

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 31

RIN 3150—AG06

### Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material To Provide Requested Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) proposes amending its regulations to add an explicit requirement that general licensees who possess certain measuring, gauging, or controlling devices that contain byproduct material provide the NRC with information concerning these devices. The NRC intends to use this provision to request information concerning devices that present a comparatively higher risk of exposure to the public or property damage. The proposed rule is intended to help ensure that devices containing byproduct material are maintained and transferred properly and are not inadvertently discarded.

**DATES:** Submit comments by February 16, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Send comments by mail to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format), if your web browser

supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

Certain documents related to this rulemaking, including comments received and the regulatory analysis, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Catherine R. Mattsen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6264, or e-mail at [CRM@nrc.gov](mailto:CRM@nrc.gov); or Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, or e-mail at [JMM2@nrc.gov](mailto:JMM2@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

On February 12, 1959 (24 FR 1089), the Atomic Energy Commission (AEC) amended its regulations to provide a general license for the use of byproduct material contained in certain measuring, gauging, or controlling devices (10 CFR 30.21(c)). Under current regulations (10 CFR 31.5), certain persons may receive and use a device containing byproduct material under this general license if the device has been manufactured and distributed according to the specifications contained in a specific license issued by the NRC or by an Agreement State. A specific license authorizing distribution of generally licensed devices is issued if a regulatory authority determines that the safety features of the device and the instructions for safe operation of that device are adequate and meet regulatory requirements. The general licensee must comply with requirements for labeling, instructions for use, and proper storage or disposition of the device. For some devices, the general licensee must also comply with leak testing requirements. The general licensee is also subject to the terms and conditions in 10 CFR 31.2 concerning general license requirements, transfer of byproduct material, reporting and recordkeeping, and inspection. The general licensee

must comply with the safety instructions contained in or referenced on the label of the device and must have the testing or servicing of the device performed by an individual who is authorized to manufacture, install, or service these devices.

A generally licensed device usually consists of radioactive material, contained in a sealed source, within a shielded device. The device is designed with inherent radiation safety features so that it can be used by persons with no radiation training or experience. Thus, the general license is meant to simplify the licensing process so that a case-by-case determination of the adequacy of the radiation training or experience of each user is not necessary.

There are about 45,000 general licensees under 10 CFR 31.5 who possess about 600,000 devices that contain byproduct material. In the past, the NRC has not contacted general licensees on a regular basis because of the relatively small radiation exposure risk posed by these devices and the very large number of general licensees.

However, there have been a number of occurrences where generally licensed devices containing radioactive material have not been properly handled or properly disposed of. In some cases, this has resulted in radiation exposure to the public and contamination of property. For example, when a source is accidentally melted in a steel mill, considerable contamination of the mill, the steel product, and the wastes from the process, the slag and the baghouse dust, can result.

Because of these incidents, the NRC conducted a 3-year sampling (1984 through 1986) of general licensees to assess the effectiveness of the general license program and to determine whether there was an accounting problem with generally licensed device users and, if so, what action could be taken. The sampling revealed several areas of concern regarding the use of radioactive material under the general license provisions of 10 CFR 31.5. The NRC concluded that—(1) Many general licensees are not aware of the appropriate regulations, and (2) Generally licensed devices are inadequately handled and accounted for.

Approximately 15 percent of all general licensees sampled could not account for all of their generally

licensed devices. The NRC concluded that these problems could be remedied by more frequent and timely contact between the general licensee and the NRC.

On December 27, 1991 (56 FR 67011), the NRC published a notice of proposed rulemaking concerning the accountability of generally licensed devices. The proposed rule contained a number of provisions, including a requirement for general licensees under 10 CFR 31.5 to provide information to the NRC upon request, through which a device registry could be developed. The proposed rule also included requirements in 10 CFR 32.51a and 32.52 for the specific licensees who manufacture or initially transfer generally licensed devices. Although the public comments received were reviewed and a final rule developed, a final rule was not issued because the resources to implement the proposed rule properly were not available.

The NRC has continued to consider the issues related to the loss of control of generally licensed, as well as specifically licensed, sources of radioactivity. In July 1995, the NRC, with assistance from the Organization of Agreement States, formed a working group to evaluate these issues. The working group consisted of both NRC and Agreement State personnel and encouraged the involvement of all persons having a stake in the process and its final recommendations. All working group meetings were open to the public. A final report was completed in July 1996 and published in October 1996 as NUREG-1551, "Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices."

In considering these recommendations, the NRC has decided, among other things, to initiate an annual registration program of devices generally licensed under 10 CFR 31.5 that would be similar to the program originally proposed in the December 27, 1991, proposed rule. However, the NRC has decided to do so only for those devices that present a higher risk (compared to other generally licensed devices) of potential exposure to the public and property loss if control of the device is lost. Initially, the NRC will use the criteria developed by the working group to determine which devices should be registered.

This proposed rule presents the proposed addition of an explicit requirement to provide information in response to requests made by the NRC for a second round of comment. While the proposed rule would apply to all 10 CFR 31.5 general licensees, the NRC

plans to contact only those general licensees identified by the working group for the purpose of the registration program.

The NRC is withdrawing the December 27, 1991, proposed rule. The NRC plans to review the other provisions contained in the December 27, 1991, proposed rule and the recommendations of the working group and develop additional requirements in a separate rulemaking.

### Discussion

The Atomic Energy Act of 1954 (AEA), as amended, authorizes the NRC to request appropriate information from its licensees concerning licensed activities. However, the Commission has not included such an explicit provision in the regulations governing 10 CFR 31.5 general licensees. Although 10 CFR 2.204, 30.34(e), and 30.61(a) require information from licensees by order or demand, these provisions are not considered appropriate for the initiation of a routine registration program. In a previous rulemaking, the Commission (then AEC) had proposed the inclusion of a registration requirement for generally licensed devices before receipt of devices (February 5, 1974; 39 FR 4583). In response to comment on that proposal, the Commission decided not to institute a registration requirement as part of the final rulemaking on that action (December 16, 1974; 39 FR 43531). Given this history, establishing a device registration program without a rulemaking process is also considered inappropriate.

This proposed rule would add an explicit requirement to 10 CFR 31.5 that would require general licensees to respond to written requests from the NRC for information concerning products that they have received for use under a general license in a timely way.

The proposed rule would require a response to requests within 30 days or such other time as specified in the request. For routine requests for information, 30 days should be adequate in most instances, and an extension can be obtained for good cause. If more complicated requests are made or circumstances recognized that may require a longer time, the Commission may provide a longer response time. In the unusual circumstance of a significant safety concern, the Commission could demand information in a shorter time. The NRC is specifically soliciting comments on this time period. Also, a phone number will be provided in the request for information in case additional guidance is necessary.

The NRC intends to use this provision primarily to institute an annual registration program for devices using certain quantities of specific radionuclides. The registration program is primarily intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material. The registration process would allow NRC to account for devices that have been distributed for use under the general license. The NRC believes that if general licensees are aware of their responsibilities they would comply with the requirements for proper handling and disposal of generally licensed devices. This would help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

The general licensees covered by the registration program would be asked to account for the devices in their possession and to verify, as well as certify, information concerning:

1. The identification of devices, such as the manufacturer, model and serial numbers;
2. The persons responsible for compliance with the regulations;
3. The disposition of the devices; and
4. The location of the devices.

While the proposed rule would apply to all 10 CFR 31.5 general licensees (about 45,000), the NRC would only contact, for purposes of registration, approximately 6000 general licensees, possessing about 24,000 devices. This estimate is based on the criteria recommended by the working group for determining which sources should have increased oversight. Requests for information would be sent to general licensees who are expected, based on current NRC records, to possess devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, or 37 MBq (1 mCi) of any transuranic (at this time, the only generally licensed devices meeting this criterion contain americium-241). The majority of the devices meeting these criteria are used in commercial and industrial applications measuring thickness, density, or chemical composition in petrochemical and steel manufacturing industries. The requests will include the information contained in NRC records concerning the possession of these devices. The licensees will be asked to verify, correct, and add to that information. The NRC records are based on information provided to NRC by distributors under 10 CFR 32.52(a) and from general licensees as required by 10 CFR

31.5(c)(8) or (9). If a general licensee no longer possesses devices meeting the criteria, it would be expected to provide information about the disposition of the devices previously possessed. Errors in current NRC records concerning these general licensees could be the result of: (1) errors made in the quarterly reports of manufacturers or initial distributors, (2) general licensees not reporting transfers, or (3) errors made by NRC or its contractors in recording transfer information.

In addition to the 6000 general licensees identified for registration, the NRC may occasionally request information from other general licensees on a case-by-case basis as necessary or appropriate. For example, this might involve investigating the extent that other users have experienced a problem that has been identified with the design of a particular device model. However, significant modifications to the registration program to include a larger class of licensees would be done through rulemaking.

Although the proposed amendment would impose some additional costs on licensees, the NRC has estimated these costs to be minimal. This cost is the estimated administrative cost expended by general licensees to verify the information requested by the NRC regarding licensed devices. The NRC believes that the proposed rule's intended effect of increased compliance by general licensees with regulatory requirements and resulting NRC and public confidence in the general license program potentially afforded by these new requirements outweigh this nominal administrative cost.

The NRC is currently considering additional rulemaking concerning the control and accountability of devices generally licensed under 10 CFR 31.5. The recommendations made in NUREG-1551 will be considered at that time. That anticipated rule would address fees for registration, additional labeling requirements for 10 CFR 32.51 licensees, and compatibility of Agreement State regulations in this area. Public comments on this current proposed rule should only address the requirements proposed in this action. Comments concerning possible future rulemaking and the possible imposition of fees will not be addressed in any rule resulting from this proposed action.

#### **Public Comments on the Original Proposed Rule**

The NRC reviewed the comments received on the December 27, 1991, proposed rule. There were 26 comment letters received from a variety of sources including private and publicly held

corporations, private citizens, citizens groups, the Armed Forces, and State governments. These comments have been considered to the extent applicable to this more limited proposed rule and will be considered in the development of a subsequent rulemaking concerning the accountability of devices generally licensed under 10 CFR 31.5. A detailed analysis of the comments received on the December 27, 1991, proposed rule will not be presented in either action as many of the specific comments pertain to specific provisions that have been withdrawn, much time has passed since these comments were made, and additional opportunity for comment is being provided.

Comments received on the December 27, 1991, proposed rule demonstrated that there was considerable opposition to the rule as proposed, some of it specifically concerning a registration requirement. Most of this opposition was related to the breadth of the proposal which would have made the registration program applicable to all of the 10 CFR 31.5 general licensees, accounting for as many as 600,000 devices. Some respondents questioned whether this was justified or cost effective. Some thought the impacts were underestimated, particularly for general licensees possessing many devices, and that the provision would have serious impacts on certain industries. Registration was specifically opposed for devices used by the airline industry, self-luminous signs, static eliminators, and some other devices which present relatively low risks.

The NRC found the working group process valuable in identifying criteria for categorizing devices that are more likely to present a significant risk by exposure of the public or through contamination of property. Therefore, the registration of devices under this proposed rulemaking would be limited to those devices meeting the criteria recommended by the working group. For the most part, general licensees using devices meeting these criteria have a limited number of devices that would require registration. The NRC is exploring approaches to minimize the administrative effort for both general licensees and the NRC in implementing this requirement.

This proposal includes a provision to request an extension to the time interval to provide a complete response to requests for information, if the general licensee is having difficulty in meeting the time limit. This provision was included in response to comments on the December 27, 1991, proposed rule. Although this difficulty is much less likely to arise within the limited

population of general licensees covered by the current proposal, the Commission believes that the additional flexibility is desirable.

#### **Interim Enforcement Policy**

As had been planned at the time of the 1991 proposed rule, the Commission intends to establish an interim enforcement policy for violations of 10 CFR 31.5 that licensees discover and report during the initial cycle of the registration program. This policy will supplement the normal NRC Enforcement Policy in NUREG-1600, Rev. 1. It will be issued in the near future and will remain in effect through one complete cycle of the registration program.

Under the current NRC Enforcement Policy, significant violations, such as those involving lost sources, may result in escalated enforcement action including civil penalties. The interim policy would provide that enforcement action normally would not be taken for violations identified by a licensee and reported to the NRC if appropriate corrective action is taken. For the period that the interim policy is in effect, it would also apply to general licensees not subject to the registration requirement if they identify and report violations and take appropriate corrective action. This change from the current NRC Enforcement Policy is intended to remove any disincentive to identify deficiencies that might be caused by a concern over potential enforcement action. This action would encourage general licensees to search their facilities to ensure sources are located, to determine if applicable requirements have been met, and to develop appropriate corrective action when deficiencies are found. A Notice of Violation (NOV) without a civil penalty still may be issued if the NRC staff believes that taking this action is justified by the safety significance of the violation or the need to record and document the general licensee's corrective action in the formal manner required in a response to an NOV.

In addition, escalated enforcement action still will be considered for violations involving failure to provide the information requested, failure to take appropriate corrective action, or for willful violations including the submittal of false information. Sanctions in those situations may include significant civil penalties as well as orders to limit or revoke the authority to possess radioactive sources under a general license.

The Commission also intends to increase the civil penalty amounts specified in its current Enforcement

Policy in NUREG-1600, Rev. 1, for violations involving lost or improperly disposed sources or devices. This is to ensure that such civil penalties are significantly higher than the costs avoided by the failure to properly dispose of the source or device.

#### **Agreement State Compatibility**

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997 (62 FR 46517), this proposed rule is classified as Compatibility Category D. Category D means the provisions are not required for purposes of compatibility; however, if adopted by the State, the provisions should not create any conflicts, duplications, or gaps in the regulation of AEA material. Ultimately an enhanced oversight program is expected to include provisions that will require a higher degree of compatibility. This will be considered in a subsequent rulemaking to add more explicit requirements for the registration program and additional provisions concerning accountability of generally licensed devices.

#### **Environmental Impact: Categorical Exclusion**

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

#### **Paperwork Reduction Act Statement**

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (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 information collection requirements.

The public reporting burden for this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the

NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for reducing the burden, to the Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0016), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by (insert date 30 days after publication in the **Federal Register**). Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

#### **Public Protection Notification**

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

#### **Regulatory Analysis**

The NRC has prepared a draft regulatory analysis for this proposed regulation. The analysis examines the cost and benefits of the alternatives considered by the NRC. The comments received on the earlier draft regulatory analysis have been considered to the extent that they apply to this more limited action. The regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained by calling Jayne McCausland, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC, 20555-0001; telephone (301) 415-6219; or e-mail at JMM2@nrc.gov.

#### **Regulatory Flexibility Certification**

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would require

general licensees who have received specific devices to respond to requests for information from NRC. The proposed rule would apply to the approximately 45,000 persons using products under an NRC general license, many of whom may be classified as small entities. However, the NRC intends to request registration information from only approximately 6000 of these general licensees about the identification of the devices, accountability for the devices, the persons responsible for compliance with the regulations, and the disposition of the devices. The NRC believes that the economic impact of the proposed requirements on any general licensee would be a negligible increase in administrative burden. The proposed rule is intended to ensure that general licensees understand and comply with regulatory responsibilities regarding the generally licensed radioactive devices in their possession.

#### **Backfit Analysis**

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, a backfit analysis is not required because these amendments would not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

#### **List of Subjects in 10 CFR Part 31**

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

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 Part 31.

#### **PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL**

1. The authority citation for Part 31 continues to read as follows:

**Authority:** Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

2. Section 31.5 is amended by adding paragraph (c)(11) to read as follows:

**10 CFR 31.5 Certain measuring, gauging, or controlling devices.<sup>2</sup>**

\* \* \* \*

(c) \* \* \*

(11) Shall respond to written requests from the Nuclear Regulatory Commission to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 and provide written justification as to why it cannot comply.

\* \* \* \*

Dated at Rockville, Maryland, this 19th day of November, 1998.

For the Nuclear Regulatory Commission.

**Malcolm R. Knapp,**

*Acting Executive Director for Operations.*

[FR Doc. 98-32113 Filed 12-1-98; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 35

RIN 3150-AC42

#### Comprehensive Quality Assurance in Medical Use and a Standard of Care

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking; Withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing an advance notice of proposed rulemaking (ANPRM) that requested public comments on questions related to comprehensive quality assurance and a standard of care in medical uses of byproduct material. The Commission has decided to withdraw this ANPRM because of the effective implementation of the "Quality Management Program and Misadministrations" rule and the NRC's current efforts in revising the existing regulation for medical uses of byproduct material into a more risk-informed and performance-based regulation.

<sup>2</sup>Persons possessing byproduct material in devices under a general license in 10 CFR 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of 10 CFR 31.5 in effect on January 14, 1975.

**ADDRESSES:** The Commission paper, the staff requirement memoranda (SRM), and associated documents are available for public inspection, and copying for a fee, at the NRC Public Document Room located at 2120 L Street NW. (Lower Level), Washington, DC 20012-7082, telephone: (202) 512-2249.

**FOR FURTHER INFORMATION CONTACT:**

Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

On October 2, 1987, the Commission published two notices in the **Federal Register** regarding medical use of byproduct material. The first notice was the proposed rulemaking entitled "Basic Quality Assurance in Radiation Therapy" (52 FR 36942), that proposed a requirement for medical use licensees to implement some specific basic quality assurance practices to reduce the number of therapy misadministrations involving byproduct material. The second notice was an ANPRM entitled "Comprehensive Quality Assurance in Medical Use and a Standard of Care" (52 FR 36949), that requested public comments on the extent to which a comprehensive quality assurance program requirement was needed. The NRC believed that this two-pronged approach to the misadministrations problem would provide the best balance between assuring public health and safety and avoiding inadvertent interference in the delivery of quality medical care.

On July 25, 1991 (56 FR 34104), the NRC published a final rule entitled "Quality Management Program and Misadministrations" (the QM Rule) which was based on the above-mentioned 1987 proposed rule. During the implementation of the final rule, the NRC decided to assess the effectiveness of the rule and, based on the results of the assessment, to determine the need for a rulemaking on comprehensive quality management.

Subsequently, a Commission SRM on SECY-97-115 dated June 30, 1997, approved subsuming several Part 35 rulemakings into one major revision to 10 CFR Part 35 rulemaking activity. The proposed rulemaking entitled "Medical Use of Byproduct Material," was published in the **Federal Register** (RIN 3150-AF74) (August 13, 1998; 63 FR 43516). The NRC is in the process of developing the final rule governing medical use of byproduct material into a more risk-informed and performance-based regulation. This overall revision includes a consideration as to whether

or not the regulation on the quality management program should be revised to become more risk-informed and performance-based. For this reason, the Commission is withdrawing the ANPRM.

Dated at Rockville, Maryland, this 24th day of November, 1998.

For the Nuclear Regulatory Commission.

**John C. Hoyle,**

*Secretary of the Commission.*

[FR Doc. 98-32108 Filed 12-1-98; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

RIN 3150-AF04

#### Steam Generator Tube Integrity for Operating Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule; Withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing an advance notice of proposed rulemaking (ANPRM) that was published to request public comment on the Commission's regulations pertaining to steam generator (SG) tube integrity. The proposed rule would have implemented a more flexible regulatory framework for steam generator surveillance and maintenance activities that would maintain adequate assurance of tube integrity while allowing a degradation-specific management approach. Because the NRC has concluded that the regulatory objectives set forth for this effort can be achieved by equally effective regulatory alternatives, the ANPR is being withdrawn.

**ADDRESSES:** The Commission paper, the staff requirement memoranda (SRM), and associated documents are available for public inspection, and copying for a fee, at the NRC Public Document Room located at 2120 L Street NW. (Lower Level), Washington, DC 20012-7082, telephone: (202) 512-2249.

**FOR FURTHER INFORMATION CONTACT:** Tim Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1462, e-mail tar@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

On September 19, 1994 (59 FR 47817), the Commission published an ANPRM that requested comments, advice, and recommendations from interested parties on the proposed steam generator rule. In response to the ANPRM, two