

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

[PRM-34-06]

Organization of Agreement States, Petition for Rulemaking, Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking dated November 3, 2005, which was filed with the Commission by Barbara Hamrick, Chair, Organization of Agreement States (OAS). The petition was docketed by the NRC on November 16, 2005, and has been assigned docket number PRM-34-06. The petitioner requests that the NRC amend its regulations to require that an individual receive at least 40 hours of radiation safety training before using sources of radiation for industrial radiography, by revising the requirements for at least two qualified individuals to be present at a temporary job site, and by clarifying how many individuals are required to meet surveillance requirements. The petitioner also requests that NUREG-1556, Volume 2, be revised to reflect the proposed amendments. As part of the petition for rulemaking review process, the NRC will hold a transcribed public meeting with the petitioner to obtain information about two specific issues relative to the petition. The meeting is open to the public and all interested parties may participate.

DATES: August 15, 2007 (1-3 p.m., Eastern)

ADDRESSES: The meeting will be held via an audio teleconference at the U.S. Nuclear Regulatory Commission (NRC) Headquarters, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

FOR FURTHER INFORMATION CONTACT: Thomas Young, telephone: (301) 415-5795, e-mail: tfy@nrc.gov of the Office of

Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Mail Stop T8F3, Washington, DC 20555-0001. Interested members of the public can participate in this meeting via a toll-free audio teleconference. For details, please contact Thomas Young to pre-register for the meeting. If special equipment is needed by those participating in the public meeting, contact Mr. Young no later than July 27, 2007, to provide sufficient notice to determine whether the equipment is available.

SUPPLEMENTARY INFORMATION: The NRC, Office of Federal and State Materials and Environmental Management Programs, Petition Review Board has requested this transcribed public meeting to ensure full understanding for two specific issues, training and economic impact, which NRC identified during evaluation of the petitioner's request in PRM-34-06. The meeting materials are available from the NRC Web site, <http://www.nrc.gov/public-involve/public-meetings/index.cfm>, or by contacting Thomas Young, telephone: (301) 415-5795, e-mail: tfy@nrc.gov. The two specific issues, training and economic impact, are described below with discussion questions for each issue.

Regarding the training issue, the Petition Review Board is seeking an explanation to resolve an apparent inconsistency in the petitioner's request. The petitioner requested that NRC amend the regulations to relax an existing requirement to allow industrial radiographic personnel to be occupied with tasks (e.g., dark room duties) that are unrelated to safety during industrial radiographic operations and also requested that the regulations be amended to include additional radiation safety training requirements for the personnel. These requests seem to conflict.

The petitioner requested that 10 CFR 34.41, "Conducting industrial radiographic operations," paragraph (a) be amended to remove the requirement that the additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The petitioner requested that 10 CFR 34.43, "Training," be amended to limit a licensee from permitting an individual to act as a radiographer or a

radiographer's assistant until the individual has successfully completed an accepted course of at least 40 hours on the applicable subjects listed in paragraph (g), e.g., concerning fundamentals of radiation safety, radiation detection instrumentation, and equipment.

Two questions about training are as follows. (1) What is the rationale for requiring more radiation safety training for a radiographer's assistant who would not be required to observe the operations and provide immediate assistance to prevent unauthorized entry? (2) Does an individual completing the course to become a radiographer's assistant need to take another course before a licensee can permit the individual to act as a radiographer, if the petitioner intends for the radiographer and radiographer's assistant to complete the same course of applicable subjects on radiological safety, detection, and use of equipment as listed in paragraph (g)?

Regarding the issue of economic impact, the Petition Review Board is seeking new, relevant information about the economic impact of implementing the rule. In response to the notice of receipt of the petition for rulemaking (70 FR 76724, December 28, 2005), the NRC received two comment letters; one from the Conference of Radiation Control Program Directors, Inc. and the other from the Texas Department of State Health Services. These organizations supported the petitioner's request. The industrial radiography community did not comment on the petitioner's request and the lack of comment from the industry was somewhat unexpected because the industry's interest had been relatively high in previous rulemaking activities for 10 CFR part 34. In the past, the industry supported the two person requirement at 10 CFR 34.41(a) and indicated that the additional cost of safety would be borne by the customers, not necessarily by the licensees.

The petitioner contacted certain industrial radiography licensees that operate in both the State of Texas and in NRC's jurisdiction to assess the cost of implementing 10 CFR 34.41(a) and obtained general information, e.g., an additional person would cost \$200 per day (including travel and per diem) and the cost of additional time would be

\$10–\$12 per hour (not including overtime pay).

Two questions about economic impact are as follows. (1) What is the actual economic impact on a licensee in the current regulatory environment where NRC and Agreement States do not implement the rule in an essentially identical manner? (2) Have changes in industry practice occurred since 1997 that have minimized the effectiveness of 10 CFR 34.41(a)?

The agenda for the meeting is as follows: Welcome and purpose of the meeting, 10 minutes; PRM 34–06 evaluation process and milestones, 10 minutes; Petition Review Board and petitioner discussion of the training issue, 40 minutes; Petition Review Board and petitioner discussion of the economic impact issue, 40 minutes; public comment on the issues, 15 minutes; closing remarks, 5 minutes. If necessary, NRC may impose a time limit on a speaker to ensure that all speakers may comment within the time that is available.

Members of the public who have registered to participate in this meeting should call the teleconference approximately 15 minutes prior to the meeting. The toll free number will be provided to each registrant prior to the meeting.

Dated at Rockville, Maryland, this 21st day of June, 2007.

For the Nuclear Regulatory Commission.

Dennis K. Rathbun,

Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

RIN 3064–AD18

Extension of Time Period for Quarterly Reporting of Bank Officers' and Certain Employees' Personal Securities Transactions

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of proposed rule with request for comment.

SUMMARY: The FDIC proposes to amend its rule concerning the period of time that officers and all employees of state nonmember banks who make or participate in investment decisions for the accounts of customers ("certain

employees") have to report their personal securities transactions after the end of the calendar quarter. The revision would extend the time period from 10-business days to 30-calendar days after the end of the calendar quarter for bank officers and certain employees to report personal securities transactions to the bank. This revision reflects certain developments in Federal securities regulations.

DATES: Comments on the rule must be received by August 27, 2007.

ADDRESSES: You may submit comments, by any of the following methods:

- *Agency Web Site:* <http://www.FDIC.gov/regulations/laws/federal/notices.html>. Follow instructions for submitting comments on the Agency Web Site.
- *E-mail:* Comments@FDIC.gov. Include "Part 344 Revision" on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted generally without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1022, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

Serena L. Owens, Chief, Planning and Program Development, (202) 898–8996; or Anthony J. DiMilo, Trust Examination Specialist, (202) 898–7496, in the Division of Supervision and Consumer Protection; Julia E. Paris, Senior Attorney, (202) 898–3821, in the Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC's recordkeeping and confirmation requirements for effecting securities transactions are set forth in 12 CFR part 344. Part 344 includes a provision that state nonmember banks effecting such transactions must establish written policies and procedures for supervising all officers and all employees of state nonmember banks who, in connection with their duties, make or participate in investment decisions for the accounts of customers ("certain employees"). At the time part 344 originally was adopted, it

reflected the U.S. Securities and Exchange Commission's ("SEC") recommendations contained in the Final Report of the Securities and Exchange Commission on Bank Securities Activities (June 30, 1977) and generally was patterned after SEC regulations.¹ Section 344.9(a)(3) requires officers and certain employees to report to the bank all securities transactions made by them or on their behalf in which they have a beneficial interest within 10-business days after the end of the calendar quarter. As adopted, this provision was intended to be comparable to the SEC's Rule 17j–1 of the Investment Company Act of 1940, which required "access persons" to report personal securities transactions quarterly and originally mandated a 10-business day period for reporting.² Contemporaneous to the FDIC's original rulemaking, the Office of the Comptroller of the Currency ("OCC") and the Board of Governors of the Federal Reserve System adopted substantially similar rules concerning quarterly reporting requirements that mandated a 10 day time period for reporting.³ In 2002, the Office of the Thrift Supervision adopted a substantially similar regulation.⁴

The SEC, in July 2004, amended Rule 17j–1 to extend the reporting time period to 30-calendar days after the end of the calendar quarter.⁵ The effective date of the SEC's amendments to Rule 17j–1 was August 31, 2004, with a compliance date of January 7, 2005. To date, no federal banking agency has amended its rule to conform to the SEC's amended Rule 17j–1 of the Investment Company Act of 1940.⁶

II. Description of Proposal

Consistent with the 2004 amendments to SEC's Rule 17j–1, the FDIC proposes to amend section 344.9(a)(3) to extend to 30-calendar days after the end of the calendar quarter the time period for reporting quarterly personal securities transactions. In addition, the FDIC proposes this amendment in order to

¹ 44 FR 43260 (July 24, 1979); see 45 FR 73898 (Nov. 7, 1980) (SEC final rule 17j–1 adopting investment advisor code of ethics and disclosure requirements for "access persons," as defined by 17 CFR 270.17–j–1(a)(1)).

² See 17 CFR 270.17j–1(c)(2) (1998); 45 FR 73898 (Nov. 7, 1980).

³ See 12 CFR 12.7(a)(4) (OCC's current rule), 12 CFR 208.34(g)(4) (FRB's current rule).

⁴ 67 FR 76299 (Dec. 12, 2002); 12 CFR 551.150(a) (OTS's current rule).

⁵ 69 FR 41696 (July 9, 2004).

⁶ See 12 CFR 12.7(a)(4) (OCC's current rule), 12 CFR 208.34(g)(4) (FRB's current rule), 12 CFR 551.150(a) (OTS's final rule). However, in OCC Interpretative Letter No. 1062 (May 2006), the OCC granted a waiver of its 10-day reporting time period in favor of a 30-calendar day time period in order to be consistent with revised Rule 17j–1.