

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

RIN 3150-AH33

Electronic Maintenance and Submission of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its rules to clarify when and how licensees and other members of the public may use electronic means such as CD-ROM and e-mail to communicate with the agency. These amendments are necessary to implement the Government Paperwork Elimination Act (GPEA). At the same time that the NRC is amending its rules, it is also making available guidance on how to submit documents to the agency electronically. When this final rule becomes effective, this new guidance document, which is appended to this rule, will supersede earlier guidance on electronic submissions.

EFFECTIVE DATE: The final rule will become effective on January 1, 2004.

ADDRESSES: The final rule and any related documents are available on the NRC's interactive rulemaking Web site at <http://ruleforum.llnl.gov>. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905, CAG@nrc.gov.

Publicly available NRC documents related to this final rule can also be viewed on public computers in the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, Room O-1 F21. The PDR reproduction contractor will make copies of documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or have problems 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.

FOR FURTHER INFORMATION CONTACT: John A. Skoczlas, (301) 415-7186,

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I. Background

On September 6, 2002, the Nuclear Regulatory Commission (NRC) published the direct final rule, "Electronic Maintenance and Submission of Information" (RIN 3150-AF61), for comment (67 FR 57084). Along with the rule, the NRC also published its draft "Guidance for Electronic Submissions to the Commission" for comment.

This rulemaking had the simple aim of conforming the NRC's regulations to the GPEA by removing from the regulations language that states or suggests an unnecessary prohibition of electronic submission of documents to the agency. Because the NRC believed that this action would not cause controversy, the NRC initially published these amendments as a direct final rule. However, the NRC received significant adverse comments on both the direct final rule and the guidance document appended to the rule. The NRC, therefore, withdrew the direct final rule on December 4, 2002 (67 FR 72091), and treated the comments received as comments on the companion proposed rule published concurrently with the direct final rule (67 FR 57120; September 6, 2002). The comments received are addressed in this final rule and guidance.

The NRC received formal comments from 19 persons or organizations. The comments concerned both the rule and the draft guidance. However, the majority of the comments were on the guidance document. Although the NRC is not required to address the comments received on its proposed guidance, the NRC believes that it is appropriate to document the resolution of the comments on the guidance document, and to do so in this notice, because the rule and the guidance are being published simultaneously and form a cohesive package.

Title XVII of Pub. L. 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, enacted October 21, 1998,

contains provisions known as the Government Paperwork Elimination Act (GPEA), Sections 1701 *et seq.*, codified at 44 U.S.C. 3504, note. The GPEA requires, among other things, that by October 21, 2003, all Federal agencies provide persons with business before that agency the option of electronically maintaining, submitting, or disclosing information where "practicable." By that same October 2003 date, the agencies must also accept electronic signatures. The Act's provisions seek to take advantage of advances in modern technology to lessen the paperwork burden on those who deal with the Federal government.

Well before the passage of the GPEA, the NRC had taken major steps to increase the use of electronic communication. For example, many of the agency's regulations on recordkeeping have long permitted storage in electronic format. After the GPEA became law, the NRC moved quickly to meet the Act's requirements. In June 1999, the agency began testing a system that permitted holders of operating licenses for nuclear power reactors, and the vendors that supplied them, to make electronic submissions to the agency in a secure manner. On several occasions, the NRC held public meetings with licensees, vendors, and others to describe and demonstrate its Electronic Information Exchange (EIE) capability.

As a result of this pilot program, on January 26, 2001, the NRC issued Regulatory Issue Summary (RIS) 2001-05, "Guidance on Submitting Documents to the NRC by Electronic Information Exchange or on CD-ROM," which informs all Part 50 applicants and licensees that they have the option of submitting documents to the NRC over the Internet by the EIE process or on CD-ROM under procedures spelled out in the RIS. The RIS does not cover electronic submissions under regulations other than those in Part 50. However, on August 10, 2001, the agency issued a letter to certain fuel cycle facilities giving them the option of electronic submissions in many circumstances.¹ Nonetheless, these two documents do not cover other materials licensees or members of the general public.

II. The Final Rule

This rulemaking expands participation in electronic submissions by affording all licensees, vendors,

¹ The NRC has also issued guidance on managing quality assurance records in electronic media. See RIS 2000-18, October 23, 2000, available at the NRC's Web site.