

## FINAL RULES – Fiscal Year 2011

### **Domestic Licensing of Production and Utilization Facilities: Updates to Incorporation by Reference of Regulatory Guides: Final Rule; 10 CFR Part 50 (RIN 3150-AI37, NRC 2009-0014)**

On October 5, 2010 (75 FR 61321), the NRC published a final rule, effective November 4, 2010, amending its regulations to incorporate by reference the latest revisions of two previously incorporated regulatory guides (RGs) approving new and revised Code Cases published by the American Society of Mechanical Engineers (ASME). The RGs which are incorporated by reference are RG 1.84, "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III," Revision 35, and RG 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," Revision 16. This action allows nuclear power plant licensees, and applicants for standard design certifications, standard design approvals, and manufacturing licenses under the regulations that govern license certifications, and approves the nuclear power plants to use the Code Cases listed in these RGs as alternatives to requirements in the ASME Boiler and Pressure Vessel Code regarding the construction and inservice inspection of nuclear power plant components. Concurrent with this action, the NRC published a notice of the issuance and availability of the RGs in the *Federal Register*. As a result of these related actions, the Code Cases listed in these RGs are incorporated by reference into the NRC's regulations and are deemed to be legally-binding NRC requirements. A correction to this final rule was published on October 21, 2010 (75 FR 64949), to include certification in the rule that the NRC has complied with the requirements of the Congressional Review Act. An additional correction was published on December 10, 2010 (75 FR 76923), to include regulatory text that was inadvertently omitted from the final rule.

### **Miscellaneous Administrative Changes: Final Rule; 10 CFR Parts 2, 10, 20, 25, 26, 30, 34, 40, 50, 54, 70, 71, 72, 95, 110, and 150 (RIN 3150-AH49, NRC-2009-0085)**

On November 30, 2010 (75 FR 73935), the NRC published a final rule, effective December 30, 2010, amending its regulations to make miscellaneous administrative changes, including an update of the list of Agreement and Non-Agreement States, the merging of the Region II materials program with that of Region I, the correction of office titles associated with the Office of Nuclear Material Safety and Safeguards and the Office of Federal and State Materials and Environmental Management Programs, the inclusion of references to new Executive Order 13526, and other edits, corrections, and conforming changes.

### **Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation: Final Rule; 10 CFR Part 51 (RIN 3150-AI47, NRC-2008-0404)**

On December 23, 2010 (75 FR 81032), the NRC published a final rule, effective January 24, 2011, amending its regulations by revising its generic determination on the environmental impacts of storage of spent fuel at, or away from, reactor sites after the expiration of reactor operating licenses. The revisions reflect findings that the Commission has reached in an update and supplement to the 1990 Waste Confidence rulemaking proceeding published on December 23, 2010 (75 FR 81037).

**License and Certificate of Compliance Terms: Final Rule; 10 CFR Part 72 (RIN 3150-AI09, NRC-2008-0361)**

On February 16, 2011 (76 FR 8872), the NRC published a final rule, effective May 17, 2011, amending its regulations that govern licensing requirements for the independent storage of spent nuclear fuel. These amendments include changes that enhance the effectiveness and efficiency of the licensing process for spent nuclear fuel storage. Specifically, they extend and clarify the term limits for storage cask Certificates of Compliance (CoCs) and independent spent fuel storage installation (ISFSI) specific licenses. The amendments also provide consistency between the general and specific ISFSI license requirements, and allow general licensees subject to these regulations to implement changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC (a “previously loaded cask”).

**Decommissioning Planning: Final Rule; 10 CFR Parts 20, 30, 40, 50, 70, and 72 (RIN 3150-AI55, NRC-2008-0030)**

On June 17, 2011 (76 FR 35512), the NRC published a final rule, effective December 17, 2012, amending its regulations to improve decommissioning planning and thereby reduce the likelihood that any current operating facility will become a legacy site. The amended regulations require licensees to conduct their operations to minimize the introduction of residual radioactivity into the site, which includes the site's subsurface soil and groundwater. Licensees also may be required to perform site surveys to determine whether residual radioactivity is present in subsurface areas and to keep records of these surveys with records important for decommissioning. The amended regulations require licensees to report additional details in their decommissioning cost estimate, eliminate the escrow account and line of credit as approved financial assurance mechanisms, and modify other financial assurance requirements. The amended regulations require decommissioning power reactor licensees to report additional information on the costs of decommissioning and spent fuel management.

**American Society of Mechanical Engineers (ASME) Codes and New and Revised ASME Code Cases: Final Rule; 10 CFR Part 50 (RIN 3150-AI35, NRC-2008-0554)**

On June 21, 2011 (76 FR 36232), the NRC published a final rule, effective July 21, 2011, amending its regulations to incorporate by reference the 2005 Addenda (July 1, 2005) and 2006 Addenda (July 1, 2006) to the 2004 ASME Boiler and Pressure Vessel Code, Section III, Division 1 and other certain publications listed in the rule. The NRC is also incorporating by reference (with conditions on their use) ASME Boiler and Pressure Vessel Code Case N-722-1. The incorporation by reference of certain publications listed in the rule was approved by the Director of the Office of the *Federal Register* as of July 21, 2011.

**Revision of Fee Schedules: Fee Recovery for Fiscal Year 2011: Final Rule; 10 CFR Parts 170 and 171 (RIN 3150-AI93, NRC-2011-0016)**

On June 22, 2011 (76 FR 36780), the NRC published a final rule, effective August 22, 2011, amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2011, not including amounts appropriated from the Nuclear

Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities. Based on the Department of Defense and Full-Year Continuing Appropriations Act, 2011, signed by the President on April 15, 2011, the NRC's required fee recovery amount for the FY 2011 budget is approximately \$915.8 million. After accounting for billing adjustments, the total amount to be billed as fees was approximately \$916.2 million.

**Alternative to Minimum Days Off Requirements: Final Rule; 10 CFR Part 26 (RIN 3150-AI94, NRC-2011-0058)**

On July 21, 2011 (76 FR 43534), the NRC published a final rule, effective August 22, 2011, amending its regulations governing the fitness for duty of workers at nuclear power plants. These amendments allow holders of nuclear power plant operating licenses the option to use a different method from the one already prescribed in the NRC's regulations for determining when certain nuclear power plant workers must be afforded time off from work to ensure that such workers are not impaired due to cumulative fatigue caused by work schedules.

**Licenses, Certifications, and Approvals for Materials Licensees: Final Rule; 10 CFR Parts 30, 36, 39, 40, 51, 70, and 150 (RIN 3150-AI79, NRC-2010-0075)**

On September 15, 2011 (76 FR 56951), the NRC published a final rule, effective November 14, 2011, amending its regulations by revising the provisions applicable to the licensing and approval processes for byproduct, source and special nuclear materials licenses, and irradiators. The changes will clarify the definitions of "construction" and "commencement of construction" for materials licensing actions conducted under the NRC's regulations. These changes will improve the effectiveness and efficiency of the licensing and approval processes for future materials license applications, and eliminate inconsistencies within the NRC's regulations with respect to the use and definition of the terms "construction" or "commencement of construction" for certain materials licensees for purposes of its environmental reviews.

## DIRECT FINAL RULES – FY 2011

### **List of Approved Spent Fuel Storage Casks: NUHOMS® HD System Revision 1; Direct Final Rule; 10 CFR Part 72 (RIN 3150-AI89, NRC-2011-0002)**

On January 13, 2011 (76 FR 2243), the NRC published a direct final rule, effective March 29, 2011, amending its spent fuel storage regulations by revising the Transnuclear, Inc. NUHOMS® HD System listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 1 to Certificate of Compliance Number 1030. Amendment No. 1 will revise the definitions for Damaged Fuel Assembly and Transfer Operations; add definitions for Fuel Class and Reconstituted Fuel Assembly; add Combustion Engineering 16x16 class fuel assemblies as authorized contents; reduce the minimum off-normal ambient temperature from -20°F to -21°F; expand the authorized contents of the NUHOMS® HD System to include pressurized water reactor fuel assemblies with control components; and reduce the minimum initial enrichment of fuel assemblies from 1.5 weight percent uranium-235 to 0.2 weight percent uranium-235. In addition, Amendment No. 1 will clarify the requirements of reconstituted fuel assemblies; add requirements to qualify metal matrix composite neutron absorbers with integral aluminum cladding; clarify the requirements for neutron absorber tests; delete use of nitrogen for draining the water from the dry shielded canister, and allow only helium as a cover gas during DSC cavity water removal operations; and make corresponding changes to the technical specifications. The companion proposed rule was published on January 13, 2011 (76 FR 2277). The confirmation of effective date for this direct final rule was published on March 9, 2011 (76 FR 12825).

### **List of Approved Spent Fuel Storage Casks: HI-STORM Flood/Wind Addition; Direct Final Rule; 10 CFR Part 72 (RIN 3150-AI90, NRC-2011-0007)**

On March 28, 2011 (76 FR 17019), the NRC published a direct final rule, effective June 13, 2011, to amend its regulations to add the HI-STORM Flood/Wind cask system to the “List of Approved Spent Fuel Storage Casks.” This direct final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license. The companion proposed rule was published on March 28, 2011 (76 FR 17037). The confirmation of effective date for this direct final rule was published on June 8, 2011 (76 FR 33121).

## PROPOSED RULES – FY 2011

### **Physical Protection of Irradiated Reactor Fuel in Transit: Proposed Rule; 10 CFR Part 73 (RIN 3150-AI64, NRC-2009-0163)**

On October 13, 2010 (75 FR 62695), the NRC published a proposed rule to amend its security regulations pertaining to the transport of irradiated reactor fuel. The rule proposed generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001. It would also establish the acceptable performance standards and objectives for the protection of spent nuclear fuel shipments from theft, diversion, or radiological sabotage. The proposed amendments would apply to those licensees authorized to possess or transport spent nuclear fuel. The proposed security requirements would also address, in part, a petition for rulemaking from the State of Nevada (PRM-73-10) that requests that NRC strengthen the regulations governing the security of spent nuclear fuel shipments against malevolent acts. The public comment period for this proposed rule closed on January 11, 2011. Comments specific to the information collection aspects of the proposed rule closed on November 12, 2010. A notice was published on January 10, 2011 (76 FR 1653), extending the comment period to April 11, 2011.

### **Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste: Proposed Rule; 10 CFR Parts 71 and 73 (RIN 3150-AG41, NRC-1999-0005)**

On December 6, 2010 (75 FR 75641), the NRC published a proposed rule to amend its regulations that govern packaging and transportation of radioactive material and physical protection of plants and materials. Specifically, the proposed amendments would require licensees to provide advance notification to federally recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes for any shipment that passes within or across their reservations. The comment period for this proposed rule closed on February 5, 2011. Comments specific to the information collection aspects of the proposed rule closed on January 5, 2011.

### **U.S. Advanced Boiling Water Reactor Aircraft Impact Design Certification Amendment: Proposed Rule; 10 CFR Part 52 (RIN 3150-AI84, NRC-2010-0134)**

On January 20, 2011 (76 FR 3540), the NRC published a proposed rule to amend its regulations to certify an amendment to the U.S. Advanced Boiling Water Reactor (ABWR) standard plant design to comply with the NRC's aircraft impact assessment (AIA) regulations. This action would allow applicants or licensees intending to construct and operate a U.S. ABWR to comply with the NRC's AIA regulations by referencing the amended design certification rule (DCR). The applicant for certification of the amendment to the U.S. ABWR design is STP Nuclear Operating Company (STPNOC). The public was invited to submit comments on this proposed DCR, the STPNOC design control document (DCD) that would be incorporated by reference into the DCR, and the environmental assessment (EA) for the amendment to the U.S. ABWR design. The public was also invited to submit comments on the NRC's proposed approach for treating multiple suppliers of a single certified design. The public comment period on the DCR, DCD, and/or EA closed on April 5, 2011.

**Draft Weapons Safety Assessment on the Use of Enhanced Weapons: Notice of Availability and Request for Comment; 10 CFR Part 73 (RIN 3150-AI49, NRC-2011-0017)**

On February 3, 2011 (76 FR 6087), the NRC published a request for comment seeking input from the public, licensees, certificate holders, and other stakeholders on a draft guidance document entitled "Weapons Safety Assessment" (WSA). This guidance would be used by licensees and certificate holders applying to the NRC to obtain enhanced weapons under the NRC's proposed rule titled "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications." The proposed rule was published on February 3, 2011 (76 FR 6200). A completed WSA would be part of an application to the NRC for the use of enhanced weapons. The Commission is authorized under Section 161A of the Atomic Energy Act of 1954, as amended, to approve licensees' and certificate holders' possession of enhanced weapons as part of a protective strategy for defending NRC-regulated facilities and radioactive material against malevolent acts. Volumes 1 through 3 of the draft WSA are being issued for public review and comment. The public comment period on Volumes 1 through 3 of the draft WSA closed on May 4, 2011. On April 27, 2011 (76 FR 23515), the NRC published an extension of comment period to August 2, 2011.

**Enhanced Weapons, Firearms Background Checks, and Security Event Notifications: Proposed Rule; 10 CFR Part 73 (RIN 3150-AI49, NRC-2011-0018)**

On February 3, 2011 (76 FR 6200), the NRC published proposed regulations that would implement its authority under the new Section 161A of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications. These proposed regulations are consistent with the provisions of the Firearms Guidelines the NRC published under Section 161A with the approval of the U.S. Attorney General on September 11, 2009 (74 FR 46800). The NRC previously proposed new regulations on October 26, 2006 (71 FR 62664), that would have implemented this new authority as part of a larger proposed rule entitled "Power Reactor Security Requirements." However, based upon changes to the final Firearms Guidelines, the NRC is now proposing further revisions in these implementing regulations that address the voluntary application for enhanced weapons and the mandatory firearms background checks under Section 161A. These implementing regulations would only apply to nuclear power reactor facilities and Category I strategic special nuclear material facilities. In addition, the NRC is also proposing revisions addressing security event notifications from different classes of facilities and the transportation of radioactive material consistently and would add new event notification requirements on the theft or loss of enhanced weapons. The public comment period closed on May 4, 2011. On April 27, 2011 (76 FR 23515), the NRC published an extension of comment period to August 2, 2011.

**AP1000 Design Certification Amendment: Proposed Rule; 10 CFR Part 52 (RIN 3150-AI81, NRC-2010-0131)**

On February 24, 2011 (76 FR 10269), the NRC published a proposed rule to amend its regulations to certify an amendment to the AP1000 standard plant design. The purpose of the amendment is to (1) replace the combined license information items and design acceptance criteria with specific design information, (2) address the effects of the impact of a large commercial aircraft, (3) incorporate design improvements, and (4) increase standardization of the design. Upon NRC rulemaking approval of its amendment to the AP1000 design, an applicant seeking an NRC license to construct and operate a nuclear power reactor using the

AP1000 design need not demonstrate in its application the safety of the certified design. The applicant for this amendment to the AP1000 certified design is Westinghouse Electric Company, LLC. The public comment period on the design certification rule, the revised generic design control document, and the environmental assessment for this proposed rule closed on May 10, 2011. The comment period on the information collections aspect of this proposed rule closed on March 28, 2011.

**Amendments to Adjudicatory Process Rules and Related Requirements: Proposed Rule; 10 CFR Parts 2, 51, and 54 (RIN 3150-AI43, NRC-2008-0415)**

On February 28, 2011 (76 FR 10781), the NRC published a proposed rule to amend its adjudicatory rules of practice. This proposed rule would make changes to the NRC's adjudicatory process that the NRC believes will promote fairness, efficiency, and openness in the NRC adjudicatory proceedings. This proposed rule would also correct errors and omissions that have been identified since the major revisions to the NRC's Rules of Practice in early 2004. The public comment period for this proposed rule closed on May 16, 2011.

**Revision of Fee Schedules; Fee Recovery for Fiscal Year 2011: Proposed Rule; 10 CFR Parts 170 and 171 (RIN 3150-AI93, NRC-2011-0016)**

On March 17, 2011(76 FR 14748), the NRC published a proposed rule to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2011, not including amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities. Based on the FY 2011 budget submitted to the Congress, the NRC's required fee recovery amount for the FY 2011 budget is approximately \$915.3 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately \$915.7 million. The public comment period for this proposed rule closed on April 18, 2011.

**ESBWR Design Certification: Proposed Rule; 10 CFR Part 52 (RIN 3150-AI85, NRC-2010-0135)**

On March 24, 2011 (76 FR 16549), the NRC published a proposed rule to amend its regulations to certify the Economic Simplified Boiling-Water Reactor (ESBWR) standard plant design. This action is necessary so that applicants or licensees intending to construct and operate an ESBWR design may do so by referencing this design certification rule (DCR). The applicant for certification of the ESBWR design is GE-Hitachi Nuclear Energy. The public is invited to submit comments on this proposed DCR, the generic design control document (DCD) that would be incorporated by reference into the DCR, and the environmental assessment (EA) for the ESBWR design. The public comment period for the DCR, DCD, and EA closed on June 7, 2011. The comment period on the information collections aspect of this proposed rule closed on April 25, 2011.

**Alternative to Minimum Days Off Requirements: Proposed Rule; 10 CFR Part 26 (RIN 3150-AI94, NRC-2011-0058)**

On April 26, 2011 (76 FR 23208), the NRC published a proposed rule to amend its regulations governing the fitness for duty of workers at nuclear power plants. These amendments would allow holders of nuclear power plant operating licenses the option to use a different method from the one currently prescribed in the NRC's regulations for determining when certain nuclear power plant workers must be afforded time off from work to ensure that such workers are not impaired due to cumulative fatigue caused by work schedules. The public comment period for this proposed rule closed on May 26, 2011. On May 3, 2011 (76 FR 24831), the NRC published a correction to the proposed rule to correct a typographical error in a Web site address.

**Requirements for Maintenance of Inspections, Tests, Analyses, and Acceptance Criteria: Proposed Rule; 10 CFR Parts 2 and 52 (RIN 3150-AI77, NRC-2010-0012)**

On May 13, 2011 (76 FR 27925), the NRC published a proposed rule to amend its regulations related to the verification of nuclear power plant construction activities through inspections, tests, analyses, and acceptance criteria (ITAAC) under a combined license. Specifically, the NRC proposed new provisions that apply after a licensee has completed an ITAAC and submitted an ITAAC closure notification. The new provisions would require licensees to report new information materially altering the basis for determining that either inspections, tests, or analyses were performed as required, or that acceptance criteria are met, and to notify the NRC of completion of all ITAAC activities. In addition, the NRC proposed editorial corrections to existing language in the NRC's regulations to correct and clarify ambiguous language and make it consistent with language in the Atomic Energy Act of 1954, as amended. The public comment period for this proposed rule closed on July 27, 2011.

**Domestic Licensing of Source Material--Amendments/Integrated Safety Analysis: Proposed Rule; 10 CFR Parts 40 and 150 (RIN 3150-AI50, NRC-2009-0079)**

On May 17, 2011 (76 FR 28336), the NRC published for public comment a proposed rule and draft guidance concerning the NRC's requirements for source material licensees who possess significant quantities of uranium hexafluoride (UF<sub>6</sub>). The proposed amendments would require such licensees to conduct integrated safety analyses (ISAs) similar to the ISAs performed by 10 CFR part 70 licensees. The proposed ISA requirements would not apply to facilities that are currently undergoing decommissioning under the current regulations. The proposed rule would also set possession limits for UF<sub>6</sub> for determining licensing authority (NRC or Agreement States); add defined terms; add an additional evaluation criterion for applicants who submit an evaluation in lieu of an emergency plan; and require the NRC to perform a backfit analysis under specified circumstances. The public comment period for this proposed rule closed on August 1, 2011. A correction was published on June 1, 2011 (76 FR 31507), to correct the NRC's Agencywide Documents Access and Management System accession number that appeared in Section XI, "Regulatory Analysis." On July 27, 2011 (76 FR 44865), the NRC published an extension of the public comment period and notice of an August 17, 2011, public meeting on the proposed rule. The public comment period was extended to September 9, 2011. An additional correction was published in August 4, 2011 (76 FR 47085), to correct the public meeting date and Docket ID numbers issued on a previous notice (76 FR 44865).



## ADVANCE NOTICES OF PROPOSED RULEMAKING

None

### AVAILABILITY OF DRAFT RULE LANGUAGE

**Site-Specific Analyses for Demonstrating Compliance with Subpart C Performance Objectives: Preliminary Proposed Rule Language; 10 CFR Part 61 (RIN 3150-AI92, NRC-2011-0012)**

On May 3, 2011 (76 FR 24831), the NRC published a notice announcing a public meeting and the availability of preliminary proposed rule language. The preliminary proposed rule language would amend the NRC's regulations to require low-level radioactive waste disposal facilities to conduct site-specific analyses to demonstrate compliance with the performance objectives. While the existing regulatory requirements are adequate to protect public health and safety, these amendments would enhance the safe disposal of low-level radioactive waste. The NRC conducted a public meeting on May 18, 2011, to discuss the preliminary proposed rule language and its associated regulatory basis documents. The public comment period closed on June 18, 2011.

**Amendments to Material Control and Accounting Regulations: Availability of Preliminary Proposed Rule Language; 10 CFR Parts 72, 74, and 150 (RIN 3150-AI61, NRC-2009-0096)**

On May 16, 2011 (76 FR 28193), the NRC published for public comment preliminary proposed rule language concerning the NRC's proposed amendments to the material control and accounting (MC&A) regulations. These regulations apply to NRC licensees who are authorized to hold special nuclear material (SNM) and to certain licensees within the jurisdiction of the Agreement States that hold SNM and submit material status reports to the NRC. The goal of this rulemaking is to revise and consolidate the MC&A requirements. After the Commission has reviewed and approved the proposed rule, it will be formally published for comment. The public comment period closed on June 30, 2011.

**Medical Use Regulations: Availability of Preliminary Draft Rule Language and Notice of Public Workshops; 10 CFR Part 35 (RIN 3150-AI26, NRC-2008-0071 and RIN 3150-AI63, NRC-2008-0175)**

On May 20, 2011 (76 FR 29171), the NRC published for public comment preliminary draft rule language concerning the NRC's proposed amendments to the medical use regulations, and announced public workshop to be held on June 20 and 21, 2011 to solicit comments on certain issues under consideration to amend the medical use regulations, including reporting and notifications of medical events for permanent implant brachytherapy. The NRC held a second public workshop on the same subject matter in August 2011. A correction was published on June 8, 2011 (76 FR 33173), to correct a Regulatory Identifier Number that appeared in the

heading, and add additional information regarding the availability of the preliminary draft rule language.

## **POLICY STATEMENTS**

### **Interim Enforcement Policy for Minimum Days Off Requirements: Revision; 10 CFR Part 26 (RIN 3150-AI94, NRC-2011-0084)**

On April 25, 2011 (76 FR 22802), the NRC published an interim enforcement policy statement revising its Enforcement Policy to include a provision allowing licensees enforcement discretion if they implement an alternative approach to meet the NRC's requirements for managing worker fatigue at operating nuclear power plants. This interim policy affects licensees subject to the minimum days off (MDO) requirements of the NRC's fitness for duty regulations and will remain in place until the NRC publishes a revised rule associated with the MDO requirements for managing fatigue. This revision was effective on April 25, 2011.

### **Interim Enforcement Policy for Certain Fire Protection Issues: Policy Statement; Revision; 10 CFR Part 50 (RIN 3150-AG48, NRC-2008-0486)**

On July 12, 2011 (76 FR 40777), the NRC published a policy statement revising its interim Enforcement Policy on enforcement discretion for certain fire protection issues to correspond with a submittal schedule for new license amendment requests. This interim enforcement policy affects licensees that are transitioning to use the National Fire Protection Association Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants."

### **NRC Enforcement Policy: Proposed Enforcement Policy Revision; Request for Comment, 10 CFR Chapter I (NRC-2011-0209)**

On September 6, 2011 (76 FR 54986), the NRC published a proposed policy revision to solicit comments to assist the NRC in revising its Enforcement Policy. The public comment period for this proposed policy revision closed on October 6, 2011.

## **MEMORANDUM OF UNDERSTANDING (MOU)**

**None**

## PETITIONS FOR RULEMAKING (PRM)

### Notices of Receipt of PRMs

#### **Anthony R. Pietrangelo on Behalf of the Nuclear Energy Institute: Receipt of Petition for Rulemaking; 10 CFR Part 26 (PRM-26-5, NRC-2010-0304)**

On October 22, 2010 (75 FR 65249), the NRC published for public comment a notice of receipt of a petition for rulemaking, dated September 3, 2010, which was filed with the NRC by Anthony R. Pietrangelo, on behalf of the Nuclear Energy Institute. The petition requested that the NRC amend its regulations regarding its fitness for duty programs to refine existing requirements based on experience gained since the regulations were last amended in 2008. The comment period for this petition for rulemaking closed on January 5, 2011.

#### **Erik Erb and 91 co-signers: Receipt of Petition for Rulemaking; 10 CFR Part 26 (PRM-26-6, NRC-2010-0310)**

On November 23, 2010 (75 FR 71368), the NRC published for public comment a notice of receipt of a petition for rulemaking, dated August 17, 2010, which was filed with the NRC by Erik Erb and 91 co-signers (the petitioners). The Petitioners requested that the NRC amend its regulations in 10 CFR Part 26, Subpart I, to decrease the minimum days off (MDO) requirement for security officers working 12-hour shifts from an average of 3 days per week to 2.5 or 2 days per week. The Petitioner claims that such a decrease in MDO would (1) bring the requirement in line with MDO requirements for Operations, Maintenance, and other personnel subject to the MDO requirements; and (2) have a sizeable impact on alleviating some of the issues the MDO requirements have caused or may cause in the future. The comment period for this petition for rulemaking closed on February 7, 2011.

#### **Francis Slakey on Behalf of the American Physical Society: Receipt of Petition for Rulemaking; 10 CFR Part 70 (PRM-70-9, NRC-2010-0372)**

On December 23, 2010 (75 FR 80730), the NRC published for public comment a notice of receipt for a petition for rulemaking, dated November 10, 2010, which was filed with the NRC by Francis Slakey (the petitioner). The petitioner requested that the NRC amend its regulations at subpart D of 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," to include a requirement for a Nuclear Proliferation Assessment (NPA). The comment period for this petition for rulemaking closed on March 8, 2011.

#### **Thomas Popik: Receipt of Petition for Rulemaking; 10 CFR Part 50 (PRM-50-96, NRC-2011-0069)**

On May 6, 2011 (76 FR 26223), the NRC published for public comment a notice of receipt for a petition for rulemaking, dated March 14, 2011, which was filed with the NRC by Thomas Popik. The petition requested that the NRC amend its regulations regarding the domestic licensing of special nuclear material to require production and utilization facilities licensed by the NRC to assure long-term cooling and unattended water makeup of spent fuel pools. The public comment period for this petition for rulemaking closed on July 20, 2011.

**Annette User on Behalf of GE Osmonics, Inc.: Receipt of Petition for Rulemaking; 10 CFR Part 30 (PRM-30-65, NRC-2011-0134)**

On June 22, 2011 (76 FR 36386), the NRC published for public comment a notice of receipt for a petition for rulemaking, dated April 18, 2011, which was filed with the NRC by Annette User on behalf of GE Osmonics, Inc. (the petitioner). The petitioner requested that the NRC amend its regulations regarding the commercial distribution of byproduct material to allow recipients of exempt quantities of polymer (polycarbonate or polyester) track etch membranes that have been irradiated with mixed fission products to commercially redistribute the material without a license. The public comment period for this petition for rulemaking closed on July 20, 2011.

**Natural Resources Defense Council, Inc.: Receipt of Petition for Rulemaking; 10 CFR Parts 50, 52, and 100 (PRM-50-97, PRM-50-98, PRM-50-99, PRM-50-100, PRM-50-101, PRM-50-102, NRC-2011-0189)**

On September 20, 2011 (76 FR 58165), the NRC published a notice of receipt for six petitions for rulemaking dated July 26, 2011, from the Natural Resources Defense Council, Inc. (the petitioner). The petitioner requested the NRC amend its regulations to require (1) emergency preparedness (EP) enhancements for prolonged station blackouts; (2) EP enhancements for multiunit events; (3) licensees to confirm seismic hazards and flooding hazards every 10 years and address any new and significant information; (4) licensees to improve spent nuclear fuel pool safety; (5) each operating and new reactor licensee to establish station blackout mitigation strategies and resources; and (6) licensees to provide training and exercises on severe and extreme accident mitigation guidelines for licensee staff. The petitioner solely and specifically cited the Fukushima Task Force Report as the rationale and bases for its six PRMs. The NRC will consider the issues raised by these PRMs through the process the Commission has established for addressing the recommendations from the Fukushima Task Force Report and is not providing a separate opportunity for public comment on the PRMs at this time.

### **Denied PRMs**

**Dan Kane: Denial of Petition for Rulemaking; 10 CFR Part 51 (PRM-51-13, NRC-2010-0088)**

On February 28, 2011 (76 FR 10805), the NRC published a denial of a petition for rulemaking (PRM) submitted by Dan Kane (the petitioner). The petitioner requested that the NRC rescind the Waste Confidence Rule, suspend all ongoing reactor licensing proceedings, and phase out operations at all operating nuclear power plants. The NRC denied the petition because, contrary to the assertions made in the PRM, the Commission's Waste Confidence Decision and Rule consider the political uncertainty discussed in the petition and do not depend on the availability of a repository at Yucca Mountain, Nevada.

**James Luehman: Denial of Petition for Rulemaking; 10 CFR Part 50 (PRM-50-92, NRC-2008-0492)**

On March 7, 2011 (76 FR 12295), the NRC published a denial of a petition for rulemaking submitted by James Luehman (the petitioner). The petitioner requested that the NRC amend its standard for sustaining a whistleblower retaliation violation of the Employee Protection Rule.

## PRMs to be Considered in the Rulemaking Process

### **Nuclear Energy Institute: Petition for Rulemaking; Consideration of Petition in the Rulemaking Process; 10 CFR Part 70 (PRM-70-8, NRC-2009-0184)**

On October 18, 2010 (75 FR 63725), the NRC published a document in the *Federal Register* stating that the NRC will consider in its rulemaking process five of the issues raised in a petition submitted by the Nuclear Energy Institute (the petitioner), and is denying the remaining four issues of the petition. The petitioner requested the NRC amend its regulations to clarify existing event reporting requirements based on experience gained since the requirements were revised. The docket for the petition for rulemaking, PRM-70-8 was closed on October 18, 2010. Further NRC actions on the issues raised by the petition are accessible at [www.regulations.gov](http://www.regulations.gov) by searching on rulemaking Docket ID NRC-2010-0271.

### **Mr. Erik Erb and 91 Cosigners: Petition for Rulemaking; Consideration in the Rulemaking Process; 10 CFR Part 26 (PRM-26-6, NRC-2010-0310)**

On May 16, 2011 (76 FR 28191), the NRC published a document in the *Federal Register* stating that the NRC will consider issues raised in a petition for rulemaking by Erik Erb (the petitioner) and 91 cosigners, in the planned “Quality Control/Quality Verification” rulemaking [NRC-2009-0090]. The petitioner requested that the NRC amend its regulations to decrease the minimum days off requirement for security officers working 12-hour shifts from an average of 3 days per week to 2.5 or 2 days per week.

### **Robert Meyer on Behalf of the Professional Reactor Operator Society: Consideration in the Rulemaking Process; Petition for Rulemaking; 10 CFR Part 26 (PRM-26-3, NRC-2009-0482)**

On May 16, 2011 (76 FR 28192), the NRC published a document in the *Federal Register* stating that the NRC will consider issues raised in a petition for rulemaking by Robert Meyer, on behalf of the Professional Reactor Operator Society, the petitioner, in the planned “Quality Control/Quality Verification” rulemaking [NRC-2009-0090]. The petitioner asked the NRC to amend the regulations that govern fitness for duty programs. Specifically, the petitioner asked the NRC to change the term “unit outage” to “site outage” and that the definition of “site outage” read “up to one week prior to disconnecting the reactor unit from the grid and up to 75-percent turbine power following reconnection to the grid.”

### **Anthony R. Pietrangelo on Behalf of Nuclear Energy Institute: Petition for Rulemaking; Consideration in the Rulemaking Process; 10 CFR Part 26 (PRM-26-5, NRC-2010-0304)**

On May 16, 2011 (76 FR 28192), the NRC published a document in the *Federal Register* stating that the NRC will consider issues raised in a petition for rulemaking by Anthony R. Pietrangelo, on behalf of the Nuclear Energy Institute, the petitioner, in the planned “Quality Control/Quality Verification” rulemaking [NRC-2009-0090]. The petitioner requested that the NRC amend its regulations regarding its fitness for duty programs to refine existing requirements based on experience gained since the regulations were last amended in 2008.

**Ms. Mary Riemersma on Behalf of California Association of Marriage and Family Therapists: Petition for Rulemaking; Consideration in the Rulemaking Process; 10 CFR Part 26 (PRM-26-4, NRC-2010-0269)**

On August 3, 2011 (76 FR 46651), the NRC published a document in the *Federal Register* stating that the NRC will consider issues raised in a petition for rulemaking by Ms. Mary Riemersma, on behalf of the California Association of Marriage and Family Therapists (the petitioner) in a future rulemaking [NRC-2011-0137]. The petitioner asked the NRC to amend its regulations to add marriage and family therapists as substance abuse experts.

**PRMs Closed Through the Rulemaking Process**

**None**

**Withdrawn PRMs**

**None**