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## NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 50

[NRC-2009-0279 and NRC-2014-0044]

RIN 3150-AJ29 and RIN 3150-AJ38

### Rulemaking Activities Being Discontinued by the NRC

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Rulemaking activities; discontinuation.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is discontinuing the rulemaking activities associated with potential changes to its radiation protection and reactor effluents regulations. The purpose of this action is to inform members of the public that these rulemaking activities are being discontinued and to provide a brief discussion of the NRC's decision to discontinue them. These rulemaking activities will no longer be reported in the NRC's portion of the Unified Agenda of Regulatory and Deregulatory Actions (the Unified Agenda).

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the rulemaking activities discussed in this document are discontinued.

**ADDRESSES:** Please refer to Docket IDs NRC-2009-0279 and NRC-2014-0044 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket IDs NRC-2009-0279 and NRC-2014-0044. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Lauron, Office of New Reactors, telephone: 301-415-2736, e-mail: [Carolyn.Lauron@nrc.gov](mailto:Carolyn.Lauron@nrc.gov); or Cindy Flannery, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-0223, e-mail: [Cindy.Flannery@nrc.gov](mailto:Cindy.Flannery@nrc.gov). Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

## **SUPPLEMENTARY INFORMATION:**

### **TABLE OF CONTENTS:**

- I. Background
- II. Process for Discontinuing Rulemaking Activities
- III. Radiation Protection (RIN 3150-AJ29; NRC-2009-0279)
- IV. Reactor Effluents (RIN 3150-AJ38; NRC-2014-0044)
- V. Conclusion

### **I. Background**

In SECY-16-0009, “Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities,” dated January 31, 2016 (ADAMS Accession No. ML16028A208), the NRC staff requested Commission approval to implement recommendations on work to be shed, de-prioritized, or performed with fewer resources. Two of the items listed to be shed (i.e., discontinued) were the rulemakings that would have amended the radiation protection regulations in part 20 of title 10 of the *Code of Federal Regulations* (10 CFR), and the reactor effluents regulations in 10 CFR part 50, appendix I. In the Staff Requirements Memorandum (SRM) for SECY-16-0009, dated April 13, 2016 (ADAMS Accession No. ML16104A158), the Commission approved discontinuing the two rulemaking activities and directed the NRC staff to publish a *Federal Register* notice to inform the public that the rulemakings are being discontinued.

A discussion of the NRC’s decision to discontinue these two rulemaking activities is provided in Sections III and IV of this document.

## **II. Process for Discontinuing Rulemaking Activities**

When the NRC staff identifies a rulemaking activity that can be discontinued, the NRC staff requests approval from the Commission to discontinue it. The Commission provides its decision in an SRM. If the Commission approves discontinuing the rulemaking activity, the NRC staff will inform the public of the Commission's decision.

A rulemaking activity may be discontinued at any stage in the rulemaking process. For a rulemaking activity that has received public comments, the NRC staff will consider those comments before discontinuing the rulemaking activity; however, the NRC staff will not provide individual comment responses.

After Commission approval to discontinue a rulemaking activity, the NRC staff will update the next edition of the Unified Agenda to indicate that the rulemaking is discontinued. The rulemaking activity will appear in the completed actions section of that edition of the Unified Agenda but will not appear in future editions.

## **III. Radiation Protection (RIN 3150-AJ29; NRC-2009-0279)**

The NRC staff provided an analysis of the potential need to update the radiation protection regulation in SECY-08-0197, "Options to Revise Radiation Protection Regulations and Guidance with Respect to the 2007 Recommendations of the International Commission on Radiological Protection," dated December 18, 2008 (ADAMS Accession No. ML091310193), to the Commission. SECY-08-0197 presented the regulatory options of more closely aligning the NRC's radiation protection regulatory framework (primarily set forth in 10 CFR part 20) with the 2007 recommendations of the International Commission on Radiological Protection (ICRP) contained in ICRP Publication 103. In the SRM for SECY-08-0197, dated April 2, 2009 (ADAMS Accession No. ML090920103), the Commission approved the NRC staff's

recommendation to begin engagement with stakeholders and interested parties to initiate development of the technical basis<sup>1</sup> for a possible revision of the NRC's radiation protection regulations, as appropriate and where scientifically justified, to achieve greater alignment with the recommendations in ICRP Publication 103.

After extensive stakeholder engagement, the NRC staff determined that an additional evaluation of the substantive policy issues was needed. This additional policy evaluation was provided as SECY-12-0064, "Recommendations for Policy and Technical Direction to Revise Radiation Protection Regulations and Guidance," dated April 25, 2012 (ADAMS Accession No. ML121020108). The paper summarized the NRC staff's interactions with stakeholders as directed by the SRM for SECY-08-0197, and provided recommendations for potential revisions to the NRC's radiation protection regulations.

In the SRM for SECY-12-0064, dated December 17, 2012 (ADAMS Accession No. ML12352A133), the Commission approved in part and disapproved in part the NRC staff's recommendations. Specifically, the Commission approved the NRC staff's development of a draft regulatory basis for a revision to 10 CFR part 20 to align with the most recent methodology and terminology for dose assessment in ICRP Publication 103, including consideration of any conforming changes to all NRC regulations. The Commission directed the NRC staff to develop improvements in the NRC's guidance for those segments of the regulated community that would benefit from more effective implementation of the As Low As is Reasonably Achievable (ALARA) strategies and programs to comply with regulatory requirements. The Commission also directed the NRC staff to continue discussions with stakeholders regarding dose limits for the lens of the eye and the embryo/fetus.

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<sup>1</sup> The terms "technical basis" and "regulatory basis," as used in this document, are synonymous. The NRC's Management Directive (MD) 6.3, "The Rulemaking Process" (<http://www.nrc.gov/docs/ML1320/ML13205A400.pdf>), explains that a regulatory basis is a detailed analysis, prepared by the NRC staff, describing why a regulation should be promulgated, amended, or repealed, and the scientific, technical, policy, and legal rationale for that potential regulatory action. If approved by the Commission, the regulatory basis will be used by the NRC staff in its development of a proposed rule.

In addition, the Commission directed the NRC staff to continue discussions with stakeholders on alternative approaches to deal with individual protection at or near the current dose limit. Finally, the Commission directed the NRC staff to improve reporting of occupational exposure by the NRC and Agreement State licensees to the NRC's Radiation Exposure Information Reporting System database. In the SRM for SECY-12-0064, the Commission disapproved the NRC staff's recommendations to develop a draft regulatory basis to reduce the occupational total effective dose equivalent from 5 rem (50 mSv) per year to 2 rem (20 mSv) per year. The Commission also disapproved the elimination of traditional or "English" dose units to measure radiation exposure from the NRC's regulations. Rather, the Commission directed the continuation of the use of both traditional and International System (SI) units in the NRC's regulations.

In response to the Commission's direction in the SRM for SECY-12-0064, the NRC staff published an advance notice of proposed rulemaking (ANPR) in the *Federal Register* (79 FR 43284; July 25, 2014), to obtain input from members of the public and other stakeholders on the development of a regulatory basis that would support potential changes to the NRC's current radiation protection regulations. The ANPR stated that the NRC's goal was to achieve greater alignment between the NRC's radiation protection regulations and the recommendations contained in ICRP Publication 103, primarily with respect to the recommendations concerning dose assessment methodology and terminology.

The NRC received over 90 individual comment letters and almost 3,000 form letters on the 10 CFR part 20 ANPR. Although some comments supported a potential revision of the NRC's regulations to align more closely with ICRP Publication 103 methodology and terminology for dose assessment, the majority of comments did not support revising the 10 CFR part 20 regulations. The major reasons given for not revising the NRC's regulations were the following: 1) the NRC's current regulations remain protective of both occupational workers and members of the public; 2) the ICRP Publication 103 recommendations propose measures that

go beyond what is needed to provide adequate protection and are unlikely to yield a substantial increase in safety that is justified in light of its cost; 3) the industry's current operating procedures and practices protect both occupational workers and members of the public and go beyond the applicable regulatory requirements; 4) amending the applicable regulations would place significant resource burdens on licensees resulting in costly modifications to existing facilities that would result in little, if any, improvement in occupational or public radiological safety; 5) the cumulative effect of regulation (CER) resulting from the changes described in the ANPR for 10 CFR part 20, in conjunction with the prospective U.S. Department of Environmental Protection Agency's (EPA) changes to 40 CFR part 190 and to 10 CFR part 50, appendix I, will place substantial resource burdens on licensees, while yielding little or no additional protection of occupational workers or the public; and 6) the NRC actions are premature without the publication of the peer approved implementation documents for the ICRP Publication 103 recommendations.

While some commenters supported the changes described in the ANPR to more closely align with the ICRP Publication 103 methodology and terminology, these commenters also acknowledged that consideration should be given to the resource burden associated with implementation. Some commenters supported the incorporation of the ICRP Publication 103 dose methodology in the form of revisions to include the weighting factors for eight organs, which are the colon, stomach, bladder, liver, esophagus, skin, brain, and salivary glands, but did not support changes to the current NRC dose terminology. On the other hand, one commenter indicated that terminology should be adopted in order to be consistent with the terminology used by the U.S. Department of Energy, as revised in 2007, but use of the updated methodology should be delayed until the updated dose coefficients are published by ICRP. Finally, one commenter supported revision of 10 CFR part 20 to align more closely with ICRP Publication 103 methodology and terminology, but acknowledged that the realignment may result in little, if any, improvement in occupational or public safety.

As explained in SECY-16-0009, the additional resource expenditure in this area did not result in a recommendation for a revised rule. The current NRC regulatory framework continues to provide adequate protection of the health and safety of workers, the public, and the environment. In addition, a majority of the comments submitted and meeting feedback from stakeholders did not support the proposed changes. Therefore, the NRC staff believes that there is minimal adverse impact on the NRC's mission, principles, or values by discontinuing this rulemaking. In the SRM for SECY-16-0009, the Commission approved the NRC staff's recommendation to discontinue this rulemaking.

#### **IV. Reactor Effluents (RIN 3150-AJ38; NRC-2014-0044)**

The NRC published an ANPR in the *Federal Register* (80 FR 25237; May 4, 2015), to obtain input from members of the public and other stakeholders on the development of a regulatory basis for a potential revision to 10 CFR part 50, appendix I, the NRC's regulations for licensees of light water cooled reactors to meet the ALARA standard with respect to radioactive effluents from such reactor sites. The publication of the 10 CFR part 50, appendix I, ANPR was also in response to the Commission's direction in the SRM for SECY-12-0064, which stated that the NRC staff should, along with the development of the draft regulatory basis for the 10 CFR part 20 regulations, engage in a parallel effort to develop a draft regulatory basis for aligning the 10 CFR part 50, appendix I, design objectives with the most recent terminology and dose-related methodology published in ICRP Publication 103. In the ANPR, the NRC staff identified specific questions and issues with respect to a possible revision of 10 CFR part 50, appendix I, and related guidance. The NRC staff planned to consider public and other stakeholder input on these questions and issues to develop the regulatory basis.

The NRC received 20 comment letters on the 10 CFR part 50, appendix I, ANPR. The comments, in addition to feedback from the August 24, 2015, NRC public meeting held in

Rockville, MD, included the following: 1) the potential revisions will result in intangible benefits such as transparency in the regulatory process, consistent terminology and methodology, and comparison of technologies and operations across international borders and environmental media; 2) implementation of the potential revisions will result in a resource burden; 3) the potential revisions are unlikely to be cost-beneficial with little to no incremental improvement in the health and safety of occupational workers, the public, or the environment; 4) in lieu of the potential revisions, limited changes in the NRC guidance to address changes in methodology and terminology would require fewer licensee resources; and 5) should the NRC proceed with rulemaking, consideration of on-going work on the accuracy of the effluent doses to members of the public could further inform the proposed rulemaking.

Overall, the commenters recognized a need to update the NRC's regulations based on the advances in science and technology; however, the implementation costs would be a significant burden to the industry that would not be justified by improvements in public and occupational protection. In addition, some commenters provided additional options for the NRC to consider, should it continue with rulemaking, including limited scope updates to existing NRC guidance.

As explained in SECY-16-0009, the staff recommended that this rulemaking activity be discontinued because during the development of the regulatory basis for the proposed rule change, the staff determined that the regulations do not require changes at this time. Therefore, based on this determination and consideration of the comments received, the NRC staff believes that there is minimal adverse impact on the NRC's mission, principles, or values by discontinuing this rulemaking. In the SRM for SECY-16-0009, the Commission approved the NRC staff's recommendation to discontinue this rulemaking.

## V. Conclusion

The NRC is no longer pursuing the revisions to regulations in 10 CFR part 20 and 10 CFR part 50, appendix I, for the reasons discussed in this document. In the next edition of the Unified Agenda, the NRC will update the entry for these rulemaking activities and reference this document to indicate that they are no longer being pursued. These rulemaking activities will appear in the completed actions section of that edition of the Unified Agenda but will not appear in future editions. If the NRC decides to pursue similar or related rulemaking activities in the future, it will inform the public through new rulemaking entries in the Unified Agenda.

Dated at Rockville, Maryland, this 14<sup>th</sup> day of December 2016.

For the Nuclear Regulatory Commission.

Michael R. Johnson  
Acting Executive Director  
for Operations

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