

(2) \* \* \*

(i) If a Class I product, the simple average of the Class III and Class IV manufacturing allowances applies;

\* \* \* \* \*

(3) \* \* \*

(iii) The fuel economy rate of 6.1 miles per gallon.

\* \* \* \* \*

**§ 1147.212 [Removed]****■ 8. Remove § 1147.212.****Erin Morris,**

*Associate Deputy Administrator, Agricultural Marketing Service.*

[FR Doc. 2023–18148 Filed 8–23–23; 8:45 am]

BILLING CODE P

**NUCLEAR REGULATORY COMMISSION****10 CFR Parts 1, 2, 26, 32, 40, 50, 51, 52, 72, and 73**

[NRC–2022–0216]

RIN 3150–AK92

**Miscellaneous Corrections****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include updating organizational information, revising an address, and correcting reference, spelling, and grammatical errors. The amendments also make updates to replace gendered terms with inclusive, gender-neutral language. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

**DATES:** This final rule is effective on September 25, 2023.

**ADDRESSES:** Please refer to Docket ID NRC–2022–0216 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2022–0216. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions, contact the individual 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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301–415–4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Krupskaya Castellon, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9221, email: [Krupskaya.Castellon@nrc.gov](mailto:Krupskaya.Castellon@nrc.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. Summary of Changes
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**I. Introduction**

The NRC is amending its regulations in parts 1, 2, 26, 32, 40, 50, 51, 52, 72, and 73 of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC is making these amendments to update organizational information, revise an address, and correct reference, spelling, and grammatical errors. This rule also makes updates to replace gendered terms with inclusive, gender-neutral language.

**II. Summary of Changes***10 CFR Part 1*

*Update Organization and Functions.* In § 1.42 concerning the Office of Nuclear Material Safety and Safeguards, this final rule revises the introductory text for paragraph (b)(26). The rule also revises paragraph (b)(30) to list financial assurance activities and adds a new paragraph (b)(33) to list duties for environmental activities. This final rule updates the regulations to align more closely with Commission direction in SRM–SECY–15–0143, “Project Aim and Centers of Expertise,” dated February 22, 2016 (Agencywide Documents

Access and Management System ML16053A500) regarding Centers of Expertise.

*Update Organizational Functions.* In § 1.43, this final rule moves responsibility for review and evaluation related to reactor facilities insurance, indemnity, and antitrust matters from the Office of Nuclear Reactor Regulation to the Office of Nuclear Material Safety and Safeguards.

*10 CFR Part 2*

*Revise Nomenclature.* This final rule revises 10 CFR part 2 to replace gendered terms with inclusive, gender-neutral language.

*Correct Reference.* In § 2.1202(a)(1), this final rule removes the incorrect reference to 10 CFR 50.12 and replaces it with the correct reference 10 CFR 50.10.

*10 CFR Parts 26, 50, 52, and 73*

*Revise Street Address.* This final rule amends §§ 26.11, 50.4(a), 52.3(a), and 73.4(b) to add the mailing zip code for the hand delivery method for communications.

*10 CFR Part 32*

*Correct Reference.* In 10 CFR 32.72(a)(2)(i), this final rule removes the incorrect reference to 21 CFR 207.20 and replaces it with the correct reference 21 CFR 207.17(a).

*10 CFR Part 40*

*Correct Spelling.* This final rule amends Appendix A to part 40 to remove the text “meterology” and add in its place the text “meteorology.”

*10 CFR Part 50*

*Correct Typographical Error.* This final rule removes a duplicative phrase in the introductory text of § 50.55a(b)(2)(xliii).

*Correct Reference.* This final rule reverts an inadvertent change to a reference in Appendix H paragraph III.B.1 that occurred during a direct final rulemaking (85 FR 62199) by removing the incorrect reference to ASTM E 185 and replacing it with ASTM E 185–82.

*10 CFR Part 51*

*Correct Reference.* In § 51.77(a), this final rule removes the incorrect reference to appendix M and replaces it with the correct reference subpart F.

*10 CFR Part 72*

*Correct Spelling.* This final rule amends § 72.3 to remove the text “radioactive” and add in its place the text “radioactive.”

### 10 CFR Part 73

*Correct Grammatical Error.* In § 73.50, this final rule adds the indefinite article “a” before the words “nuclear reactor” in the introductory text.

### III. Rulemaking Procedure

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the **Federal Register** of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. Specifically, the revisions update organizational information and correct references, grammatical and spelling errors, and make updates to replace gendered terms with inclusive, gender-neutral language. The NRC is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective September 25, 2023. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

### IV. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule would not constitute backfitting as defined in § 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.” These corrections also would not constitute forward fitting as that term is defined and described in MD 8.4 or affect the issue finality of any approval issued under 10 CFR part 52. The amendments are non-substantive in nature, and include updates to organizational information, corrections to references, grammatical errors and spelling, and make updates to replace gendered terms with inclusive, gender-neutral language. They impose no new requirements and make no substantive changes to the

regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or that would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of this final rule would not constitute backfitting or be inconsistent with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

### V. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

### VI. National Environmental Policy

The NRC has determined that this final rule is the type of action described in § 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

### VII. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

### VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

### IX. Compatibility of Agreement State Regulations

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** (82 FR 48535), NRC program elements (including regulations) required for adequacy and having a particular health and safety component are those that are designated as Categories A, B, C, D, NRC, and H&S; and those required for compatibility include those regulations and other legally binding requirements

designated as Compatibility Categories A, B, C, and D. Compatibility Category A are those program elements that include basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. Compatibility Category B pertains to a limited number of program elements that cross jurisdictional boundaries and should be addressed to ensure uniformity of regulation on a nationwide basis. The Agreement State program element should be essentially identical to that of NRC. Compatibility Category C are those program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D are those program elements that do not meet any of the criteria of Category A, B, or C, above, and, thus, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of title 10 of the *Code of Federal Regulations*. These program elements should not be adopted by the Agreement States. Category H&S program elements are not required for purposes of compatibility; however, they do have particular health and safety significance. The Agreement State should adopt the essential objectives of such program elements to maintain an adequate program.

The final rule is a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. The compatibility categories are designated in the following table:

COMPATIBILITY TABLE

| Section                                       | Change      | Subject   | Compatibility |     |
|---|-------------|---|---------------|-----|
|   |             |   | Existing      | New |
| Part 32:                                      |             |   |               |     |
| § 32.72(a)(2)(i) .....                        | Amend ..... | Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35. | B             | B   |
| Part 40:                                      |             |   |               |     |
| Introduction to Appendix A to 10 CFR part 40. | Amend ..... | Introduction .....  | C             | C   |

List of Subjects

10 CFR Part 1

Flags, Organization and functions (Government Agencies), Seals and insignia.

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 26

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Appeals, Chemical testing, Drug abuse, Drug testing, Employee assistance programs, Fitness for duty, Management actions, Nuclear power plants and reactors, Privacy, Protection of information, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear energy, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal

penalties, Education, Emergency planning, Fire prevention, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Inspection, Issue finality, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, 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. 552 and 553,

the NRC is adopting the following amendments to 10 CFR parts 1, 2, 26, 32, 40, 50, 51, 52, 72, and 73.

PART 1—STATEMENT OF ORGANIZATIONAL AND GENERAL INFORMATION

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

**Authority:** Atomic Energy Act of 1954, secs. 23, 25, 29, 161, 191 (42 U.S.C. 2033, 2035, 2039, 2201, 2241); Energy Reorganization Act of 1974, secs. 201, 203, 204, 205, 209 (42 U.S.C. 5841, 5843, 5844, 5845, 5849); Administrative Procedure Act (5 U.S.C. 552, 553); Reorganization Plan No. 1 of 1980, 5 U.S.C. Appendix (Reorganization Plans).

■ 2. In § 1.42, revise paragraphs (b)(26) introductory text and (b)(30) and add paragraph (b)(33) to read as follows:

§ 1.42 Office of Nuclear Material Safety and Safeguards.

\* \* \* \* \*

(b) \* \* \*

(26) Through a Center of Expertise, leads, manages and facilitates the following rulemaking activities:

\* \* \* \* \*

(30) Through a Center of Expertise, plans and directs program for financial assurance of NRC licensees including:

(i) Ensuring licensee compliance with decommissioning funding assurance requirements.

(ii) Preparing safety evaluations for power reactor and research and test reactors, applicants for new reactors, and for actions associated with license transfers and exemption requests in which financial qualifications and decommissioning funding assurance requirements for reactor licensees are assessed.

(iii) Ensuring compliance with power reactor financial protection requirements in the form of insurance and indemnity coverage, and evaluation of foreign ownership, control, or domination concerns for potential new licensees; and

(iv) Ensuring that materials and Independent Spent Fuel Storage Installation licensees meet decommissioning funding assurance requirements.

(v) Performing review and evaluation related to reactor facilities insurance, indemnity, and antitrust matters.

\* \* \* \* \*

(33) Through a Center of Expertise, supports public health, safety, and the environment through activities including:

(i) Leading environmental reviews for the NRC's licensing actions as required by the National Environmental Policy Act, the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, National Marine Sanctuaries Act, and the National Historic Preservation Act; and

(ii) Developing and issuing Environmental Impact Statements and Environmental Assessments, and coordinating these activities with other Federal, State, Tribal and local agencies; and

(iii) Monitoring licensee adherence to endangered and threatened species take limits and consulting with other Federal agencies on endangered and threatened species, critical habitats, essential fish habitats, and national marine sanctuary resources.

■ 3. In § 1.43, revise paragraphs (e) and (f) and remove paragraph (g).

The revisions read as follows:

#### § 1.43 Office of Nuclear Reactor Regulation.

\* \* \* \* \*

(e) Provides guidance and implementation direction to Regional Offices on reactor licensing, inspection, and safeguards programs assigned to the Region, and appraises Regional program performance in terms of effectiveness and uniformity; and

(f) Performs other functions required for implementation of the reactor licensing, inspection, and safeguard programs.

## PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

■ 4. The authority citation for part 2 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552,

553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under 28 U.S.C. 2461 note.

#### § 2.102 [Amended]

■ 5. In § 2.102, amend the first sentence in paragraph (b) by removing the text “he” and adding in its place the text “the Director”.

#### § 2.103 [Amended]

■ 6. In § 2.103:

■ a. Amend the first sentence in paragraph (a) by removing the text “he” and adding in its place the text “the Director”; and

■ b. Amend paragraph (b) by removing the text “he” and adding in its place the text “the Director”.

#### § 2.203 [Amended]

■ 7. In § 2.203, in the third sentence, remove the text “he” and add in its place the text “the presiding officer or Chief Administrative Law Judge”.

#### § 2.206 [Amended]

■ 8. In § 2.206, amend the second sentence in paragraph (c)(1) by removing the text “his” and adding in its place the text “their”.

■ 9. In § 2.313, revise paragraphs (b)(1) and (2) and (c) introductory text to read as follows:

#### § 2.313 Designation of presiding officer, disqualification, unavailability, and substitution.

\* \* \* \* \*

(b) \* \* \*

(1) If a designated presiding officer or a designated member of an Atomic Safety and Licensing Board believes that they are disqualified to preside or to participate as a board member in the hearing, they shall withdraw by notice on the record and shall notify the Commission or the Chief Administrative Judge, as appropriate, of the withdrawal.

(2) If a party believes that a presiding officer or a designated member of an Atomic Safety and Licensing Board should be disqualified, the party may move that the presiding officer or the Licensing Board member disqualify themselves. The motion must be supported by affidavits setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the Licensing Board member does not disqualify themselves, the motion must be referred to the Commission. The Commission will determine the sufficiency of the grounds alleged.

(c) *Unavailability.* If a presiding officer or a designated member of an Atomic Safety and Licensing Board

becomes unavailable during the course of a hearing, the Commission or the Chief Administrative Judge, as appropriate, will designate another presiding officer or Atomic Safety and Licensing Board member. If they become unavailable after the hearing has been concluded, then:

\* \* \* \* \*

■ 10. Revise § 2.316 to read as follows:

#### § 2.316 Consolidation of parties.

On motion or on its own initiative, the Commission or the presiding officer may order any parties in a proceeding who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

#### § 2.337 [Amended]

■ 11. In § 2.337:

■ a. Amend paragraph (e) by removing the text “his” and adding in its place the text “their”;

■ b. Amend paragraph (g)(1) by removing the text “his or her” and adding in its place the text “their”;

■ c. Amend paragraph (g)(2)(iv) by removing the text “his or her” and adding in its place the text “their”; and

■ d. Amend paragraph (g)(3)(iv) by removing the text “his or her” and adding in its place the text “their”.

■ 12. In § 2.604, revise paragraph (c) to read as follows:

#### § 2.604 Notice of hearing on application for early review of site suitability issues in construction permit proceeding.

\* \* \* \* \*

(c) Any person who was permitted to intervene as a party under the initial notice of hearing on site suitability issues and who was not dismissed or did not withdraw as a party may continue to participate as a party to the proceeding with respect to the remaining unresolved issues, provided that within the time prescribed for filing of petitions for leave to intervene in the supplementary notice of hearing, they file a notice of their intent to continue as a party, along with a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which they wish to continue to participate as a party and setting forth with particularity the basis

for their contentions with regard to each aspect or aspects. A party who files a non-timely notice of intent to continue as a party may be dismissed from the proceeding, absent a determination that the party has made a substantial showing of good cause for failure to file on time, and with particular reference to the factors specified in § 2.309(c)(1)(i) through (iv) and (d). The notice will be ruled upon by the Commission or presiding officer designated to rule on petitions for leave to intervene.

\* \* \* \* \*

#### § 2.702 [Amended]

- 13. In § 2.702:
  - a. Amend the first sentence in paragraph (a) by removing the text “he or she is” and adding in its place the text “they are”; and
  - b. Amend paragraph (f) introductory text by removing the text “he is” and adding in its place the text “they are”.

#### § 2.703 [Amended]

- 14. In § 2.703:
  - a. Amend paragraph (a)(3) by removing the text “he intends” and adding in its place the text “they intend”;
  - b. Amend paragraph (a)(4) by removing the text “himself” and adding in its place the text “themselves”; and
  - c. Amend the second sentence in paragraph (b) by removing the text “his or her” and adding in its place “their”.

#### § 2.705 [Amended]

- 15. In § 2.705:
  - a. Amend paragraph (b)(2) introductory text in the first sentence by removing the text “his or her” and adding in its place the text “their” and in the second sentence by removing the text “he or she determines” and adding in its place “they determine”; and
  - b. Amend paragraph (b)(3) by removing the text “his” and adding in its place the text “their” and by removing the text “he” and adding in its place the text “the party”.
- 16. In § 2.706:
  - a. Amend paragraph (a)(1) by removing the text “him” and adding in its place the text “them”, and by removing the text “he belongs” and adding in its place the text “they belong”;
  - b. Amend the first sentence of paragraph (a)(4) by removing the text “his or her” and adding in its place the text “their”;
  - c. Amend the first sentence of paragraph (a)(5) by removing the text “he or she is” and adding in its place the text “they are”;
  - d. Revise paragraph (a)(7).

The revision reads as follows:

#### § 2.706 Depositions upon oral examination and written interrogatories; interrogatories to parties.

(a) \* \* \*

(7) A deposition will not become a part of the record in the hearing unless received in evidence. If only part of a deposition is offered in evidence by a party, any other party may introduce any other parts. A party does not make a person its own witness for any purpose by taking their deposition.

\* \* \* \* \*

#### § 2.708 [Amended]

- 17. In § 2.708:
  - a. Amend the first sentence of paragraph (a) by removing the text “his or her” and adding in its place the text “its”; and
  - b. Amend paragraph (b)(1)(i) by removing the text “he” and adding in its place the text “it”.

#### § 2.710 [Amended]

- 18. In § 2.710:
  - a. Amend the third sentence in paragraph (b) by removing the text “his” and adding in its place the text “its”; and
  - b. Amend the first sentence of paragraph (c) by removing the text “he or she” and adding in its place the text “it”.

#### § 2.711 [Amended]

- 19. In § 2.711, amend paragraph (i) by removing the text “his”.
- 20. In § 2.905:
  - a. Amend the first sentence of paragraph (a) by removing the text “his” and adding in its place the text “the”; and
  - b. Revise paragraph (b)(1).

The revision reads as follows:

#### § 2.905 Access to restricted data and national security information for parties; security clearances.

\* \* \* \* \*

(b) \* \* \*

(1) On application showing that access to Restricted Data or National Security Information may be required for the preparation of a party’s case, and except as provided in paragraph (h) of this section, the Commission or the presiding officer will issue an order granting access to such Restricted Data or National Security Information to the party upon obtaining the required security clearance, to counsel for the party upon their obtaining the required security clearance, and to such other individuals as may be needed by the party for the preparation and

presentation of the case upon their obtaining the required clearance.

\* \* \* \* \*

#### § 2.908 [Amended]

- 21. In § 2.908, amend paragraph (a)(3) by removing the text “he” and adding in its place the text “the party”.
- 22. In § 2.909, revise the introductory text and paragraph (c) to read as follows:

#### § 2.909 Rearrangement or suspension of proceedings.

In any proceeding subject to this part where a party gives a notice of intent to introduce Restricted Data or other National Security Information, and the presiding officer determines that any other interested party does not have required security clearances, the presiding officer may in their discretion:

\* \* \* \* \*

(c) Take such other action as they determine to be in the best interest of all parties to the public.

- 23. In § 2.910, revise paragraphs (c) and (d) to read as follows:

#### § 2.910 Unclassified statements required.

\* \* \* \* \*

(c) If the presiding officer determines that the unclassified statement, together with such unclassified modifications as they find are necessary or appropriate to protect the interest of other parties and the public interest, adequately sets forth information in the classified matter which is relevant and material to the issues in the proceeding, they shall direct that the classified matter be excluded from the record of the proceeding. The presiding officer’s determination will be considered by the Commission as a part of the decision in the event of review.

(d) If the presiding officer determines that an unclassified statement does not adequately present the information contained in the classified matter which is relevant and material to the issues in the proceeding, they shall include their reasons in their determination. This determination shall be included as part of the record and will be considered by the Commission in the event of review of the determination.

\* \* \* \* \*

#### § 2.1202 [Amended]

- 24. In § 2.1202, amend paragraph (a)(1) by removing the reference “10 CFR 50.12” and adding in its place the reference “10 CFR 50.10”.

#### § 2.1207 [Amended]

- 25. In § 2.1207, amend paragraph (b)(4) by removing the text “his” and adding in its place the text “their”.

**§ 2.1319 [Amended]**

- 26. In § 2.1319:
  - a. Amend the third sentence in paragraph (b) by removing the text “himself” and adding in its place the text “themselves”; and
  - b. Amend paragraph (c) by removing the text “himself or herself” and adding in its place the text “themselves” and by removing the text “he or she” and adding in its place the text “they”.

**PART 26—FITNESS FOR DUTY PROGRAMS**

- 27. The authority citation for part 26 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 103, 104, 107, 161, 223, 234, 1701 (42 U.S.C. 2073, 2133, 2134, 2137, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

**§ 26.11 [Amended]**

- 28. Amend § 26.11 by adding zip code “20852–2738” after “Maryland”.

**PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL**

- 29. The authority citation for part 32 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 81, 161, 170H, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2210h, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

**§ 32.72 [Amended]**

- 30. In § 32.72, amend paragraph (a)(2)(i) by removing the reference “21 CFR 207.20(a)” and adding in its place the reference “21 CFR 207.17(a)”.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

- 31. The authority citation for part 40 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

**Appendix A to Part 40—[Amended]**

- 32. In the fourth paragraph of the the introduction to appendix A to part 40, remove the text “meterology” and add in its place the text “meteorology”.

**PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES**

- 33. The authority citation for part 50 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

**§ 50.4 [Amended]**

- 34. In § 50.4, amend paragraph (a) by adding zip code “20852–2738” after “Maryland”.

**§ 50.55a [Amended]**

- 35. In § 50.55a, amend the paragraph (b)(2)(xliii) heading by removing the text “Section XI Condition:”

- 36. In appendix H to part 50, revise paragraph III.B.1 to read as follows:

**Appendix H to Part 50—Reactor Vessel Material Surveillance Program Requirements**

\* \* \* \* \*

III. \* \* \*

B. \* \* \*

1. The design of the surveillance program and the withdrawal schedule must meet the requirements of the edition of the ASTM E 185 that is current on the issue date of the ASME Code to which the reactor vessel was purchased; for reactor vessels purchased after 1982, the design of the surveillance program and the withdrawal schedule must meet the requirements of ASTM E 185–82. For reactor vessels purchased in or before 1982, later editions of ASTM E 185 may be used, but including only those editions through 1982. For each capsule withdrawal, the test procedures and reporting requirements must meet the requirements of ASTM E 185–82 to the extent practicable for the configuration of the specimens in the capsule. If any of the optional provisions in paragraphs III.B.4(a) through (d) of this section are implemented in lieu of ASTM E 185, the number of specimens included or tested in the surveillance program shall be adjusted as specified in paragraphs III.B.4(a) through (d) of this section.

\* \* \* \* \*

**PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS**

- 37. The authority citation for part 51 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

**§ 51.77 [Amended]**

- 38. In § 51.77, amend paragraph (a) introductory text by removing the reference “appendix M” and adding in its place the reference “subpart F”.

**PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS**

- 39. The authority citation for part 52 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

**§ 52.3 [Amended]**

- 40. In § 52.3, amend paragraph (a) by adding zip code “20852–2738” after “Maryland”.

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

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

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

**§ 72.3 [Amended]**

■ 42. In § 72.3, amend the definition of “High-level radioactive waste or HLW”, in paragraph (1), by removing the text “radioactive” and adding in its place the text “radioactive.”

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

■ 43. The authority citation for part 73 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 161A, 170D, 170E, 170H, 170I, 223, 229, 234, 170I (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under Sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

■ 44. In § 73.4 revise paragraph (b) to read as follows:

**§ 73.4 Communications.**

\* \* \* \* \*

(b) By hand delivery to the NRC’s offices at 11555 Rockville Pike, Rockville, Maryland 20852–2783;

\* \* \* \* \*

**§ 73.50 [Amended]**

■ 45. In § 73.50, amend the introductory text by adding the article “a” before the words “nuclear reactor”.

Dated: August 18, 2023.

For the Nuclear Regulatory Commission.

**Cindy K. Bladey,**

*Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

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**BILLING CODE 7590–01–P**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION****29 CFR Part 1614**

**RIN 3046–AB23**

**Federal Sector Equal Employment Opportunity**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** The Equal Employment Opportunity Commission (“EEOC” or “Commission”) is issuing a final rule revising its Federal sector complaint processing regulations to allow for the digital transmission of equal employment opportunity hearing and

appellate documents and to address various uses of the Commission’s Electronic Public Portal.

**DATES:** Effective August 24, 2023.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Oram, Assistant Legal Counsel, at (202) 921–2665 or *kathleen.oram@eeoc.gov*, or Gary J. Hozempa, Senior Staff Attorney, at (202) 921–2672 or *gary.hozempa@eeoc.gov*, Office of Legal Counsel, U.S. Equal Employment Opportunity Commission. Requests for this document in an alternative format should be made to the EEOC’s Office of Communications and Legislative Affairs at (202) 921–3191 (voice), 1–800–669–6820 (TTY), or 1–844–234–5122 (ASL video phone).

**SUPPLEMENTARY INFORMATION:****Introduction**

On September 27, 2022, the EEOC published in the **Federal Register** a Notice of Proposed Rulemaking (“NPRM”) announcing its intention to amend 29 CFR part 1614 by authorizing the EEOC, the Office of Federal Operations (“OFO”), and the EEOC’s Administrative Judges (“AJs”) to issue and receive documents electronically instead of, or in addition to, using first class U.S. mail (“first class mail”). Currently, 29 CFR 1614.109(i) provides that an AJ “shall send copies of the hearing . . . decision to the parties.” Section 1614.405(a) requires that a Commission appellate decision be “transmitted to the complainant and the agency by first class mail.” The NPRM proposed authorizing the Commission to transmit its hearing and appellate decisions, orders, and related documents to registered complainants through the EEOC Electronic Public Portal (“Public Portal” or “Portal”). It also was proposed that complainants could file hearing requests, appeals, and related documents through the Portal. The NPRM further proposed requiring agencies to notify complainants that they can use the Public Portal to file hearing requests and appeals. Finally, the NPRM asked commenters to address when an EEOC decision transmitted through the Portal should be considered to be received.

The final rule formalizes the current use of electronic communications between the EEOC and its stakeholders by explicitly providing for the digital transmission of complaint files, hearing requests and associated documents, appeals and associated documents, and Commission decisions. The final rule confirms that the digital receipt of hearing requests, appeals, Commission hearing and appellate decisions, and related documents, is equivalent to

receipt by first class mail. Nevertheless, the final rule makes clear that a complainant’s use of the Portal is voluntary.

Thus, for complainants who choose not to establish a Portal account, or who establish an account but do not agree to receive EEOC communications only through the Portal, OFO will use first class mail to communicate with, and send documents to, complainants, even while transmitting the same documents to agencies via FedSEP (the EEOC’s separate electronic Portal for agency-only use); AJs also will use email to transmit documents. These same complainants will be able to file hearing requests, appeals, and related documents through the current methods available (first class and registered mail, facsimile, personal delivery, and email).

**Comments Generally**

The EEOC received five comments about the NPRM, four from individuals and one from an attorney organization (“organization”). The commentors generally favor authorizing the EEOC and its AJs to transmit decisions and orders through the Portal. They also approve of allowing complainants to use the Portal to transmit hearing and appellate requests and documents. The organization opposes certain proposals while it and some of the individuals recommend specific modifications. Most provided suggestions regarding determining a receipt date for Portal-transmitted decisions.

**Specific Comments and EEOC’s Response***Complainant Opt-In To Communicate via the Portal*

The NPRM provided that, where a complainant registers with the Portal, the EEOC will communicate with the complainant only through the Portal unless and until the complainant informs the EEOC that they want to receive EEOC documents by first class mail. The organization argues for a final rule specifying that a complainant will receive documents electronically only after the complainant affirmatively consents, or opts-in, to receive documents through the Portal. It further proposes that, even when providing consent, the complainant should retain the option to send and receive documents by other methods, such as first class mail, in addition to receiving these same documents through the Portal. To this end, the organization proposes that a final rule should require agencies and the EEOC to provide complainants with relevant contact information for all filing methods