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GUIDANCE**

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STATUS OF RULEMAKING

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RULE NAME: INFORMAL SMALL ENTITY GUIDANCE

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NOTES ON: AMENDING REGS TO ALLOW PROVISION FOR SMALL ENTITIES TO CONTACT NRC
STATUS : FOR ASSISTANCE IN INTERPRETING OR COMPLYING WITH REGULATORY REQUI
OF RULE : REMENTS. /S/'D BY EDO. FILE ON P1.

HISTORY OF THE RULE

PART AFFECTED: PR-002

RULE TITLE: INFORMAL SMALL ENTITY GUIDANCE

PROPOSED RULE SECY PAPER:	PROPOSED RULE SRM DATE: / /	DATE PROPOSED RULE SIGNED BY SECRETARY: / /
FINAL RULE SECY PAPER:	FINAL RULE SRM DATE: / /	DATE FINAL RULE SIGNED BY SECRETARY: 05/02/97

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DOCKET NO. PR-002
(62FR26219)

In the Matter of
INFORMAL SMALL ENTITY GUIDANCE

DATE DOCKETED	DATE OF DOCUMENT	TITLE OR DESCRIPTION OF DOCUMENT
05/21/97	05/02/97	FEDERAL REGISTER NOTICE - FINAL RULE

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10 CFR Part 2

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OFFICE OF SECRETARY
DOCKETING & SERVICE
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Informal Small Entity Guidance

AGENCY: Nuclear Regulatory Commission.

DOCKET NUMBER
PROPOSED RULE **PR 2**

(62FR26219)

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add a provision that provides a method for small entities to contact the NRC for assistance in interpreting or complying with regulatory requirements. The final rule is necessary to comply with the Small Business Regulatory Enforcement Fairness Act. The final rule describes how the NRC will assist small entities that are licensed by the NRC.

EFFECTIVE DATE: *may 13, 1997*
(~~Date of publication in the Federal Register~~):

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules Review and Directives Branch, Office of Administration, Washington, DC 20555-0001; telephone 301-415-7162; Web address <http://www.dlm1@nrc.gov>, or Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Office of Administration, Washington, DC 20555-0001; telephone 301-415-7163; Web address <http://www.mtl@nrc.gov>. Small businesses can

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obtain information from the Commissions hotline telephone system by calling 1-800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

In March 1996, Congress enacted the Small Business Regulatory Enforcement Fairness Act (SBREFA), Public Law 104-121. Congress found this legislation necessary because "small businesses bear a disproportionate share of regulatory costs and burden" and "fundamental changes . . . are needed in the regulatory and enforcement culture of Federal agencies" to make them more responsive to small businesses (Sections 202(2) and (3) of the Act).

Simplifying Compliance

Subtitle A of SBREFA provides a number of initiatives that are intended to make it easier for small entities to understand and comply with agency regulations. In particular, the subtitle provides that, "Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency, it shall be the practice of the agency to answer inquiries from small entities concerning information on and advice about compliance with such statutes and regulations." Agencies are expected to interpret and apply the law, or regulations implementing the law, to specific sets of facts that are supplied by the small entity. Furthermore, agencies are required to establish a program to receive and respond to these types of inquiries.

The NRC and Small Entities

Since the Regulatory Flexibility Act was enacted in 1980, the NRC has considered the special needs of small businesses and has worked to address them. In 1983, the NRC surveyed its materials licensees to create an economic profile sufficient to consider regulatory alternatives tailored to the size of the licensee. After analyzing the data and consulting with the Small Business Administration (SBA), the NRC developed size standards to determine which of its licensees would qualify as small entities for the purposes of compliance with the Regulatory Flexibility Act (50 FR 50241; December 9, 1985).

In 1993, the NRC completed a second survey to update the economic profile of its materials licensees. Subsequently, the NRC revised its size standards on April 11, 1995 (60 FR 18344). The revised size standards included separate standards for business concerns that are manufacturing entities, adjusted its receipts-based size standard to accommodate inflation, eliminated the separate \$1 million size standard for private-practice physicians and applied the revised receipts-based size standard of \$5 million to this class of licensees, and codified the size standards in §2.810 of 10 CFR. The NRC has considered the economic impact of its regulatory actions on small entities. In particular, the NRC used its size standards to tier the annual license fee imposed by the NRC's final rules implementing the Omnibus Budget Reconciliation Act of 1990 (56 FR 31472; July 10, 1991 and subsequent years), thereby reducing the impact

of the fee rules on small entities.

In this and other areas, the NRC has responded to the comments and suggestions it has received from small entities. The NRC intends to continue and improve its responsiveness to the questions and concerns of small entities. This regulation establishes a means for small entities to contact the NRC to receive the type of informal compliance assistance contemplated by SBREFA.

Administrative Procedure Act Waiver

Generally, the Administrative Procedure Act (APA) requires agencies to publish a notice of proposed rulemaking and provide opportunity for public comment before issuing a rule. 5 U.S.C. 553. However, these requirements do not apply when the agency finds that they are amendments dealing with agency practice and procedure. 5 U.S.C. 553 (b)(3)(A). The Commission finds for good cause that notice of proposed rulemaking and public participation are unnecessary because the rule is a matter of agency practice; e.g., the establishment of a telephone number to facilitate interaction with the small entities licensed by the Commission.

The rule shall be effective on ^{May 13, 1997} ~~(date of publication in the Federal Register)~~. The APA requires that a substantive rule be published at least 30 days before its effective date, unless the agency finds for good cause that such delay is not needed. 5 U.S.C. 553(d)(3). The Commission finds good cause for the rule issued below to become effective immediately because the amendments are of an administrative nature concerning a matter of

agency conduct, the establishment of a telephone number to facilitate interaction with the small entities licensed by the Commission.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear Materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

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; the Small Business Regulatory Enforcement Fairness Act; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 2.

Part 2--RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND
ISSUANCE OF ORDERS

1. The authority citation for Part 2 continues to read as follows:

AUTHORITY: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under

secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K 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). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In S2.810, paragraph (f) is added to read as follows:
§2.810 NRC size standards.

* * *

(f) Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the NRC to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them. To help

small entities obtain information quickly, the NRC has established a toll-free telephone number at 1-800-368-5642.

Dated at Rockville, Maryland, this 2 day of May, 1997.

For the Nuclear Regulatory Commission.



L. Joseph Callan,
Executive Director for Operations.