apply only to the activities licensed under the separate materials license and not to any other activities.

14. The NRC should provide clear guidance on its interpretation of the rule by circulating early event reports with comments on the appropriateness of the report and by providing examples of failures to report.

Response: The NRC agrees and intends to issue information notices and other guidance as appropriate to licensees as implementation issues are identified and experience is gained with the rule.

15. The NRC should more clearly define the notification requirements concerning the loss of packages of radioactive material.

Response: This rulemaking effort involves the notification requirements in 10 CFR 20.403. The loss of packages of radioactive material is covered by 10 CFR 20.402. Notification requirements for the loss and theft of licensed material ^{have been} ~~are~~ revised by the major revision to Part 20 which was published in the Federal Register in May 1991. The major revision specifies what quantities of licensed material require immediate and 30 day notifications, ^{when they are lost.}

Should provide
FR notice
number if
it was
published.

16. The burden is estimated to be about 3 days for each notification required for large companies.

Response: The public reporting burden in the proposed rule was estimated at about four hours per response. This is an average considering both small and large licensees. We agree that a very large organization with several management levels could take a few days to complete and process such a report.

21. Frequent use of the word "any" is not consistent with the stated intent of "significant occurrences".

Response: The text of each notification requirement defines the event to be reported. ~~The NRC agrees that using the word "any" could be inconsistent with the NRC's intent to require NRC notification of significant events. The text of the rule has been modified accordingly.~~ The word "any" has been deleted from the final rule because it is not necessary to define the event to be reported. W/C

22. Proposed rule should make it clear that it applies to independent spent fuel storage facilities.

Response: The NRC will consider the application of these reporting requirements to independent spent fuel storage facilities and, if appropriate, will initiate a separate rulemaking effort to amend Part 72 in order to allow public comment on that action.

23. No reports should be required for events that are concluded before any meaningful communication with and participation by the NRC is possible.

Response: The fact that the licensee has completed all necessary actions before the NRC is notified is no reason not to file a report. There may still be some action that the NRC may have to take depending on the nature of the incident. For example, the incident may have generic

other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Paperwork Reduction Project (3150-0014, 3150-0017, 3150-0020, and 3150-0009), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission ~~has~~⁹ prepared a draft regulatory analysis on this ~~proposed~~⁹ regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requested public comments on the draft regulatory analysis, but no comments were received. No changes to the draft regulatory analysis are considered necessary, so a new regulatory analysis has not been prepared for the final rule. The draft analysis is available for inspection in the NRC Public Document Room, 1220 L Street, NW (lower level), Washington, DC.

—
10/2

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The final rule affects approximately 9,100 licensees monitored by NRC under 10 CFR Parts 20,³⁰ 40,⁴⁰ and 70. The licenses are issued to academic institutions, medical institutions, and industrial entities. The final rule is being issued in order to reduce misunderstandings by material licensees and to clarify

—

Fires and Explosions

The final rule requires licensees to report within 24 hours of discovery ^{inv} any unplanned fire or ² any explosion damaging licensed material, or any device, container, or equipment containing licensed material in quantities greater than five times the lowest annual limit on intake specified in Appendix B of ^{§§ 20.1001 - 20.2406} ~~Part 20~~ for the material. This information is necessary to assure the Commission that appropriate actions have been taken to detect and control any releases that may have occurred. Prompt action may be required to verify survey results and establish radiological controls for recovery efforts. This requirement was revised to specify unplanned fires and explosions so as to clarify that planned applications of licensed material in fires and explosions by the military or other licensees are not covered by this rule. In response to several requests by commenters, an activity threshold of five times the lowest annual intake limit was added to define what quantities of licensed material are considered significant. This threshold is identical to the threshold for reporting contamination events and is chosen for the same reason. The requirement was also modified because the NRC agreed with one commenter that a 24-hour report should not be required if there is no damage that affects the integrity of the licensed material or its container.

In the event of a fire or explosion, an immediate report would be required if licensee personnel or firefighters were prevented by radiation hazards or other conditions from performing immediate protective actions that they would normally be able to perform (see discussion above on Control of Licensed Material). However, if no

Personal Injury Events

The final rule requires licensees to report within 24 hours of discovery^{ing} any event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body. This information is necessary to assure the Commission that appropriate actions have been taken both to control the spread of contamination and to perform any necessary decontamination. Prompt action may also be required to investigate the cause of the injury and to prevent additional contamination problems.

This requirement has been rewritten to clarify that only spreadable contamination is covered by the rule and that planned medical treatments known to cause spreadable contamination are not covered by the rule. The exemption for first aid at a licensee maintained medical facility for a superficial injury was deleted because the NRC agreed with commenters that a significant contamination event could still occur even if the injury was only superficial and the medical facility was licensed to handle radioactive material. The NRC does not expect that deleting this exemption will result in numerous reports of insignificant events such as a medical technician accidentally puncturing his hand with a syringe containing a radiopharmaceutical because no report would be required if any spreadable contamination was removed before first aid was rendered.

Safety Equipment Failure

The final rule requires licensees to report within 24 hours of discovery^{initial} any event in which equipment is disabled or fails to function as designed if: (1) the equipment is required by regulation or license condition to prevent releases^{or} and exposures exceeding regulatory limits, or to mitigate the consequences of an accident, and (2) the equipment is required to be available and operable when it is disabled or fails, and (3) no redundant equipment is available and operable to perform the required safety function when the failure occurs. This reporting requirement includes equipment failure, equipment damage, and procedural errors which cause equipment to fail or be disabled.

The final requirement has been rewritten and clarified in several ways. Only equipment that is required by regulation or license condition is covered by the rule. Furthermore, the equipment must be required to prevent releases or exposures exceeding regulatory limits. The accident consequences to be mitigated by the equipment include major property damage, widespread contamination of uncontrolled areas, or fatalities or serious injuries requiring medical treatment. The following are examples of reportable events:

1. Failure of an interlock system required by regulation or license condition that allows a door to an area to be opened when high radiation levels exist in the area.
2. Damage to a filtered ventilation system required by regulation or license condition that permits effluent air to bypass filters during

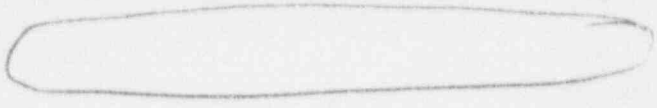
unlikely that the area would need to be restricted for more than one week.

Reports of unplanned contamination events that exceed the activity, half-life and access restriction thresholds are necessary to assure the Commission that contaminated areas are being decontaminated in a safe and timely manner. In addition, prompt action may be necessary to correct conditions that may lead to additional contamination problems. Examples of reportable events include: a spill of licensed material in the form of a fine powder that requires workers to use additional respiratory protection for more than 24 hours; a leaking shipping container that requires a normally unrestricted shipping facility to be locked up for more than 24 hours; and contamination from a leaking sealed source that requires workers in the area to wear additional protective clothing for more than 24 hours. However, if a spill involved a short-lived isotope such as technetium-99m (6 hour half-life) and entry into the area was prohibited for two days to allow the material to decay, no report would be required. In addition, if the leaking source discussed above contained only ¹⁰⁰~~500~~ microcuries of cobalt-60, no report would be required because five times the ^{lowest} annual limit on intake of cobalt-60 is ¹⁵⁰~~1,000~~ microcuries. If the licensee knows that the chemical form of the cobalt-60 meets the definition of W-class material, then the higher annual limit on intake for W-class cobalt-60 may be used to determine the reporting threshold.

for Y-CLASS material

Contamination Events

The final rule requires licensees to notify the NRC within 24 hours of discovering any unplanned contamination event that requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or prohibiting entry into the area. If a licensee discovers that an area has unexpectedly been contaminated with licensed material, the Commission expects the licensee to impose appropriate controls to keep exposures and releases as low as reasonably achievable (ALARA) until the area can be decontaminated. If controls beyond those required before the contamination event are necessary for more than 24 hours, the Commission expects the licensee to report the event.

In response to numerous comments that a 24-hour report is not necessary for small quantities of material or material with a short half-life, the final rule has been revised/modified to exempt certain contamination events from the new reporting requirement. A report is ^{only} ~~now~~ required if the access to the contaminated area is restricted for more than 24 hours, and the quantity of material involved is greater than five times the lowest annual limit on intake in Appendix B of ^{§§ 20.1001 - 20.2401} ~~the revised Part 20 (issued May 1991)~~ for the material, and the reason for the restriction is other than to allow isotopes with a half-life less than 24 hours to decay. The activity threshold of five times the annual limit on intake was chosen because the NRC believes it is unlikely that any individual exposed to contamination would inhale or ingest more than 20 percent of the material dispersed. The half-life threshold of 24 hours was chosen because a significant amount of decay would occur each day and it is 

Discussion

(FR)

The NRC is amending the reporting requirements in § 20.403 and in the new § 20.2202 which was published in the Federal Register in May 1991. The amendments will ensure that events having significant implications for public health and safety are reported. The rule is a matter of compatibility for Agreement States. Agreement States participated in the development of this rule and their comments were incorporated as appropriate.

Paragraphs (a)(3), (a)(4), (b)(3), and (b)(4) of § 20.403 and § 20.2202 dealing with loss of operation and cost of damage are being deleted because the NRC believes these criteria do not adequately define events with significant implications for public health and safety. For example, the periodic loss of operation of a facility may not be related to any potential hazard to the public or the environment. The same is true for the cost of repairing damage, which may be high for reasons unrelated to any potential hazard from licensed material. The deleted sections are being replaced with new criteria in Parts 30, 40, and 70. The NRC believes the new criteria will more accurately define potentially significant events affecting the health and safety of the public and the environment that must be reported to the NRC. The final rule also contains administrative changes to requirements for general licenses (10 CFR 31.2). These changes specify that general licensees who were previously required to report incidents pursuant to the deleted requirements, must continue to report incidents pursuant to the new reporting requirements.

Revisions to Part 50 are not needed because similar reporting requirements are already addressed in § 50.72. Part 50 licensees subject

Response: The NRC believes that separate reports serve a useful function. The licensee is directly responsible for the safety operations of the facility and is most knowledgeable about the event, its causes, consequences and appropriate corrective actions. The licensee reports contain useful information on the event and its implications. NRC inspections focus on selected events, and on the status and completeness of corrective action. Thus, NRC reports generally have a different objective than licensee event reports.

65. Personnel radiation exposure data may at times be difficult to obtain.

Response: The NRC recognizes that there may be times when it is difficult to obtain radiation exposure data. Only data that is available to the licensee is required to be reported.

(d) Criticality Safety in § 70.50(a)(2)

66. The following nuclear criticality safety events should be included in the rule as reportable events: ^{(1) Unintended accumulation of SNM in an unfavorable geometry} ⁽²⁾ Failure of a special nuclear material concentration monitoring instrument or / failure of a moisture detection instrument.

Response: The NRC agrees. An additional reporting requirement has been added to Part 70 to immediately report any event that places special nuclear material in a geometry unfavorable to criticality safety. No additional requirements were added for monitoring equipment because the rule already requires reports of equipment failures under § 70.50(b)(2).

(b)(4) Fires and Explosions

60. The most common type of explosions in medical, biomedical research, and radiopharmaceutical operations involve screwcap vials or stoppered test tubes containing tissue samples with only traces of radionuclides. Do these types of explosions have to be reported?

Response: When the proposed rule was drafted, NRC did not intend to include small vials and stoppered test tubes as explosions. NRC agrees that fires and explosions involving trace quantities of licensed material should not be reportable. The notification requirement has been revised to only require a report if an explosion or fire involves licensed material in quantities greater than five times the lowest annual limit on intake specified in Appendix B of ~~Part 20~~ ^{§§ 20.1001 - 20.2401}.

61. In the case of fires, the hazard of the fire may greatly outweigh the hazards of the release. There should be quantitative threshold limits for licensees.

Response: The NRC agrees that the fire usually poses the greatest hazard. However, if a significant amount of licensed material is involved, the NRC needs to ensure that appropriate controls are used during firefighting and cleanup operations. The notification requirement has been revised to establish a reporting threshold of five times the lowest annual limit on intake because the NRC believes it is unlikely

Mr. West
All of the
unplanned

Response: A radioactively contaminated individual is a person who has loose surface contamination, that can be detected by standard methods, on their clothing or on accessible portions of their body that can be spread to other individuals. No threshold or contamination level related to regulatory limits has been provided because NRC is concerned about ~~any~~ ^{what is introduced into an emergency room or other medical} contamination ~~and not just contamination above a certain level.~~ ^{facility by an injured person.}

57. Change the word "rendered" in the last sentence to the word "required."

Response: Although the statement has been deleted from the rule, NRC is concerned about what was actually done to the contaminated individual. The fact that the treatment may not have been required does not eliminate the radiation hazard.

58. The proposed rule required no report for the treatment of a superficial injury at a licensee-maintained medical facility but required a report for treatment of the same injury elsewhere. Why?

51. What is meant by "uncontrolled releases of radioactive material"?

Response: The NRC's intent with the use of the term "uncontrolled releases of radioactive material" was to refer to unplanned ~~accidental~~ releases exceeding regulatory limits. This has been clarified in the final rule.

52. What is meant by the words "prevent overexposures to radiation, and to mitigate the consequences of an accident"?

Response: To prevent overexposures means to prevent exposures exceeding regulatory limits for workers and the public. The rule has been revised to clarify this point. To mitigate the consequences of an accident means to minimize serious injuries and severe damage after an accident occurs. For example, a sprinkler system would mitigate the severe damage that could be caused by a fire.

53. The use of the word "automatically" is confusing and should be deleted. Change the last sentence to read "if redundant equipment which performs the required function is operative".

Response: The NRC agrees that the word "automatically" is confusing. The term "redundant" is used to describe independent trains of equipment which perform the same function with the same level of effectiveness and

normal conditions of the contaminated area, and other factors. Thus, specific contamination levels are only one measure of significance. However, the NRC agrees that if the amount of licensed material involved is not likely to result in exceeding regulatory limits, no report should be required. The final rule has been changed to require a report ^{only} if the amount of licensed material involved is greater than five times the lowest annual limit on intake specified in Appendix B of §§ 20.1001 - 20.2401 of Part 20 for the material. NO
1712
121
entirely a
value

37. Sentence 2 of paragraph 1 in the discussion under Contamination Events states that the "requirement is intended to cover events that cause accidental contamination in excess of the radiological conditions normally present". This standard is markedly more restrictive than the proposed standard and is inappropriate.

Response: The NRC agrees with the comment. The sentence is misleading and has been deleted from the discussion. *However, a report is still required for unplanned contamination in excess of the radiological conditions normally present if the event exceeds the threshold criteria added to the final rule.* NO

38. The rule should allow for planned activities such as maintenance or decommissioning that would result in restricting access.

Response: The NRC agrees. This criterion has been revised to clarify that it applies to unplanned contamination only.

stringent than the controls in effect prior to the contamination accident. The definition of an "area" is not limited to any minimum size. In general, any space normally accessible to workers or the general public qualifies as an area.

33. What does a "contamination event that restricts access" mean?

Response: Contamination events that restrict access are (1) spills or other types of accidents involving radioactive material that result in elevated levels of ~~radiation from~~^g spreadable contamination and (2) occur in areas that must be restricted by imposing additional controls to prevent individuals from spreading the contamination to themselves or to areas outside the contaminated area. Restricting access also includes additional controls to minimize ~~radiation exposure from the~~^{g to reduction levels elevated by the} contamination.

34. The contamination area is unduly restrictive. It makes no distinction about the source of contamination or efforts to remove it. For hospitals either restrict the definition of a contamination event, exclude contamination from contaminated patients, or exclude temporal extensions of restricted areas beyond what would normally be necessary allowing a more deliberate pace of decontamination.

Response: The NRC agrees with the commenter that it is difficult to provide a clear, generic definition for these words. As a result, the ~~phrase has been deleted from the final rule.~~
~~final rule has been revised accordingly.~~

(b)(1) Contamination Events

31. Minor contamination (such as a contaminated collimator or a spill of short lived radionuclides) ~~is not~~ in research and medical settings. Access is restricted in the interest of ALARA and efficiency and to minimize dose. Spills of this nature should not have to be reported. The requirement appears excessive and not related to any potential hazard to the public or the environment.

Response: The NRC agrees that restricting access to allow short-lived isotopes to decay should not be a reportable event. The regulation has been revised to require no report if an area is restricted to allow isotopes with a half-life of less than 24 hours to decay.

32. How do you determine when an area is "cleaned up"? Is the definition of an "area" limited to any minimum size?

Response: This rule does not attempt to define criteria for releasing areas from radiological controls. No report would be required if ~~an~~ ^{the} ~~unplanned contamination can be reduced~~
~~accidentally contaminated area can be decontaminated~~ within 24 hours to levels where contamination controls for entry into the area are no more

28. Do toxic gas releases include gas releases (such as UF-6, NOx, hydrogen fluoride, etc.) that periodically occur but are contained and controlled by operating procedures need to be reported?

Response: Toxic gas releases would not require an immediate report provided they did not prevent the licensee from taking immediate protective actions necessary to avoid exposures and releases exceeding regulatory limits. However, even if no immediate protective actions were prevented, a report may be required if the toxic gases are also radioactive and the releases exceed the limits specified in § 20.403(a)(2) or § 20.403(b)(2).

(b) Twenty-four hour Notification

29. Licensees should not be penalized for failing to report within 24 hours, if a reasonable estimate projects that access would not be lost for more than 24 hours.

Response: If an event does not clearly meet the reporting criteria, but the licensee can not conclusively rule out the need to report the event, ~~the licensee should act conservatively, and a conservative approach would be to~~ notify the NRC within 24 hours. If the licensee later determines that an event was not reportable, a 30-day written report would not be required.

30. The phrase "threatens to prevent" is so vague that many everyday events may qualify for reporting.

incidents with substantial potential for injury to off site people.
Suggest 5 min for one hour notification.

Response: A requirement for an additional notification is not needed.
The Commission's regulations already require emergency response plans (including special notification requirements to states and other authorities) that apply to those licensees who have quantities of licensed material sufficient to result in significant doses to the public in the event of an accident (i.e. §§ 30.32i, 40.31j, and 70.22i). Those plans include criteria for taking action so that injury or harm to those off site can be minimized.

26. The time requirement for notification of the NRC may be severe and unrealistic in some cases.

Response: The NRC does not agree that the time requirements are severe and unrealistic. Licensees should be able to perform an initial evaluation of an event and notify the NRC within the 4 or 24 hour time limits. *If the event does not clearly fall outside the reporting requirements, the licensee should act conservatively and report the event.* *no needed*

27. We question the need to immediately report events regardless of quantity and type of licensed material involved.

Response: The rule has been revised so that immediate reporting is not required in all cases. Events involving very small quantities of material, such that exposures in excess of regulatory limits are not possible, would not be reportable.

PART 20 - STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 68 Stat. 930, 933, 935, 936, 937, 948, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201); Secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846). Section 20.408 also issued under Secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 20.101, 20.102, 20.103(a), (b), and (f), 20.104(a) and (b), 20.105(b), 20.106(a), 20.201, 20.202(a), 20.205, 20.207, 20.301, 20.303, 20.304, and 20.305 are issued under Sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 20.102, 20.103(e), 20.401-20.407, 20.408(b), and 20.409 are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 20.403 [Amended]

In 20.403, paragraphs (a) and (b) are amended by deleting the phrase "or threatens to cause".

2. In § 20.403, the semicolon and the word "or" following paragraph (a)(2) are removed and a period is inserted, and the semicolon and the word "or" following paragraph (b)(2) are removed and a period is inserted, and paragraphs (a)(3), (a)(4), (b)(3), and (b)(4) are removed.

3. In § 20.403, paragraph (d)(2) is amended by revising the area code for the footnote from area code 202 to area code 301.

§ 40.8 [Amended]

16. In § 40.8, paragraph (b) is revised to read as follows:

§ 40.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 40.25, 40.26, 40.31, 40.35, 40.42, 40.60, 40.61, 40.64, 40.65, and Appendix A.

* * * * *

[Amended]

§ 40.26

17. In § 40.26, paragraph (c)(1) is revised to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this part.

* * * * *

(1) The provisions of Part 19, 20, 21, and §§ 40.1, 40.2a, 40.3, 40.4, 40.5, 40.6, 40.41, 40.46, 40.60, 40.61, 40.62, 40.63, 40.65, 40.71, and 40.81 of Part 40 of this chapter; and

* * * * *

18. A new § 40.60 under "Records, Reports, and Inspections" is added to read as follows:

chapter. In addition, persons who receive title to, own, acquire, deliver, receive, possess use or transfer one or more calibration or reference sources pursuant to this general license:

* * * * *

22. A new § 70.50 under "Special Nuclear Material Control, Records, Reports and Inspections" is added to read as follows:

§ 70.50 Reporting requirements.

(a) Immediate report. Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of any event that:

(1) prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.), or

(2) places special nuclear material in a geometry unfavorable to criticality safety.

(b) Twenty-four hour report. Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving licensed material:

(1) Any unplanned contamination event that:

(i) requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area, and

20-2202
DRAFT PUBLIC ANNOUNCEMENT

The Nuclear Regulatory Commission is amending the reporting requirements in 10 CFR 20.403 (new §20.1202) to ensure that events having significant implications for public health and safety are properly reported.

Paragraphs (a)(3), (a)(4), (b)(3), and (b)(4) of §20.403 dealing with loss of operation and cost of damage are being deleted because the staff believes these criteria do not adequately define events with significant implications for public health and safety. The deleted sections are being replaced with new criteria in Parts 30, 40, and 70. The staff believes the new criteria will more accurately define potentially significant events affecting the health and safety of the public and the environment. The final rule contains administrative changes to requirements for general licenses. These changes specify that general licensees who were previously required to report incidents pursuant to the deleted requirements, must continue to report incidents pursuant to the new reporting requirements.

Revisions to Part 50 are not needed because similar reporting requirements are already addressed in §50.72. Part 50 licensees subject to the requirements in §50.72 are specifically exempted from this rule to avoid conflicting regulations. However, certain Part 50 licenses (e.g., research and test reactors) are not currently subject to the reporting requirements in §50.72. If they possess material licensed under Parts 30, 40, or 70, they will be subject to the new reporting requirements.

The intent of these amendments is to require prompt reports to the NRC of safety related events that may require prompt or immediate action to insure the health and safety of the public and the environment. The NRC will evaluate the hazard and the corrective actions taken by the licensee and may dispatch NRC staff to the site of the event, activate the NRC incident response center, or issue warnings of generic hazards to other licensees.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

AC 91-1
FDR

May 23, 1991

MEMORANDUM FOR: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

FROM: Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

SUBJECT: Final Rulemaking - Notification of Incidents
10 CFR Parts 20, 30, 40 and 70

We concur in the final rulemaking package that was transmitted with your memorandum on this subject of May 6, 1991.

In addition, we offer the following comment for your consideration. In the "Summary and Analysis of Public Comments" (page 12) it is stated that "The NRC maintains that the proposed rule is a clarification of existing requirements..." (emphasis added). Furthermore, in the "Regulatory Flexibility Certification" (page 46) it is stated that "Since the revised reporting requirements are essentially the same as the current reporting requirements, the impact on licensees should be minimal" (emphasis added). In our opinion, the revised reporting requirements are significantly different from the current requirements.

Frank J. Muragha
for Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

dir 20

9106050067. XA