



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

MAR 19 1986

AC 16-1  
PDR  
JS Hartman  
me 4/1/86

MEMORANDUM FOR: John G. Davis, Director, Office of Nuclear Material  
Safety and Safeguards  
Harold R. Denton, Director, Office of Nuclear  
Reactor Regulation  
G. Wayne Kerr, Director, Office of State Programs  
Guy H. Cunningham, Executive Legal Director  
Donnie H. Grimsley, Director, Division of Rules and  
Records, ADM

FROM: Robert B. Minogue, Director  
Office of Nuclear Regulatory Research

SUBJECT: OFFICE CONCURRENCE REQUEST: PROPOSED AMENDMENTS TO  
10 CFR PARTS 30, 40, 50, 61, 70, AND 72 REQUIRING  
LICENSEES TO NOTIFY NRC IN CASES OF BANKRUPTCY FILING

Your concurrence is requested in the enclosed paper which proposes amendments to 10 CFR Parts 30, 40, 50, 61, 70, and 72 requiring a licensee to notify the NRC in the event that the licensee is involved in bankruptcy proceedings.

The following is a summary of the request:

1. Title: Proposed Amendments to 10 CFR Parts 30, 40, 50, 61, 70, and 72 - Bankruptcy Filing; Notification Requirements.
2. RES Task Leader: Frank Cardile, CEBR.
3. RES Task Number: CE-502-1.
4. Cognizant Individuals: R. Riggs - NRR  
R. O'Connell - NMSS  
B. Pineles - ELD  
R. Wood - SP  
M. Lesar - ADM
5. Requested Action: Review and concur.
6. Requested Completion Date: April 1, 1986.
7. Background: A licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, a license involved in

CONTACT: F. P. Cardile  
443-7815

8608200016 860818  
PDR PR  
30 51FR22531 PDR

MAR 19 1986

bankruptcy proceedings can have problems affecting payment for proper handling of licensed radioactive material and for decontamination and decommissioning of the licensed facility in a safe manner. Cases have occurred in which licensees filed for bankruptcy and the NRC has not been aware that this has happened. There is presently no regulation requiring licensees to notify the NRC in cases of bankruptcy filing. Therefore, the NRC may not be aware of a significant financial problem for a particular licensee and thus also not be aware of potential public health and safety problems.

Under the proposed regulations, each licensee would be required to notify the appropriate regional office of the NRC in the event of the commencement of a bankruptcy proceeding involving the licensee. There is no action required of a licensee by these amendments unless and until a bankruptcy petition is filed. When the notification is received, the regional office will assess the radiological hazard which may exist at the site and determine the appropriate action to take.

In the January 13, 1986 memorandum from V. Stello, Jr., to R. B. Minogue, it was indicated that this rulemaking be completed in 3-6 months. Hence, in order to maintain this schedule, we request that you complete your review and concurrence in the one week indicated in this memorandum.

8. Revisions in Response to Division Level Comments:

An earlier draft of the enclosed paper was circulated for Division level comments in February 1986. Based on the comments received on that draft, several changes have been made which clarify the requirements being set forth. In particular, the following actions regarding the draft paper have been taken in response to the division comments received:

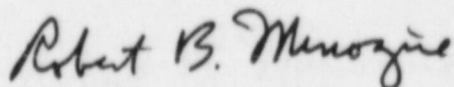
a. The text of the rule and the Supplementary Information has been modified to clarify that the NRC must be notified independent of which of several different situations occurs in which the licensee is involved in a bankruptcy proceeding;

b. The Supplementary Information now includes further discussion of the instances of licensee bankruptcy which have occurred in the past, including potential health and safety problems and consequences for the NRC and the States;

c. The Backfit Analysis has been modified with ELD assistance to indicate that implementation of the proposed rule has minimal cost, that it will provide substantial increase in the overall protection of the public health and safety, and that information relevant to the backfit analysis factors found in 10 CFR 50.109(c) are set out in the Regulatory Analysis;

MAR 19 1986

- d. The Regulatory Analysis has been modified to include more details with regard to the potential risks and costs, both to the public and the NRC, resulting from the absence of the requirement for bankruptcy notification. The modification makes it clear that certain of these risks and costs may still exist at a facility whose licensee is bankrupt, however, because this rule would result in timely notification of NRC of these situations, it can result in reduction in cost and risk. This reduction can be significant compared to the minimal added cost impact that complying with the rule will have on the NRC, licensees, and the public;
- e. The rule has not been modified to require notification in advance of bankruptcy as suggested by two commenters. This modification would have had procedural problems in that licensees may not make a decision on whether to file for bankruptcy until just before filing. In addition, it can have significant legal problems with regard to licensee violations of securities laws. In response to the commenters' concern that NRC be notified quickly so it can take timely action, the rule has been modified to require that licensees notify the NRC in writing immediately upon filing for bankruptcy rather than within 10 days as contained in the draft paper;
- f. The requirement for certified mailing of the notification has been deleted to be consistent with other NRC notification requirements;
- g. Modification of the draft paper by creating a new section specifically devoted to bankruptcy notification for the purpose of highlighting this requirement as suggested by a commenter has not been done. Inclusion of this requirement as a condition of license appears to be a strong statement of NRC policy in this area. If necessary a special notification of licensees of this new requirement can be made to highlight it;
- h. With regard to the comment on general licensees under 10 CFR Part 31, the applicability of these requirements will be considered in the study of general licenses that NMSS is conducting.



Robert B. Minogue, Director  
Office of Nuclear Regulatory Research

Enclosure: as stated





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

MEMORANDUM FOR: Victor Stello, Jr.  
Acting Executive Director  
for Operations

FROM: Robert B. Minogue, Director  
Office of Nuclear Regulatory Research

SUBJECT: PROPOSED RULE: AMENDMENTS TO 10 CFR PARTS 30, 40, 50, 61,  
70, AND 72 REQUIRING LICENSEES TO NOTIFY NRC OF CASES OF  
BANKRUPTCY FILING

DISCUSSION

Background: A licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, a license involved in bankruptcy proceedings can have problems affecting payment for proper handling of licensed radioactive material and for decontamination and decommissioning of the licensed facility in a safe manner. Improper materials handling or decontamination activities can lead to spread of contamination throughout a licensee's facility and the potential for dispersion of contaminated material offsite. Cases have occurred in which licensees filed for bankruptcy and the NRC has not been aware that this has happened. NRC inspectors have found, belatedly, that licensees have vacated property and abandoned licensed material and been unable to decontaminate their facilities and properly dispose of waste. There is presently no regulation requiring licensees to notify the NRC in cases of bankruptcy filing. Notification will alert NRC to give specific attention toward a bankrupt licensee to ensure that radioactive materials in the licensee's possession pose no undue risk to public health and safety during and after bankruptcy proceedings.

Proposed Regulations. The proposed rule would require each licensee to notify the appropriate NRC regional office, in writing, immediately following the filing of a petition for bankruptcy involving the licensee under any Chapter of Title 11 (Bankruptcy) of the United States Code. The notification would include the date of the filing and the bankruptcy court in which the petition for bankruptcy was filed. No action would be required of a licensee unless and until a petition for bankruptcy is filed. When the notification is received, the regional office will assess the radiological hazard which may



exist at the site and determine the appropriate action to take. In addition, following receipt of the notification, the Commission will assess the appropriate action to take in any bankruptcy proceeding involving the licensee. The purpose of this would be to seek to have available assets of the licensee applied to cover costs of site cleanup before they are disbursed elsewhere and could include NRC becoming a party to the bankruptcy proceedings.

#### RECOMMENDATIONS AND NOTATIONS

Recommendations. It is recommended that you approve the proposed rule and publication of a notice in the Federal Register (see Enclosure A). It is also recommended that you certify that the proposed rule will not have a significant economic impact on a substantial number of small entities (see REGULATORY FLEXIBILITY CERTIFICATION in Enclosure A and the REGULATORY ANALYSIS, Enclosure B).

Notations. (1) The notice of proposed rulemaking in Enclosure A will be published in the Federal Register with a 30 day comment period. (2) The information collection requirements of this rule have been submitted to the Office of Management and Budget (see Enclosure A). (3) Under 10 CFR 51.22 (c)(iii) preparation of an environmental impact statement or an environmental assessment is not necessary, since the eligibility criteria for categorical exclusion are met. (4) In accordance with 10 CFR 50.109, a backfit analysis has been performed which indicates that the direct and indirect costs of implementation of this rule are minimal and are justified in view of the increased protection of the public health and safety resulting from the rule. Information relevant to the backfit factors specified in 10 CFR 50.109(c) are set out in the Regulatory Analysis (Enclosure B). (5) No additional NRC resource requirements are anticipated as a result of this action. (6) The Agreement States will be informed of the proposed rulemaking. (7) The Subcommittee on Nuclear Regulation of the Senate Environment and Public Works Committee, the Subcommittee on Energy and the Environment of the House Interior and Insular Affairs Committee, and the Subcommittee on Energy Conservation and Power of the House Energy and Commerce Committee will be notified of the Commission's action by letter such as Enclosure C. (8) Notification of the Commission of this action will be made in the Weekly Information Report (Enclosure D).

Robert B. Minogue, Director  
Office of Nuclear Regulatory Research

Enclosures: as stated

Approved for Publication

In a final rule published March 19, 1982 (47 FR 11816), the Commission delegated to the EDO (10 CFR 1.40(c) and (d)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4)) subject to the limitations in NRC Manual Chapter 0103, Organizations and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, 0310. The enclosed proposed rule entitled "Bankruptcy Filing; Notification Requirements" sets forth amendments to 10 CFR Parts 30, 40, 50, 61, 70, and 72 that would require licensees to notify the NRC in the event that a bankruptcy petition is filed involving the licensee. The proposed rule is necessary because a licensee's severe financial conditions could affect its ability to handle licensed radioactive material and the NRC must be notified so that timely and appropriate measures to protect the public health and safety can be taken.

The proposed rule does not constitute a significant question of policy nor does it amend regulations contained in 10 CFR Parts 0, 2, 7, 8, 9 of Subpart C, or 110. I therefore find that this rule is within the scope of my rulemaking authority and am proceeding to issue it.

---

(Date)

---

Victor Stello, Jr.

Acting Executive Director  
for Operations

Enclosures:

- A - Proposed Federal Register Notice
- B - Regulatory Analysis
- C - Draft Congressional Letter
- D - Notice for Inclusion in Weekly  
Information Report

## RECOMMENDATIONS AND NOTATIONS

Notations. (1) The notice of proposed rulemaking in Enclosure A will be published in the Federal Register with a 30 day comment period. (2) The information collection requirements of this rule have been submitted to the Office of Management and Budget (see Enclosure A). (3) Under 10 CFR 51.22 (c)(iii) preparation of an environmental impact statement or an environmental assessment is not necessary, since the eligibility criteria for categorical exclusion are met. (4) In accordance with 10 CFR 50.109, a backfit analysis has been performed which indicates that the direct and indirect costs of implementation of this rule are minimal and are justified in view of the increased protection of the public health and safety resulting from the rule. Information relevant to the backfit factors specified in 10 CFR 50.109(c) are set out in the Regulatory Analysis (Enclosure B). (5) No additional NRC resource requirements are anticipated as a result of this action. (6) The Agreement States will be informed of the proposed rulemaking. (7) The Subcommittee on Nuclear Regulation of the Senate Environment and Public Works Committee, the Subcommittee on Energy and the Environment of the House Interior and Insular Affairs Committee, and the Subcommittee on Energy Conservation and Power of the House Energy and Commerce Committee will be notified of the Commission's action by letter such as Enclosure C. (8) Notification of the Commission of this action will be made in the Weekly Information Report (Enclosure D).

Enclosures: as stated

SEE ATTACHED FOR PREVIOUS CONCURRENCES.

				RES:DD	ADM	ELD
				DFross	DHGrimsley	GCunningham
SEE ATTACHED FOR PREVIOUS CONCURRENCES.				3/ 186	3/ 186	3/ 186
OFFICE	RES:CEBR	RES:CEBR	RES:DET	NMSS	NRR	RES:RTR
SURNAME	FPCardile:ph.	KGSteyer	GAARlotto	JGDavis	HRDenton	RBMnogue
DATE	3/10/86	3/12/86	3/17/86	3/ 186	3/ 186	3/2/186



-  
NUCLEAR REGULATORY COMMISSION  
10 CFR Parts 30, 40, 50, 61, 70, and 72

Bankruptcy Filing;  
Notification Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations by requiring a licensee to notify the appropriate regional administrator of the NRC in the event that the licensee is involved in bankruptcy proceedings. The proposed rule is necessary because a licensee's severe financial conditions could affect its ability to handle licensed radioactive material and the NRC must be notified so that appropriate measures to protect the public health and safety can be taken.

DATE: Comment period expires [insert a date allowing 30 days for public comment]. Comments received after this date will be considered if it is practical to do so but assurance of consideration is given only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Cardile, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7815.

SUPPLEMENTARY INFORMATION:

Background

Current NRC regulations contain requirements for issuing licenses and the terms and conditions of those licenses concerning design of facilities and use of material. A licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, a licensee involved in bankruptcy proceedings can have problems affecting payment for proper handling of licensed radioactive material and for decontamination and decommissioning of the licensed facility in a safe manner. Improper materials handling or decontamination activities can lead to spread of contamination throughout a licensee's facility and the potential for dispersion of contaminated material offsite. Financial difficulties also can result in problems affecting the licensee's waste disposal activities.

Instances have occurred in which licensees filed for bankruptcy and the NRC has not been aware that this has happened. NRC inspectors have found, belatedly, that a licensee has vacated property and abandoned licensed material or has been unable to decontaminate its facility and properly dispose of the waste. Sometimes a significant amount of time has elapsed before the NRC has found out about the bankruptcy, during which time the property may have changed hands or been abandoned, perhaps leaving licensed material unprotected and leaving radioactive contamination

on the site. The passage of time permits the possible spread of contamination beyond the original area of confinement. It also makes more difficult the government's task in minimizing the potential risk to public health and safety and in making the party responsible for the presence of the material, the licensee, clean it up. In some cases, NRC inspectors have found significant amounts of radioactive contamination present at licensee sites, with the potential for dispersal of the material offsite. Because of the potential risk to public health and safety if the facilities were left in their as-found condition, it has been necessary for the NRC or the state government to take protective and remedial action and to expend substantial amounts of public funds for cleanup of the facilities because funds of the bankrupt licensee were no longer available. The NRC should be notified of these situations promptly, before they become more serious, so that it can take necessary actions to assure that the health and safety of the public is protected.

There is presently no regulation requiring licensees to notify the NRC in cases of bankruptcy filings. Therefore, the NRC may not be aware of a significant financial problem for a particular licensee and thus also not be aware of potential public health and safety problems.

#### Discussion

Under the proposed regulations, each licensee would be required to notify the appropriate regional office of the NRC, in writing, in the event of the commencement of a bankruptcy proceeding involving the licensee. According to the United States Code, a bankruptcy case is commenced by filing a petition with a court by or against a person for the purpose of judging that person bankrupt. The licensee would be required



-  
to notify the NRC of any petition (voluntary or involuntary) filed under Title 11 (Bankruptcy) of the United States Code involving the licensee. A filing under any chapter of the Bankruptcy Code could result in potential consequences regarding the licensee's ability to handle licensed material.

Notifying the NRC in cases of bankruptcy would alert the Commission so that it may deal with potential hazards to the public health and safety posed by a licensee that does not have the resources to properly secure the licensed material or clean up possible contamination. NRC actions may include orders to modify or amend a license or other necessary action and could include limitations on licensed activity which would only permit the storage of licensed material. The NRC has taken these actions in the past in similar circumstances. In addition, prompt notification of the Commission would allow it to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of site cleanup before funds are disbursed and become unavailable for cleanup.

A licensee would not be affected by these amendments unless and until a bankruptcy petition is filed. The proposed rule prescribes the specific action that a licensee would be required to follow at that time. This action includes notifying the NRC within a certain time period by supplying the information specified.

The proposed amendments apply to all licensees covered by 10 CFR Parts 30, 40, 50, 61, 70, and 72. This includes byproduct, source, and special nuclear material licensees, as well as production and utilization facility, low-level waste disposal facility, and independent spent fuel storage installation licensees.

## ENVIRONMENTAL IMPACT

Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

## PAPERWORK REDUCTION ACT STATEMENT

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

## REGULATORY ANALYSIS

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the analysis may be obtained from Frank Cardile, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 443-7815.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSEES heading.

## REGULATORY FLEXIBILITY CERTIFICATION

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule would amend 10 CFR Parts 30, 40, 50, 61, 70, and 72 to require licensees to notify the appropriate NRC Regional Office in the event of the commencement of a bankruptcy proceeding involving the licensee so that NRC is aware of this significant financial problem and can take necessary actions assuring that the health and safety of the public is protected. Because no action is required of a licensee by these amendments unless and until a bankruptcy petition is filed, there is no impact from this rule unless bankruptcy filing occurs. Even in the event of bankruptcy, the impact of this rule on licensees is small since the United States Code contains requirements regarding notification of creditors of bankruptcy. This rule would require one additional notification. In addition, the required action consists only of a notification by mail to the NRC, an action representing less than one-half person-hour of effort. The net overall cost to the industry is negligible.

## BACKFIT ANALYSIS

This proposed amendment would provide a substantial increase in the overall protection of the public health and safety. The direct and indirect costs of implementation are minimal and are justified in view of their increased protection. Information relevant to the factors found in 10 CFR §50.109(c) are set out in the Regulatory Analysis referred to above on which comments have been requested.



-

LIST OF SUBJECTS IN 10 CFR PARTS 30, 40, 50, 61, 70 AND 72

Part 30 - Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

Part 40 - Government contracts, Hazardous materials - transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

Part 50 - Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Part 61 - Low-level waste, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Waste treatment and disposal.

Part 70 - Hazardous materials - transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Part 72 - Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

PROPOSED RULEMAKING

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act

of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 30, 40, 50, 61, 70, and 72.

PART 30 - RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING  
OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 continues to read as follows:

AUTHORITY: Sections 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 44, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§30.3, 30.34(b) and (c), 30.41(a) and (c), and 30.53 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§30.36, 30.51, 30.52, 30.55, and 30.56(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 30.34 is amended by adding a new paragraph (h) to read as follows:

§ 30.34 Terms and conditions of licenses.

\* \* \* \* \*

(h)(1) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary

or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

- (i) A licensee;
- (ii) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or
- (iii) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(2) This notification must indicate:

- (i) The bankruptcy court in which the petition for bankruptcy was filed; and
- (ii) The date of the filing of the petition.

\* \* \* \* \*

#### PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for Part 40 continues to read as follows:

AUTHORITY: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 274, Pub. L. 82-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5341, 5842, 5846). Sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601. sec. 10. 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68



Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41(b) and (c), 40.46, 40.51(a) and (c); and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§40.25(c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. Section 40.41 is amended by adding a new paragraph (f) to read as follows:

§ 40.41 Terms and conditions of licenses.

\* \* \* \* \*

(f)(1) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

- (i) A licensee;
- (ii) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or
- (iii) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(2) This notification must indicate:

- (i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

★ ★ ★ ★ ★

## PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for Part 50 is revised to read as follows:

AUTHORITY: Secs, 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246 (42 U.S.C. 5842, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.23, 50.35, 50.55, 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34, and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50-81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended 42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposed of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. Section 50.54 is amended by adding a new paragraph (cc) to read as follows:

§ 50.54 Conditions of licenses.

\* \* \* \* \*

(cc)(1) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

(i) A licensee;

(ii) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or

(iii) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(2) This notification must indicate:

(i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

\* \* \* \* \*



-  
PART 61 - LICENSING REQUIREMENTS FOR LAND DISPOSAL OF  
RADIOACTIVE WASTE

7. The authority citation for Part 61 continues to read as follows:

AUTHORITY: Secs. 53, 57, 62, 68, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); Tables 1 and 2, §§61.3, 61.24, 61.25, 61.27(a), 61.41 through 61.43, 61.52, 61.53, 61.55, 61.56, and 61.61 through 61.63 issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b); §§61.10 through 61.16, 61.24, and 61.80 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

8. Section 61.24 is amended by adding a new paragraph (k) to read as follows:

§ 61.24 Conditions of licenses.

\* \* \* \* \*

(k)(1) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

(i) A licensee;

(ii) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or

(iii) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(2) This notification must indicate:

(i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

\* \* \* \* \*

#### PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

9. The authority citation for Part 61 continues to read as follows:

AUTHORITY: Secs. 51, 53, 161, 182, 183, 168 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951, (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C.

2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)-(k), 70.24(a) and (b), 70.32(a)(3), (5), (6), (d), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b), (c), and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§70.7, 70.20a(a) and (d), 70.20b(c) and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)-(g), 70.56, 70.57(b) and (d), and 70.58 (a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§70.20b(d) and (e), 70.38, 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), and 70.59, and 70.60(b), and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

10. Section 70.32 is amended by adding a new paragraph (a)(9) to read as follows:

§ 70.32 Conditions of licenses.

\* \* \* \* \*

(a) Each license shall contain and be subject to the following conditions:

(9)(i) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

(1) A licensee;



(2) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or

(3) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(ii) This notification must indicate:

(1) The bankruptcy court in which the petition for bankruptcy was filed; and

(2) The date of the filing of the petition.

\* \* \* \* \*

# PART 72 - LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

1. The authority citation for Part 72 is revised to read as follows:

AUTHORITY: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2282); sec. 274, Pub. L. 88-273, 73 Stat. 688, as amended (42 U.S.C. 2021); secs. 201, 202, 206, 88 Stat. 1242, 1243, 1246, as amended (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Section 72.34 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154).

2. Section 72.33 is amended by adding a new paragraph (b)(6) to read as follows:

§ 72.33 License conditions.

\* \* \* \* \*

(b) Every license issued under this Part shall be subject to the following conditions, even if they are not explicitly state herein:

\* \* \* \* \*

(6)(i) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapters of Title 11 (Bankruptcy) of the United States Code by or against:

(1) A licensee;

(2) An entity (as that term is defined in 11 U.S.C. §101(14)) controlling a licensee or listing the license or licensee as property of the estate; or

(3) An affiliate (as that term is defined in 11 U.S.C. §101(2)) of the licensee.

(ii) This notification must indicate:

(1) The bankruptcy court in which the petition for bankruptcy was filed; and

(2) The date of the filing of the petition.

\* \* \* \* \*

Dated at Bethesda, Maryland this       day of       , 1986.

For the Nuclear Regulatory Commission.

\_\_\_\_\_  
Victor Stello, Jr.  
Acting Executive Director for Operations.

-

DRAFT REGULATORY ANALYSIS

FOR TASK-502-1

NOTICE OF PROPOSED RULEMAKING -  
BANKRUPTCY FILING; NOTIFICATION REQUIREMENTS

1. STATEMENT OF PROBLEM

Current NRC regulations contain requirements for issuing of licenses and the terms and conditions of those licenses concerning design of facilities and use of material. The problem to be addressed in this rulemaking is that a licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, there can be problems when a licensee involved in bankruptcy proceedings cannot make payments for proper handling of licensed radioactive material and for decontamination of the licensed facility in a safe manner. Improper materials handling or decontamination activities can lead to spread of contamination throughout a licensee's facility and the potential for dispersion of contaminated material offsite. Financial difficulties also can result in problems affecting the licensee's waste disposal activities.

Instances have occurred in which licensees filed for bankruptcy and the NRC has not been aware that this has happened. Among those licensees whose financial situation has jeopardized cleanup are included the J. C. Haynes Co., the Pesses Co., Luminous Processes, Inc., and Allied Technology, Inc. NRC inspectors have found, belatedly, that a licensee has vacated property and abandoned licensed material or that a licensee has been unable to decontaminate his facility and properly dispose of the waste.

There is presently no regulation requiring licensees to notify the NRC in cases of bankruptcy filing. Hence, the NRC has no means by which it can be made aware of these situations. The proposed action consists of amendments to



10 CFR Parts 30, 40, 50, 61, 70, and 72 which would require licensees to notify the NRC in the event of the commencement of bankruptcy proceedings involving the licensee. There is some urgency to proceed with this effort due to the large number of NRC licensees (greater than 8000) and the fact that a number of bankruptcies which were not reported to NRC have already occurred.

## 2. OBJECTIVE

The objective of this action is that NRC have means in place so that it is alerted and can take necessary action to deal with potential hazards to the public health and safety that may be posed by a licensee that does not have the resources to properly secure his licensed material or to clean up possible contamination.

## 3. ALTERNATIVES

The alternatives considered in determining the need for regulation in this area are as follows:

1. No Action
2. NUREG Report
3. Regulatory Guide, Branch Technical Position
4. Rulemaking

One alternative is to take no action on this matter. However, current regulations in 10 CFR Parts 30, 40, 50, 61, 70, and 72 do not address the situation of the potential health and safety implications of bankruptcy. As noted in detail above this has caused problems in the past and will likely do so in the future.

NUREG reports are a convenient means for providing information. However, NUREG reports usually contain only results of specific studies and are not suitable in this situation. Regulatory Guides or Branch Technical Positions could also be used, however, as pointed out above, there are no existing regulations on which to base any guidance. The lack of standards developed from rulemaking in this area might leave any guidance open to challenge.

Rulemaking would provide clearly implementable requirements regarding licensees' responsibility to notify the NRC in the case of a filing of a petition of bankruptcy. These rules would reduce uncertainty in this area and provide for prompt action by licensees in future situations of this type with the result that NRC can take necessary action to protect the public health and safety. A formal rulemaking also has the advantage of offering the best opportunity to allow all affected parties to provide input on the development of the rules, as well as developing specific criteria with the weight of formal rulemaking behind them. This can be accomplished with a rulemaking that appears, based on the identified need, to be a relatively straightforward rulemaking not involving significant resources. It is expected that the proposed rule would be issued by the EDO.

An alternative form of the rulemaking would be to combine it with related rulemaking. Currently, NRC has issued proposed rules on decommissioning of nuclear facilities and an advance notice of proposed rulemaking on financial assurance for cleanup following accidental releases. However, it would be impractical to combine these efforts because of the timing of the varying stages of these efforts and because of differences in the nature of the rulemakings. In addition, as noted above, this rulemaking addresses a specific topic and should be relatively straightforward in its development and issuance.

#### 4. CONSEQUENCES

##### 4.1 Benefits and Costs

###### 4.1.1 Benefits

###### NRC

The benefit of the rule to NRC is that it would have in place a specific requirement concerning notification of NRC that a licensee has filed a petition for bankruptcy. This will assist in assuring that NRC's mission of protecting public health and safety is carried out by reducing the risk of radiation

-

exposure to the public and workers by enabling NRC to be aware of potential licensee problems in handling and disposing of radioactive materials due to severe financial problems. In past instances when licensees went bankrupt NRC has had to expend significant resources in dealing with the problem. This has included issuance of orders to clean up facilities and modify licenses, issuance of Federal Register notices, repeated inspection visits, continued headquarters and regional staff involvement in the cases, participation in the cleanup of the facilities, providing of health physics coverage, and taking possession of nuclear material. Some of these activities will still likely have to occur even if this rule is promulgated, however the benefit of this rule is that prompt identification of these situations can result in reduction in NRC resources involved in such activities as enforcement actions and interfaces with a concerned public regarding contaminated sites. In addition, the absence of this rule would leave NRC in a less advantageous position for responding to these situations and could result in increased time spent resolving these problems.

#### Industry

Industry will benefit in that in situations of this type prompt and clear NRC actions can take place regarding materials handling and disposal. In addition the rulemaking process will assure that industry has an input to the decisionmaking regarding the issue of notification of NRC regarding bankruptcy.

#### Public

One benefit to the public will be a reduced risk of potential radiation exposures resulting from improper handling or disposal of radioactive wastes or facility decontamination due to the improved capability of NRC to react in a timely way to potential severe financial problems to protect public health and safety. This reduction in risk would apply to both the general public and workers who might be involved at the facility. In instances which have occurred, NRC inspectors have found substantial amounts of radioactive contamination present at the site, such as significant quantities of Am-241, (Reference 1), high radiation levels (Reference 2), and large volumes of contaminated material equivalent to approximately 300 drums (Reference 2).



Based on these inspections, NRC has issued enforcement orders published in the Federal Register (Reference 1, 2) indicating that there was potential for dispersal of contaminated material, that there was no reasonable assurance that sufficient measures were in place to prevent unauthorized transfer of licensed materials to unauthorized individuals or prevent the access of individuals to contaminated areas, and that there was not adequate assurance that the facilities could remain in their existing conditions without undue risk to the public health and safety. Even with this rule there will still be contamination at the sites, however NRC's timely involvement in the situations as a result of this rule will reduce the risk of dispersal of materials and/or exposure of individuals and hence can significantly reduce the risk to both the public and workers. The absence of this rule can result in an increased risk since there would be greater potential for the dispersal of material or exposure of individuals as identified in References 1 and 2.

A second benefit of this rule to the public is a potential reduction in the cost of cleanup of the facility which may have to be paid from public funds if the licensee is bankrupt. Costs of decontamination and decommissioning of small facilities that have been discussed earlier can range from \$100,000 up to several million (References 2, 3). Costs of larger facilities would be higher. In some instances states have had to pay for the cleanup of contaminated facilities. As discussed earlier, certain cleanup activities and their associated costs will still likely occur even if this rule is promulgated. However this rule can result in a benefit in reduction in cost to the public in two ways. The first is that NRC's timely involvement will minimize the potential for spread of contamination which would result in higher costs. The second is that NRC's timely involvement in bankruptcy proceedings may result in some of the available assets of the licensee being applied to cover costs of site cleanup before funds are disbursed in the proceedings and become unavailable for cleanup. Based on the magnitude of costs involved as noted above, the amount of reduction which can result from this rule and thus its benefit is far in excess of the cost of this rule to the industry or the public as discussed in 4.1.2.

#### 4.1.2 Costs

##### NRC

Impact on NRC staff will be the staff time necessary to complete rulemaking. NRC resources needed for the rulemaking consists of approximately 0.20 staff year in RES. Other offices (NMSS, NRR, SP, ELD) can expect minor impact (approximately 0.1 staff year total) on their workloads to review RES's work.

With regard to implementation of a final rule, no NRC activity is necessary unless and until a licensee submits a notification to the NRC. The amount of time spent on actually reading and docketing of the notification would be minimal. There may be staff resources involved in taking action in response to this notification, however even in the absence of this rule, NRC would still have to react to any health and safety problems brought about by bankruptcy. As noted above, a major benefit of this rule is that it would put NRC in a better reactive mode and reduce time involved. Based on the large number of activities which NRC may be involved with in these situations as enumerated above in 4.1.1, the reduction in staff time as a result of having received the notification will be significantly greater than the time spent in reading and docketing the notification. Thus, the net effect of this rule should be a reduction in staff resources.

##### Industry

With regard to the impact of a final rule, there is no action required of a licensee unless and until bankruptcy petition is filed. Hence, there is no impact from this rule unless bankruptcy filing occurs. Even in the event of bankruptcy, the impact of this rule on licensees is small since the United States Code contains requirements regarding notification of creditors of bankruptcy. This rule only consists of one additional notification. In addition, the required action consists only of a notification by mail to the NRC representing less than one-half person-hour of effort. The net overall cost to the industry is negligible.

## Public

As the net overall cost to the industry is negligible so also the net cost to the public as a result of this action will be negligible.

### 4.2 Impacts on Other Requirements

The proposed action is related to proposed amendments to 10 CFR Parts 30, 40, 50, 70, and 72 on decommissioning funding and to existing requirements in 10 CFR 61 on funding of the closure of low-level waste burial sites. There is no impact on these items. Rulemaking is in progress to amend 10 CFR 50.4 regarding communications with NRC. The action being taken here will conform with final action on 10 CFR 50.4.

## 5. DECISION RATIONALE

The proposed action will specify procedures for licensee notification of the NRC in cases of filing for bankruptcy. This is necessary so that the NRC is aware of severe licensee economic conditions that can impact on the licensee's capability to handle radioactive materials and decontaminate the facility and so that NRC can take timely and appropriate action to protect the public health and safety. As discussed above, the net cost of this action is minimal. No alternatives, other than rule amendments were judged to be satisfactory. Therefore the proposed action is recommended.

## 6. IMPLEMENTATION

### (a) Schedule

In the memorandum from V. Stello, Jr. to R. B. Minogue, entitled "Control of NRC Rulemaking," 1/13/86, it was indicated that this rulemaking be completed in 3-6 months. In order to give the public an opportunity to comment on this proposed rule and also meet the schedule, a 30 day public comment period is included. Division and regional office review comment periods are also shortened. No time is scheduled for CRGR meeting review since this rulemaking has no impact on plant systems, operation, or design and its net impact is negligible.



A memorandum to this effect has been sent to the chairman of CRGR. With these provisions it is anticipated that the schedule can be implemented in the time frame indicated in the 1/13/86 memo.

(b) Relationship to Other Schedules

No effect on other schedules is anticipated.

References

1. 50 FR 14474, 4/12/85
2. 51 FR 3730, 1/29/86
3. 50 FR 5600, 2/11/85

DRAFT CONGRESSIONAL LETTER

Dear Mr. Chairman:

The NRC has sent to the Office of the Federal Register for publication the enclosed proposed amendment to the Commission's rules in 10 CFR Parts 30, 40, 50, 61, 70, and 72. The amendment, if adopted, would require licensees to notify the NRC in the event that a bankruptcy petition is filed involving the licensee. Notification of NRC in these instances would enable NRC to take timely and appropriate measures to protect the public health and safety at a facility where the licensees' severe financial condition could affect its ability to handle licensed radioactive material.

The Commission is issuing the proposed rule for a 30 day public comment period.

Sincerely,

Robert B. Minogue, Director  
Office of Nuclear Regulatory Research

Enclosure:

1. Public Announcement
2. Federal Register Notice

Enclosure C

WEEKLY INFORMATION REPORT  
OFFICE OF NUCLEAR REGULATORY RESEARCH

Proposed Rule Signed by EDO

On \_\_\_\_\_, 1986, the Executive Director for Operations approved a proposed rule which will amend 10 CFR Parts 30, 40, 50, 61, 70, and 72. This rule will amend these parts to require a licensee to notify the NRC in the event that a bankruptcy petition is filed involving the licensee. Notification of NRC in these instances would enable NRC to take timely and appropriate measures to protect the public health and safety at a facility where the licensees' severe financial condition could affect its ability to handle licensed radioactive material.

The proposed rule would require no action of a licensee unless and until a bankruptcy petition is filed. The effort required at that time to comply with this proposed action will be minimal. The Executive Director for Operations therefore certified under the Regulatory Flexibility Act that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

This notice constitutes notice to the Commission that, in accordance with the rulemaking authority delegated to EDO, the EDO has signed this proposed rule for publication in the Federal Register.

Enclosure D