

November 2, 1998

SECY-98-255

FOR: The Commissioners

FROM: William D. Travers /s/  
Executive Director for Operations

SUBJECT: EARLY PUBLIC INPUT ON COMPREHENSIVE RULE ON  
GENERALLY LICENSED DEVICES

PURPOSE:

To request, by negative consent, Commission approval to solicit public input in the development of a proposed rule entitled "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material" (10 CFR Parts 30, 31, 32, 170, and 171). This communication would be established through NRC's Technical Conference Forum website. A general outline of the concept and the substance of the proposed rule and regulatory analysis would be posted on the website. Public input would be solicited at an early stage of development of the proposed rule.

BACKGROUND:

In a Staff Requirements Memorandum, dated April 13, 1998, responding to SECY-97-273, the Commission directed the staff to develop a proposed rule, for public comment, to implement a registration and followup program for generally licensed devices. This registration and followup program was recommended in an NRC-Agreement State Working Group report that was included in SECY-96-221. The Commission also directed the staff to apply fees to these general licensees and incorporate requirements for permanent labeling of the devices.

CONTACT: Jayne M. McCausland, NMSS/IMNS  
(301) 415-6219

It is anticipated that the proposed rule will provide explicit provisions delineating a registration requirement, verifying information about the devices through a physical inventory, and adding a fee to 10 CFR 170.31 that would be required in conjunction with the registration process. The rule will also address modifications to the quarterly transfer reporting, recordkeeping, and labeling requirements for specific licensees who distribute generally licensed devices, to ensure control over the disposition of the devices.

#### DISCUSSION:

Because of the nature of the proposed changes to the regulations, the staff intends to post draft copies of the Federal Register notice and the regulatory analysis on NRC's Technical Conference Forum website, when the draft package is provided to the Agreement States for review. This is similar to the process used for 10 CFR Part 35, in which the draft strawman rule language was posted on the web before going to the Commission. The current schedule for sending the draft package to the Agreement States is December 14, 1998. Posting the rule and regulatory analysis on the NRC website at this time would allow the public to become involved in the early stages of the rulemaking process.

In the future, NMSS intends to include in its rulemaking plans, a provision, for Commission approval, that would accommodate early posting of rules on the Technical Conference Forum website, as appropriate, to provide for public participation during the initial phase of the rulemaking development process.

#### RESOURCES:

The resources needed to complete this action are in the current budget.

#### COORDINATION:

The Office of the General Counsel has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objections. The Office of the Chief Information Officer has reviewed this Commission Paper for information technology and information management implications and concurs in it.

#### RECOMMENDATIONS:

That the Commission:

1. Approve early posting of an initial draft of the substance of the Federal Register notice and regulatory analysis, and subsequent drafts, as appropriate, on the Technical Conference Forum website.
2. Note that staff requests approval in 10 days. Action will not be taken until the SRM is received. We consider this action within the delegated authority of the EDO.

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Executive Director  
for Operations

**RECOMMENDATIONS:**

That the Commission:

1. Approve early posting of an initial draft of the substance of the Federal Register notice and regulatory analysis, and subsequent drafts, as appropriate, on the Technical Conference Forum website.
2. Note that staff requests approval in 10 days. Action will not be taken until the SRM is received. We consider this action within the delegated authority of the EDO.

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\*See attached for previous concurrences.  
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OFFICE:	IMNS	OGC	CFO	OCIO	ADM
NAME:	DACool	JGray	JFunches	AGalante	DMeyer
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OFFICE:	Tech Ed	D/NMSS	DEDR	EDO
NAME:	EKraus*	CPaperiello	HThompson	WDTravers
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