

# 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.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 3

[EOIR No. 130I; AG Order No. 2607–2002]

RIN 1125–AA33

#### Executive Office for Immigration Review; Section 212(c) Relief for Aliens with Certain Criminal Convictions Before April 1, 1997

**AGENCY:** Executive Office for Immigration Review, Justice.

**ACTION:** Correction to proposed rule.

**SUMMARY:** This document contains a correction to the proposed rule published Tuesday, August 13, 2002, at 67 FR 52627, relating to relief under section 212(c) of the Immigration and Nationality Act for aliens with certain criminal convictions before April 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia, 22041, telephone number (703) 305–0470 (not a toll free call).

**SUPPLEMENTARY INFORMATION:** The proposed rule that is the subject of these corrections amends Department of Justice regulations by establishing procedures for certain lawful permanent residents (LPRs) to apply for relief from deportation or removal pursuant to former section 212(c) of the Immigration and Nationality Act and sets forth procedures for filing special motions to seek such relief before an Immigration Judge or the Board of Immigration Appeals for LPRs currently in proceedings or under final orders for deportation or removal.

#### Need for Correction

As published, the proposed rule contains a typographical error that may cause confusion and therefore is in need of clarification. In proposed § 3.44(d),

the rule describes the effect of a prior denial of section 212(c) relief on discretionary grounds. As currently published, the rule states that if an LPR had been previously denied relief, a new motion to seek relief would be granted. The actual effect of a previous denial of section 212(c) on discretionary grounds is that a new motion seeking relief would be denied.

#### Correction

##### § 3.44 [Corrected]

1. On page 52632, in the second column, line 13, in paragraph (d) of § 3.44, the words “will be granted” are deleted and the words “will not be granted” are added in lieu thereof.

**Rosemary Hart,**

*Federal Register Liaison Officer.*

[FR Doc. 02–21035 Filed 8–21–02; 8:45 am]

**BILLING CODE 4410–30–M**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 72 and 73

RIN 3150–AG90

#### Event Notification Requirements

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its event notification regulations that apply to an Independent Spent Fuel Storage Installation (ISFSI) and to a Monitored Retrievable Storage (MRS) installation. The proposed rule would also amend safeguards event notification requirements that apply to facilities subject to part 73, such as reactor facilities, fuel cycle facilities, ISFSIs, an MRS, licensees who possess or transport special nuclear material or spent fuel, a geological repository operations area, and the gaseous diffusion plants. With respect to both the event notification requirements and the safeguards event notification requirements, the changes are intended to align these requirements with recent changes to the power reactor event notification requirements. The changes would reduce licensee burden through the consolidation of some notifications and lengthening the reporting period for

other notifications. However, some new requirements would be added to permit the NRC to more effectively carry out its responsibilities during emergencies and in responding to public, media, and other stakeholder inquiries during events or conditions at licensees' facilities.

**DATES:** The comment period expires November 5, 2002. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site (<http://ruleforum.llnl.gov>). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking Web 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, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/reading-rm/ADAMS.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Tony DiPalo, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6191, e-mail, [ajd@nrc.gov](mailto:ajd@nrc.gov).

**SUPPLEMENTARY INFORMATION:****Background**

An advance notice of proposed rulemaking (ANPR) was published on July 23, 1998 (63 FR 39522), notifying the public that the NRC was considering amending its event notification reporting requirements. Although the ANPR was primarily directed at potential changes to power reactor event notification requirements in §§ 50.72 and 50.73, the notice also requested public comments to identify areas where other event notification reporting requirements could be simplified and/or modified to be less burdensome and more risk informed. The issue of potential changes for other reporting requirements was included both in the agenda at a public meeting held on August 21, 1998, to discuss the ANPR, and for the public workshop on September 1, 1998, on Direction Setting Issue (DSI) 13, "The Role of Industry." Pertinent suggestions were provided at those meetings as well as in written comments on the ANPR.

In SECY-99-022, "Rulemaking to Modify Reporting Requirements for Power Reactors" (January 20, 1999), the NRC staff presented recommendations that had been made in public comments for changes to reporting requirements beyond those to §§ 50.72 and 50.73, including the following:

- 10 CFR 72.75 contains the requirement for a 4-hour report and 30-day written follow-up report. Revise this requirement to 8 hours and 60 days similar to changes proposed for §§ 50.72 and 50.73.
- 10 CFR 73.71 and Appendix G (Reportable Safeguards Events) to part 73 contain requirements for 1-hour reports. Amend these requirements to 8 hours and 60 days similar to changes proposed for §§ 50.72 and 50.73.

The Commission subsequently issued a final rule revising the event reporting requirements in §§ 50.72, 50.73, and 72.216 (65 FR 63769; October 25, 2000), and directed the NRC staff to consider similar changes to the event notification requirements in parts 72 and 73 under a separate rulemaking. On March 27, 2001, the NRC staff submitted a rulemaking plan to the Commission, "10 CFR parts 72 and 73—Conforming Requirements of Event Notification" (SECY-01-0054), to revise the event notification reporting requirements in parts 72 and 73 to more closely align them with those of part 50 reactor facilities. On April 18, 2001, the Commission approved the recommendations in SECY-01-0054 to proceed with the development of a proposed rule to revise the event

reporting requirements in parts 72 and 73.

**Discussion**

This proposed rule would amend the NRC's regulations at 10 CFR part 72 to change several event notification requirements that apply to an Independent Spent Fuel Storage Installation (ISFSI) and a Monitored Retrievable Storage (MRS) installation. The proposed rule would also amend safeguards event notification requirements that apply to facilities subject to part 73, such as reactor facilities, fuel cycle facilities, ISFSIs, an MRS, licensees who possess or transport special nuclear material or spent fuel, a geological repository operations area, and the gaseous diffusion plants. With respect to both the event notification requirements and the safeguards event notification requirements, the changes are intended to align these requirements with recent changes to the power reactor event notification requirements in part 50 made in a final rule issued on October 25, 2000 (65 FR 63769). The NRC evaluated the issues and concerns of the part 50 event notification reporting requirements and considered this regulatory framework as a basis for concluding that similar changes to the event notification reporting requirements in parts 72 and 73 were also warranted. The event reporting requirements of parts 72 and 73 affect both material licensees and nuclear power plant licensees. Most of the facilities subject to the event notification reporting requirements in parts 72 and 73 (power reactors and ISFSIs) are either physically co-located with reactor facilities or are reactor facilities. Most part 72 licensees are also part 50 licensees. These licensees share the same management structure and share the same emergency preparedness organization. Conforming the reporting requirements of part 72 with the revised requirements of part 50 thus will reduce regulatory burden and potential confusion, would maintain safety, and would take advantage of the work already performed to relate risk to reporting requirements for these types of facilities.

With respect to the part 73 event notification requirements, the 30-day period for submitting written follow-up reports for safeguards events should also be extended to 60 days to be consistent with § 50.73. Changing the time limit from 30 days to 60 days does not imply that licensees should take longer than they previously did to develop and implement corrective actions. The NRC expects licensees to take corrective actions on a time scale commensurate

with the safety significance of the issue. However, for those cases where it does take longer than thirty days to complete a root cause analysis, this change will result in fewer licensee event reports that require amendment by submittal of an amended report. The extension is based on simplicity for reporting, importance to risk, and having the required reporting time be consistent with the need for NRC action. Furthermore, the increased time for follow-up reporting would allow for the completion of required root cause analyses and engineering evaluations, and full identification of corrective actions after event discovery; preparation of more complete and accurate event reports; and fewer event report revisions and supplemental reports. However, the NRC believes the verbal safeguards event notification requirements should remain at 1 hour because the NRC may need to respond expeditiously to licensee safeguards notifications and notify other licensees and Federal agencies of the event, particularly in light of the heightened threat environment after the terrorist attacks of September 11, 2001.

Revising the parts 72 and 73 event notification reporting requirements to be consistent with those in part 50 would maintain safety and take advantage of the work already performed on the risk impacts of the event notification requirements for part 50 licensees. The revision of parts 72 and 73 would also reduce licensee burden through consolidation of some notifications and lengthening the reporting period for other notifications to correspond to the times required under part 50. The current event notification reporting requirements in part 50 require written notification within 60 days and verbal notification within 1 hour (emergency events), and within 1-hour, 4-hours and 8-hours for some non-emergency events. The need for a 4-hour versus an 8-hour non-emergency notification is based on the urgency of the situation and the NRC's need to take prompt action.

Additionally, the NRC would remove § 72.216, "Reports." Section 72.216 does not contain separate requirements, but merely directs a part 72 general licensee to comply with the reporting requirements of §§ 72.74 and 72.75. However, the need for this section was obviated with the addition of § 72.13, "Applicability," to the part 72 regulations in a final rule issued on August 21, 2000 (65 FR 50606). Section 72.13 contains direction on the part 72 regulations that apply to specific licensees, general licensees, or certificate holders. Section 72.13(c) currently requires a general licensee to

comply with §§ 72.74 and 72.75. Therefore, § 72.216 is no longer needed and would be removed and reserved. In addition, § 72.9 would be revised as a conforming change because of the removal of § 72.216. Also, the reference to § 72.19 would be removed from § 72.9 because there is no § 72.19 in part 72.

The NRC believes that consideration of the proposed changes is consistent with two of NRC's strategic performance goals to reduce unnecessary regulatory burden on stakeholders and to increase public confidence in NRC's regulatory process to maintain safety.

#### Discussion of Proposed Amendments Section-by-Section

This proposed rule would make several changes to the event notification reporting requirements in parts 72 and 73 that would align the event notification requirements for ISFSIs and MRS facilities and safeguards event notification requirements more closely with recent changes to §§ 50.72 and 50.73. These changes would reduce licensee burden through the consolidation of some notifications and lengthening of reporting periods for others. Additionally, some new requirements would be added to permit the NRC to more effectively carry out its responsibilities during emergencies and in responding to public, media, and other stakeholder inquiries. Finally, some changes would be made to improve organization, clarification, and readability through the use of plain language.

10 CFR 72.9 Information collection requirements: OMB approval.

Paragraph (a) would remain unchanged.

Paragraph (b) would be revised to remove §§ 72.19 and 72.216 as a conforming change.

10 CFR 72.75 Reporting requirements for specific events and conditions.

Paragraph (a) would remain unchanged.

Paragraph (b) would be split into two new paragraphs (b) and (c) for 4-hour and 8-hour notifications, respectively. In new paragraph (b), the existing 4-hour notification requirement remains unchanged for departing from a certificate condition or technical specification during an emergency (current paragraph (b)(4)); a new requirement would be added to notify the NRC when another Government agency is notified or a news release is planned to permit the NRC to promptly respond to public, media, and other stakeholder inquiries during events; and lastly, the current 4-hour notifications would be removed for events that

require immediate action to avoid exposure or unplanned fires or explosions (current paragraphs (b)(1) and (b)(6)) because they are redundant with the requirements in paragraph (a) above.

In new paragraph (c), the existing 4-hour event notifications would be changed to 8-hour notifications for a defect in any spent fuel storage structure, system, or component important to safety<sup>1</sup> (current paragraph (b)(2)) a significant reduction in the effectiveness of any spent fuel storage confinement system in use (current paragraph (b)(3)), and an event that requires the transport of a radioactively contaminated person to an offsite medical facility for treatment (revision of paragraph (b)(5)). These changes reduce unnecessary licensee burden consistent with Part 50 event notification requirements.

Existing paragraph (c) for 24-hour reports would be redesignated as paragraph (d) and revised as follows: The current notification would be retained for events in which equipment important to safety fails to function (current paragraph (c)(2)). The requirement for notification of unplanned contamination events requiring controls restricting worker access for greater than 24 hours would be removed because such an event occurring at an ISFSI or MRS does not rise to a level of significance that would warrant notification. Facilities that store and manipulate spent fuel assemblies are by their very nature subject to identification of contamination outside of posted radiological contamination control areas (i.e., hot particles). The NRC considers the identification, control, and decontamination of these areas a routine radiation protection function, not an event requiring NRC notification—even if it takes the licensee more than 24 hours to clean up the contamination. Furthermore, although these 24-hour verbal reports are due within 24 hours of the discovery of the event, their significance requires that this notification requirement would be revised to permit these notifications to be delayed to the next working day (i.e., 8 a.m. Eastern time) when the end of the 24-hour period falls outside of

<sup>1</sup> 10 CFR 72.3—*Definitions*. Structures, systems, and components important to safety means those features of the ISFSI, MRS, and spent fuel storage cask whose functions are: To maintain the conditions required to store spent fuel or high-level radioactive waste safely; to prevent damage to the spent fuel or the high-level radioactive waste container during handling and storage; or to provide reasonable assurance that spent fuel or high-level radioactive waste can be received, handled, packaged, stored, and retrieved without undue risk to the health and safety of the public.

normal NRC working hours (7:30 a.m.—5 p.m. Eastern time), a weekend, or a Federal holiday.

Current paragraph (d) would be split into three paragraphs and redesignated as new paragraphs (e), (f), and (g) (i.e., initial verbal notifications, follow-up verbal notifications, and written notifications) to provide greater clarity and consistency with part 50 event notification requirements.

In new paragraph (e), the current requirement would be retained to notify the NRC Operations Center by telephone of emergency and non-emergency conditions (current paragraph (d)(1)). A new requirement would be added to identify the Emergency Class or the 4-hour, 8-hour, or 24-hour notification to eliminate confusion and facilitate NRC response to the emergency. The current requirement would remain unchanged to provide supporting information (current paragraphs (d)(1)(i) through (v)).

In new paragraph (f), new requirements would be added for licensees to make follow-up notifications to immediately report degrading conditions, declaration of any Emergency Class, change of an Emergency Class, termination of the Emergency Class, the results of evaluations, the effectiveness of responses or protective measures, and information on unexpected ISFSI or MRS behavior. These added requirements would ensure that the information on a degrading condition or termination of the event is promptly communicated to the NRC. Consistent with current policy for reactor licensees, the NRC expects a part 72 licensee to make any follow-up notifications to the NRC as soon as possible, but no later than 1 hour from the time of identification. Additionally, a requirement would be added to maintain an open, continuous communication channel with the NRC Operations Center upon request by the NRC. This requirement would be consistent with the current part 50 event reporting requirements and would ensure that during an ongoing emergency, the communications between the licensee and the NRC are not interrupted by the inability to complete a phone call when telephone circuits could be temporarily overloaded.

In new paragraph (g), the current 30-day requirement would be revised to require that written reports be submitted within 60 days (current paragraph (d)(2)) reducing the occurrence of supplemental reports and licensee burden. The requirements for human performance events (current paragraphs

(d)(2)(i) through (d)(7), except (d)(2)(ii)(I) would be revised to be consistent with currently revised § 50.73(b)(2)(ii)(J). Additionally, in paragraph (g)(2)(xii) the requirement to specify the quantities and chemical and physical forms of the material involved in the event would be expanded to include reactor-related greater-than-class-C (GTCC) waste because the Commission recently added authority to part 72 for the storage of reactor-related GTCC waste (see 66 FR 51823; October 11, 2001). Furthermore, a new requirement would be added on legibility of reports (new paragraph (g)(8)) to be consistent with the current § 50.73(e).

New paragraph (h) would be added to indicate that the Commission may require a licensee to submit supplemental information if this information is necessary for the NRC to obtain a complete understanding of an unusually complex or significant event.

New paragraph (i) would be added to clarify that the requirements of § 72.75 apply: after a specific part 72 license has been issued to an applicant; after a part 72 general licensee has first placed spent fuel on the ISFSI storage pad (if the ISFSI is located inside the reactor facility's collocated protected area) or when the spent fuel is being transferred outside of the reactor facility's protected area to the ISFSI storage pad (if the ISFSI storage pad is located outside of the reactor facility's protected area); and to non-emergency events that occurred within 3 years of the date of discovery. This paragraph would reduce licensee confusion on when the provisions of this section become applicable. The 3-year limitation would eliminate notifications for events that are no longer significant and would be consistent with the current §§ 50.72 and 50.73.

#### 10 CFR 72.216 Reports.

This section would be removed and reserved because it is no longer needed.

#### 10 CFR 73.71 Reporting of safeguards events.

In paragraph (a)(4), the period for submitting written follow-up notifications would be extended from 30 days to 60 days. Changing the time limit from 30 days to 60 days does not imply that licensees should take longer than they previously did to develop and implement corrective actions. The NRC expects licensees to take corrective actions on a time scale commensurate with the safety significance of the issue. However, for those cases where it does take longer than thirty days to complete a root cause analysis, this change will result in fewer licensee event reports

that require amendment by submittal of an amended report. The revision to the requirements for submission of written followup safeguards reports will not affect the NRC's ability to promptly respond to safeguards events, because the written reports are not relied upon by NRC staff for prompt response to significant events, but instead the reports are used for such followup actions as considering the need for enforcement action, evaluating whether a generic communication may be necessary, and evaluating the adequacy of existing NRC regulations and guidance. The extension is based on simplicity for reporting, importance to risk, and the required reporting time consistent with the need for prompt NRC action. Additionally the increased time for follow-up reporting would allow for: the completion of the required root cause analyses and engineering evaluations, and fully identify corrective actions after event discovery; preparation of more complete and accurate event reports; and, fewer event report revisions and supplemental reports, thus reducing unnecessary licensee burden. This proposed change would also be consistent with the Commission's actions in the final rule revising § 50.73. In paragraph (d), the period for submitting written follow-up notifications also would be extended from 30 to 60 days.

#### Appendix G to Part 73 Reportable Safeguards Events.

As a conforming change to § 73.71(a)(4), paragraph I of Appendix G to part 73 would also be revised to require that the period for submitting written follow-up notifications be extended from 30 days to 60 days.

#### Criminal Penalties

For the purpose of section 223 of the Atomic Energy Act (AEA), the Commission is proposing to amend 10 CFR parts 72 and 73 under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

#### Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved

to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

#### Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

#### Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would amend its regulations to change several event notification requirements for ISFSI and MRS facilities and safeguards event notification requirements to more closely align them with event notifications for reactor facilities. The changes would reduce licensee burden through the consolidation of some notifications and lengthening the reporting period for other notifications. Some new requirements would be added to permit the NRC to more effectively carry out its responsibilities during emergencies and in responding to public, media, and other stakeholder inquiries. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule 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 rule.

#### 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.*) These information collection requirements have been submitted to the Office of Management and Budget (OMB) for approval. Existing requirements were approved by the OMB, approval numbers 3150-0002 and -0132.

The burden to the public for these information collections in 10 CFR parts 72 and 73 is estimated to average 24 hours per response for part 72 and 13 hours per response for part 73, 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 these proposed information collections, including suggestions for reducing the burden, to the Records Management Branch (T-6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail at [INFOCOLLECTS@NRC.GOV](mailto:INFOCOLLECTS@NRC.GOV); and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0002 and -0132), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by September 23, 2002. 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

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

#### 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 Commission requests public comment on the draft regulatory analysis and is specifically requesting stakeholder input on: (1) The number of reports per year a typical licensee could be anticipated to make under these modified event reporting requirements, (2) the number of hours per report a typical licensee could be expected to expend in preparing and submitting these reports, and (3) the number of NRC staff hours that would be saved by extending the period for submitting written reports from 30 to 60 days.

The regulatory analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD, and in the NRC's interactive rulemaking Web site as described under the **ADDRESSES** heading. Single copies of the regulatory analysis may be requested from Tony DiPalo, telephone (301) 415-6191, e-mail, [ajd@nrc.gov](mailto:ajd@nrc.gov) of the Office of Nuclear Material Safety and Safeguards.

#### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (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. The majority of companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

#### Backfit Analysis

The Commission has determined that, as in the final rule 10 CFR parts 50 and 72, "Reporting Requirements for Nuclear Power Reactors and Independent Spent Fuel Storage Installations at Power Reactor Sites," the backfit rule (10 CFR 50.109, 72.62) does not apply to information collection and reporting requirements such as those reporting requirements contained in this proposed rule. The proposed rule does not involve any provisions that would impose backfits as defined in the backfit rule. Thus, a backfit analysis is not required.

#### List of Subjects

##### 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistle blowing.

##### 10 CFR Part 73

Criminal penalties, Export, Hazardous materials transport, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

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 72 and 73.

#### **PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR RELATED GREATER THAN CLASS C WASTE**

1. The authority citation for part 72 continues to read as follows:

**Authority:** Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 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, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142 (b) and 148 (c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162 (b), 10168 (c), (d)). Section 72.46 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). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.9, paragraph (b) is revised to read as follows:

**§ 72.9 Information collection requirements: OMB approval.**

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in §§ 72.7, 72.11, 72.16, 72.22 through 72.34, 72.42, 72.44, 72.48 through 72.56, 72.62, 72.70 through 72.82, 72.90, 72.92, 72.94, 72.98, 72.100, 72.102, 72.104, 72.108, 72.120, 72.126, 72.140 through 72.176, 72.180 through 72.186, 72.192, 72.206, 72.212, 72.218, 72.230, 72.232, 72.234, 72.236, 72.240, 72.242, 72.244, and 72.248.

3. Section 72.75 is revised to read as follows:

**§ 72.75 Reporting requirements for specific events and conditions.**

(a) *Emergency notifications.* Each licensee shall notify the NRC Operations Center upon the declaration of an emergency as specified in the licensee's approved emergency plan addressed in § 72.32 of this part. The licensee shall notify the NRC immediately after notification of the appropriate State or local agencies, but not later than one hour after the time the licensee declares an emergency.

(b) *Non-emergency notifications.* Four-hour reports—Each licensee shall notify the NRC as soon as possible but not later than four hours after the discovery of any of the following events or conditions involving spent fuel, HLW, or reactor related GTCC waste;

(1) An action taken in an emergency that departs from a condition or a technical specification contained in a license or certificate of compliance issued under this part when the action is immediately needed to protect the public health and safety, and no action consistent with license or certificate of compliance conditions or technical specifications that can provide adequate or equivalent protection is immediately apparent.

(2) Any event or situation related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made. Such an event may include an onsite fatality or inadvertent release of radioactively contaminated materials.

(c) *Non-emergency notifications.* Eight-hour reports. Each licensee shall notify the NRC as soon as possible but not later than eight hours after the discovery of any of the following events or conditions involving spent fuel, HLW, or reactor related GTCC waste;

(1) A defect in any spent fuel storage structure, system, or component that is important to safety.

(2) A significant reduction in the effectiveness of any spent fuel storage confinement system during use.

(3) Any event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.

(d) *Non-emergency notifications.* 24-hour reports. Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving spent fuel or HLW:

(1) An event in which important to safety equipment is disabled or fails to function as designed when:

(i) The equipment is required by regulation, license condition, or certificate of compliance to be available and operable to prevent releases that could exceed regulatory limits, to prevent exposures to radiation or radioactive materials that could exceed regulatory limits, or to mitigate the consequences of an accident; and

(ii) No redundant equipment was available and operable to perform the required safety function.

(2) For notifications made under this paragraph, the licensee may delay the notification to the NRC if the end of the 24-hour period occurs outside of the NRC's normal working day (*i.e.*, 7:30 a.m. to 5 p.m. Eastern time), on a weekend, or a Federal holiday. In these cases, the licensee shall notify the NRC before 8 a.m. Eastern time on the next working day.

(e) *Initial notification.* Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a), (b), (c), or (d) of this section by telephone to the NRC Operations Center.<sup>2</sup>

(2) When making a report under paragraphs (a), (b), (c), or (d) of this section, the licensee shall identify:

(i) The Emergency Class declared; or  
(ii) Paragraph (b), "four-hour reports," paragraph (c), "eight-hour reports," or paragraph (d), "24-hour reports," as the paragraph of this section requiring notification of the non-emergency event.

(3) To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) The caller's name and call back telephone number;

(ii) A description of the event, including date and time;

(iii) The exact location of the event;

(iv) The quantities and chemical and physical forms of the spent fuel, HLW, or reactor-related GTCC waste; and

(v) Any personnel radiation exposure data.

(f) *Follow-up notification.* With respect to the telephone notifications made under paragraphs (a), (b), or (c) of this section, in addition to making the required initial notification, each licensee shall during the course of the event:

(1) Immediately report any further degradation in the level of safety of the ISFSI or MRS or other worsening conditions, including those that require the declaration of any of the Emergency Classes, if such a declaration has not been previously made; or any change from one Emergency Class to another; or a termination of the Emergency Class.

(2) Immediately report the results of ensuing evaluations or assessments of ISFSI or MRS conditions; the effectiveness of response or protective measures taken; and information related to ISFSI or MRS behavior that is not understood.

(3) Maintain an open, continuous communication channel with the NRC Operations Center upon request by the NRC.

(g) *Preparation and submission of written reports.* Each licensee who makes an initial notification required by paragraphs (a), (b), (c), or (d) of this section shall also submit a written follow-up report to the Commission within 60 days of the initial notification. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all the necessary information and the appropriate distribution is made. These written reports must be submitted to the NRC, in accordance with § 72.4. These reports must include the following information:

(1) A brief abstract describing the major occurrences during the event, including all component or system failures that contributed to the event and significant corrective action taken or planned to prevent recurrence;

(2) A clear, specific, narrative description of the event that occurred so that knowledgeable readers conversant with the design of an ISFSI or MRS, but not familiar with the details of a particular facility, can understand the complete event. The narrative description must include the following specific information as appropriate for the particular event:

(i) The ISFSI or MRS operating conditions before the event;

<sup>2</sup> The commercial telephone number of the NRC Operations Center is (301) 816-5100. Those licensees with an available Emergency Notification System (ENS) shall use the ENS to notify the NRC Operations Center.

(ii) The status of structures, components, or systems that were inoperable at the start of the event and that contributed to the event;

(iii) The dates and approximate times of occurrences;

(iv) The cause of each component or system failure or personnel error, if known;

(v) The failure mode, mechanism, and effect of each failed component, if known;

(vi) A list of systems or secondary functions that were also affected for failures of components with multiple functions;

(vii) For wet spent fuel storage systems only, after the failure that rendered a train of a safety system inoperable, an estimate of the elapsed time from the discovery of the failure until the train was returned to service;

(viii) The method of discovery of each component or system failure or procedural error;

(ix) For each human performance related root cause, the licensee shall discuss the cause(s) and circumstances;

(x) For wet spent fuel storage systems only, any automatically and manually initiated safety system responses;

(xi) The manufacturer and model number (or other identification) of each component that failed during the event;

(xii) The quantities and chemical and physical forms of the spent fuel, HLW, or reactor-related GTCC waste;

(3) An assessment of the safety consequences and implications of the event. This assessment must include the availability of other systems or components that could have performed the same function as the components and systems that failed during the event;

(4) A description of any corrective actions planned as a result of the event, including those to reduce the probability of similar events occurring in the future;

(5) Reference to any previous similar events at the same facility that are known to the licensee;

(6) The name and telephone number of a person within the licensee's organization who is knowledgeable about the event and can provide additional information concerning the event and the facility's characteristics;

(7) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name;

(8) The reports submitted under the provisions of this section must be of sufficient quality to permit legible reproduction and optical scanning.

(h) Supplemental information. The Commission may require the licensee to submit specific additional information

beyond that required by paragraph (g) of this section if the Commission finds that supplemental material is necessary for complete understanding of an unusually complex or significant event. These requests for supplemental information will be made in writing, and the licensee shall submit, as specified in § 72.4, the requested information as a supplement to the initial written report.

(i) *Applicability.* The requirements of this section apply to—

(1)(i) Licensees issued a specific license under § 72.40; and

(ii) Licensees issued a general license under § 72.210, after the licensee has placed spent fuel on the ISFSI storage pad (if the ISFSI is located inside the collocated protected area, for a reactor licensed under part 50 of this chapter) or after the licensee has transferred spent fuel waste outside the reactor licensee's protected area to the ISFSI storage pad (if the ISFSI is located outside the collocated protected area, for a reactor licensed under part 50 of this chapter).

(2) Those non-emergency events specified in paragraphs (b), (c), and (d) of this section that occurred within 3 years of the date of discovery

#### **§ 72.216 [Removed and Reserved]**

4. Section 72.216 is removed and reserved.

### **PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS**

5. The authority citation for Part 73 continues to read as follows:

**Authority:** Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

6. In § 73.71, paragraph (a)(4) and (d) are revised to read as follows:

#### **§ 73.71 Reporting of safeguards events.**

(a) \* \* \*

(4) The initial telephonic notification must be followed within 60 days by a written report submitted to the U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555–0001. The licensee shall also submit one copy to the appropriate NRC Regional Office listed in appendix A to this part. The report must include

sufficient information for NRC analysis and evaluation.

\* \* \* \* \*

(d) Each licensee shall submit to the Commission the 60-day written reports required under the provisions of this section that are of a quality that will permit legible reproduction and processing. If the facility is subject to § 50.73 of this chapter, the licensee shall prepare the written report on NRC Form 366. If the facility is not subject to § 50.73 of this chapter, the licensee shall not use this form but shall prepare the written report in letter format. The report must include sufficient information for NRC analysis and evaluation.

\* \* \* \* \*

7. In Appendix G to Part 73, the introductory sentence in paragraph I is revised to read as follows:

#### **Appendix G to Part 73—Reportable Safeguards Events**

\* \* \* \* \*

I. Events to be reported within one hour of discovery, followed by a written report within 60 days.

\* \* \* \* \*

Dated at Rockville, Maryland, this 6th day of August, 2002.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 02–21414 Filed 8–21–02; 8:45 am]

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### **FEDERAL ELECTION COMMISSION**

#### **11 CFR Part 110**

[Notice 2002–14]

#### **Contribution Limitations and Prohibitions**

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Election Commission seeks comments on proposed changes to its rules relating to contribution limitations and prohibitions under the Federal Election Campaign Act of 1971, as amended (“FECA” or “the Act”). The proposed rules are based on the Bipartisan Campaign Reform Act of 2002 (“BCRA”), which increases contribution limits for individuals and political committees; prohibits contributions and donations by minors to certain political committees; and prohibits contributions, donations, and certain expenditures and disbursements by foreign nationals. Please note that the draft rules that follow do not represent