

AFFIRMATION ITEM

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Caputo
SUBJECT: SECY-19-0109: Social Security Number Fraud Prevention

Approved XX Disapproved _____ Abstain _____ Not Participating _____


COMMENTS: Below XX Attached XX None _____

I approve the staff's request, subject to the attached edits, to publish a direct final rule and proposed rule to implement the requirements of the Social Security Number Fraud Prevention Act of 2017.

Entered in STARS

Yes X

No _____



Signature
3/11/2020

DATE

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 9, 20, 25, and 35

[NRC-2018-0303]

RIN 3150-AK27

Social Security Number Fraud Prevention

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations that require written communications containing Social Security numbers (SSNs) to be sent to or received via mail by the NRC. This direct final rule implements the Social Security Number Fraud Prevention Act of 2017. The statute directed agencies to issue regulations that prohibit the inclusion of an individual's ~~Social Security number~~ (SSN) on any document sent through the mail unless the head of the agency deems it necessary and the appropriate precautions are taken to protect the ~~Social Security number~~ (SSN). Applicants, licensees, and members of the public who are required to submit a form containing a ~~Social Security number~~ SSN may be affected.

DATES: This direct final rule is effective **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, unless significant adverse comments are received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the *Federal Register*.

proposal. A direct final rule is preferable over a final rule because it allows for the opportunity for public comment, should there be any additional regulations that the public identifies as needing amendment or any additional considerations the NRC needs to evaluate to implement the Act.

To comply with the Act, the NRC examined whether SSNs are necessary in any of the regulatorily-required written communications to the NRC. The Act only applies to written communications to be sent or received via mail by the NRC that include SSNs. The Act does not apply to regulations that only require licensees to validate an individual's SSN because the SSN would not be included in written communications with the NRC in those cases. If inclusion of SSNs is not necessary, then each associated regulation would need to be amended to remove the inclusion of the SSN in the required documents. If inclusion of SSNs is necessary, the NRC must consider whether partial redaction of the SSN is feasible and amend the regulations accordingly to meet the "requirement that social security account numbers not be visible on the outside of any package sent by mail."⁴

Based on its review, the agency has concluded that, in all instances where it requires full or partial SSNs to be included in written communications, this information is necessary for identity confirmation. Reasons for this include instances when individuals have similar or same names and cases where outside factors require the NRC to collect either a full or partial SSN. ~~(F~~For example, the collection may be required by law or by another agency~~).~~ The NRC already requests SSNs to be partially redacted in documents sent by mail whenever feasible. ~~Therefore~~However, the NRC ~~concluded that~~ ~~no~~did identify one changes to its regulations ~~are needed~~ to reduce the inclusion of full or partial SSNs. In §§ 35.3045 and 35.3047, the language needs to be revised to replace

⁴ Public Law 115-59, Section 2(b)(2)

“social security number or identification number” with “identification number,” to account for the use of identification numbers that may not be SSNs when identifying patients.

HoweverAdditionally, the agency ~~did identify~~ where clarifying language is needed to certain regulations to provide adequate instructions for ensuring SSNs are not visible on the outside of any package sent by mail. Specifically:

- In § 9.1, a new Subpart E needs to be added concerning the use of SSNs in documents sent by mail.
- In §§ 20.2203 and 25.17, language needs to be revised to ensure SSNs would not be visible on the outside of any package sent by mail.
 - ~~In §§ 35.3045 and 35.3047, language needs to be revised to replace “social security number or identification number” with “identification number,” to account for the use of identification numbers that may not be SSNs when identifying patients.~~

In anticipation of the above revisions, all applicable NRC forms have been proactively modified to include language that SSNs must not be visible on the outside of any package sent by mail.

IV. Section-by-Section Analysis

The following paragraphs describe the specific changes in this direct final rule.

Section 9.1 Scope and purpose.

This direct final rule adds new paragraph (e).