

RULEMAKING ISSUE NEGATIVE CONSENT

June 29, 2000

SECY-00-0148

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: DRAFT RULEMAKING PLAN: MATERIAL CONTROL AND
ACCOUNTING AMENDMENTS

PURPOSE:

To inform the Commission of the staff's Rulemaking Plan for amending certain sections in 10 CFR Parts 51, 70, 72, and 74, with conforming changes to other parts, regarding material control and accounting (MC&A) requirements.

BACKGROUND:

A task force comprised of Nuclear Material Safety and Safeguards staff conducted a review of the nuclear material reporting requirements in place for licensees. The task force recommended changes that require amending the regulations. This includes modification of the submittal time for Material Balance Reports (MBRs) to coincide with the time of a facility's physical inventory. The recommended changes would reduce the unnecessary regulatory burden on industry by changing certain reporting requirements.

In addition, in 1982 the staff initiated an effort to move the MC&A requirements from Part 70 to Part 74 and to make the requirements more performance-based. The requirements for Categories I and III facilities have been moved to Part 74. The requirements for Category II facilities and the general MC&A requirements are still located in Part 70. This rulemaking would also result in the consolidation of the domestic MC&A requirements into Part 74 by relocating the general MC&A requirements and the requirements for Category II facilities into Part 74. The requirements for Category II facilities would also be converted to performance-oriented requirements.

CONTACTS: Merri Horn, NMSS/IMNS
(301) 415-8126

Thomas Pham, NMSS/FCSS
(301) 415-8154

Brian Horn NMSS/FCSS
(301) 415 8128

A copy of the draft rulemaking plan was provided to Agreement States on February 10, 2000, for a 45-day period of review and comment. The comment period closed on March 27, 2000. No comments were received from the Agreement States.

DISCUSSION:

The attached rulemaking plan would amend the MC&A regulations. The purpose of these changes would be to: (1) modify the submittal time for MBRs to coincide with the time of a facility's physical inventory in lieu of the current arbitrary dates of March 31 and September 30 of each year; (2) move the Category II requirements and general MC&A requirements to 10 CFR Part 74 to consolidate domestic MC&A requirements; (3) develop performance-oriented requirements for Category II¹ facilities to replace the prescriptive requirements currently found in 10 CFR Part 70; (4) correct typographical errors, outdated terminology, and implementation dates; and (5) revise the categorical exclusion in 10 CFR 51.22(c)(12) to clarify that amendments to safeguards plans are covered by the exclusion, and to delete the specific references to other parts to make the reference more general.

Both reactor licensees and material licenses would benefit from the changes to the MBR schedule. This change will have the effect of eliminating one MBR per year for Categories II and III facilities. There will be no change in the number of MBRs for Category I facilities. The MBR process would become more efficient and the annual burden on industry of producing the MBRs would be reduced by half (about 1215 man-hours). The relocation of the MC&A requirements and the modification to the Category II requirements would enhance the regulatory process by providing any future Category II licensees a better understanding of the procedures and requirements for MC&A. Removal of the remaining MC&A requirements from Part 70 would also simplify locating the requirements for all licensees. However, as there are no active Category II licensees at this time that would benefit from the revised regulations for Category II facilities and the burden reduction is small, this rulemaking would be done on a medium-priority basis.

COORDINATION:

The Office of the General Counsel has no legal objection to the rulemaking plan. The Office of the Chief Financial Officer has reviewed this Commission Paper for resource implications and has no objection. The Office of the Chief Information Officer has reviewed the rulemaking plan for information technology and information management implications and concurs in it. However, the plan suggests changes in information collection requirements that must be submitted to the Office of Management and Budget before publication of the proposed rule.

¹A Category II licensee is one that is licensed to possess special nuclear material of moderate strategic significance. Please note that there are no operating Category II licensed facilities at this time. General Atomics is the sole licensed Category II facility; the facility has a possession-only license and is undergoing decommissioning.

RESOURCES:

To complete and implement the rulemaking, 1.2 full-time equivalent positions will be required. These resources are included in the current budget.

RECOMMENDATION:

Absent Commission objection, the staff will proceed with the development of a proposed rule to revise the MC&A requirements. Staff requests action within 10 days. Action will not be taken until the SRM is received. We consider this action to be within the delegated authority of the EDO.

/RA by Patricia G. Norry Acting For/

William D. Travers
Executive Director
for Operations

Attachment: Rulemaking Plan

RESOURCES:

To complete and implement the rulemaking, 1.2 full-time equivalent positions will be required. These resources are included in the current budget.

RECOMMENDATION:

Absent Commission objection, the staff will proceed with the development of a proposed rule to revise the MC&A requirements. Staff requests action within 10 days. Action will not be taken until the SRM is received. We consider this action to be within the delegated authority of the EDO.

/RA by Patricia G. Norry Acting For/

William D. Travers
Executive Director
for Operations

Attachment: Rulemaking Plan

ADAMS PACKAGE ACCESSION NO. ML003709829

File Name: (G:\HORN\mc&a\compaper.wpd) Edited by E. Kraus 4/10/00

OFFICE	RGB:IMNS	RGB:IMNS	D:FCSS:NMSS	D:SFPO:NMSS	D:IMNS:NMSS
NAME:	MHorn	PHolahan	MWeber	WBrach	DCool
DATE:	5 / 9 /00	6/1/00	4 / 7 /00	4 / 6/00	6/ 2 /00
OFFICE	D:STP	ADM	D/CFO	D/NRR	CIO
NAME:	PLohaus	DMeyer	JFunches	SCollins	BShelton
DATE:	4 / 17 /00	4 / 17 /00	5 / 1 /00	5 / 1 /00	4 / 13 /00
OFFICE	OGC	D/OE	D/NMSS	DEDMRS	EDO
NAME:	STreby	RBorchardt	WKane	CPaperiello	WTravers
DATE:	4 / 21 /00	5 / 9 /00	06/26/00	6/29/00	6/29/00

OFFICIAL RECORD COPY