

# 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.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 2

[Docket No. APHIS-2006-0024]

#### Minimum Age Requirements for the Transport of Animals

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We are reopening the comment period for our proposed rule that would amend the Animal Welfare Act regulations by adding minimum age requirements for the transport in commerce of animals. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments that we receive on or before September 2, 2008.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0024> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2006-0024, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0024.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be

sure someone is there to help you, please call (202) 690-2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1231; (301) 734-7833.

**SUPPLEMENTARY INFORMATION:** On May 9, 2008, we published in the **Federal Register** (73 FR 26344-26349, Docket No. APHIS-2006-0024) a proposal to amend the Animal Welfare Act regulations by adding minimum age requirements for the transport in commerce of animals.

Comments on the proposed rule were required to be received on or before July 8, 2008. We are reopening the comment period on Docket No. APHIS-2006-0024 for an additional 30 days beyond this notice. We will also consider all comments received between July 9, 2008 (the day after the close of the original comment period) and the date of this notice. This action will allow interested persons additional time to prepare and submit comments.

**Authority:** 7 U.S.C. 147a; 21 U.S.C. 136 and 136(a); 44 U.S.C. 35; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 25th day of July 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8-17591 Filed 7-30-08; 8:45 am]

**BILLING CODE 3410-34-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 54

[Docket No. PRM-54-5]

#### Eric Epstein; Denial of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; Denial.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by Eric Epstein (PRM-54-5). The petition requests that the NRC amend its

regulations that govern renewal of operating licenses for nuclear power plants. Specifically, the petitioner requests that the NRC conduct a comprehensive review of U.S. nuclear power plant licensees' emergency planning during the license renewal proceedings. The NRC is denying the petition because the petition presents issues that the Commission carefully considered when it first adopted the license renewal rule and denied petitions for rulemaking submitted by Andrew J. Spano, County Executive, Westchester County, New York (PRM-54-02), and Mayor Joseph Scarpelli of Brick Township, New Jersey (PRM-54-03). The Commission's position is that the NRC's emergency planning system is part of a comprehensive regulatory process that is intended to provide continuing assurance that emergency planning for every nuclear plant is adequate. Thus, the Commission has already extensively considered and addressed the types of issues raised in the petition. Also, the petition fails to present any significant new information or arguments that would warrant the requested amendment.

**ADDRESSES:** Publicly available documents related to this petition, including the petition for rulemaking and NRC's letter of denial to the petitioner may be viewed electronically on public computers in NRC's Public Document Room (PDR), 01F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Publicly available documents created or received at NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/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 if there are problems in accessing the documents located in ADAMS, contact the PDR reference staff at (800) 387-4209 or (301) 415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Nina Bafundo, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone (301) 415-1621 or Toll

Free: 1-800-368-5642, e-mail  
Nina.Bafundo@nrc.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

During the 1991 license renewal rulemaking (56 FR 64943; December 13, 1991), the Commission explained that initial license-type reviews are unnecessary at license renewal because of ongoing NRC inspections, enforcement, and upgrades: “since initial licensing, each operating plant has continually been inspected and reviewed as a result of new information gained from operating experience.” (56 FR at 64945). These ongoing regulatory processes provide reasonable assurance that the licensing bases of currently operating plants provide and maintain an adequate level of safety. (60 FR at 22464, 22481–22482; May 8, 1995). The license renewal rule likewise reflects the NRC’s determination that issues of adequate safety and protection should be addressed when they arise. *See*, 60 FR at 22481. The NRC anticipated that safety issues will inevitably emerge, but concluded that its ongoing regulatory process is comprehensive and flexible enough to manage safety concerns before the license renewal process. (71 FR 74848, 74851; December 13, 2006). Also, in making revisions to the license renewal rule, the Commission reaffirmed the vitality of its regulatory process. *See*, 60 FR 22461.

More specifically, the NRC’s emergency preparedness regulations in 10 CFR part 50 require licensees to test the adequacy of their preparedness and ability to respond to emergency situations by the performance of a full-scale exercise at least once every two years, with the participation of Government agencies. These exercises are evaluated by NRC inspectors and FEMA evaluators. In the interval between these two-year exercises, licensees must conduct additional drills to ensure that they maintain adequate emergency response capabilities.

Further, the NRC actively reviews its regulatory framework to ensure that the regulations are current and effective. The agency began a major review of its emergency preparedness framework in 2005, including a comprehensive review of the emergency preparedness regulations and guidance, the issuance of generic communications regarding the integration of emergency preparedness and security, and outreach efforts to interested persons to discuss emergency preparedness issues. These activities have informed an ongoing rulemaking effort that will enhance the NRC’s emergency preparedness

regulations and guidance. *See*, Rulemaking Plan for Enhancements to Emergency Preparedness Regulations and Guidance, (April 17, 2007) (ML070440148); SRM–SECY–06–0200, Results of the Review of Emergency Preparedness Regulations and Guidance, (January 8, 2007) (ML070080411); SECY–06–0200, Results of the Review of Emergency Preparedness Regulations and Guidance (September 20, 2006) (ML061910707).

##### The Petition

This petition raises concerns nearly identical to the recent petitions by Andrew J. Spano, County Executive, Westchester County, New York (PRM–54–02) and Mayor Joseph Scarpelli of Brick Township, New Jersey (PRM–54–03), which the Commission denied after public comments. In the Spano and Scarpelli petitions, the petitioners requested that the NRC amend its regulations to provide that the agency renew a license only if the plant operator demonstrates that the plant meets all criteria and requirements that would apply if it were proposing the plant *de novo* for initial construction, including an emergency planning analysis. Similarly, this petition requests the NRC to make a “new finding of ‘reasonable assurance of adequate protection,’” like a *de novo* review under the initial licensing process.

In the Spano and Scarpelli denials, the NRC addressed issues it had already considered at length during its license renewal rulemaking. *See*, 71 FR 74848, 74851. The Commission explained that “the petitioners did not present any new information that would contradict positions taken by the Commission when the license renewal rule was established or demonstrate that sufficient reason exists to modify the current regulations.” *Id.* Likewise, this petition does not pose any new concerns that would undermine the rationale for the current license renewal process.

For the reasons given by the Commission in the final license renewal rule (56 FR 64943; December 13, 1991) and again in revisions to the final rule (60 FR 22461; May 8, 1995), the scope of license renewal is appropriately limited to those issues which have a specific relevance to protecting the public health and safety during the license renewal period—i.e., age-related degradation. Issues relevant to current plant operations, like emergency planning and nuclear plant security, fall within the purview of the current regulatory process and continue into the extended operation period of a license

renewal. The Commission also mandates that each plant-specific licensing basis be maintained during the renewal term in the same manner and to the same extent as during the original licensing term, thereby ensuring the protection of public health and safety and the preservation of common defense and security.

The Commission has affirmed repeatedly that “emergency preparedness need not be reviewed again for license renewal.” 71 FR at 74852 (referencing 56 FR at 64966). The Commission stated that “[t]hrough its standards and required exercises, the Commission ensures that existing plans are adequate throughout the life of any plant even in the face of changing demographics and other site-related factors.” 71 FR at 78452 (quoting 56 FR at 64966). This basic determination is reflected in the NRC’s regulations at 10 CFR 50.47(a) on emergency planning requirements, in which a new finding on emergency planning issues is not required for license renewal. Further, all of the emergency planning regulations in 10 CFR 50.47, 50.54(q), 50.54(s)–(u), and Appendix E are independent of the license renewal process, and continue to apply during the extended operation term.

For these reasons, the Commission denies PRM–54–5.

Following its review of this Notice, the Commission directed that the Notice include the following comments of Commissioner Jaczko:

I disagree with the decision to deny this petition for rulemaking. Instead, I believe the review of a license renewal application authorizing, if granted, an additional twenty-years of operation, provides the opportune time at which the agency should re-evaluate emergency preparedness issues. Currently, the only time the NRC issues a comprehensive affirmative finding that both onsite and offsite emergency plans are in place around a nuclear power plant, and that they can be implemented, is at the time it grants an initial operating license. Although there are regular assessments of these plans through exercises and reviews, we do not periodically reassess that initial reasonable assurance of adequate protection of the public—even if it was made decades ago—unless and until we find a serious deficiency in a biennial exercise. I believe considering emergency preparedness during the license renewal process would provide an opportunity to improve public confidence in the licensees and in all levels of government.

The Commission had additional views on the petition:

The Commission majority does not share Commissioner Jaczko’s dissenting view. As stated in each of our votes on this matter, and in support of the Commission’s responsibility to oversee the safety and security of operating

reactors, we continue to support the view that issues of relevance to both current plant operation and operation during the license renewal period must be addressed as they arise *within the present license term* rather than at the time of renewal. Emergency planning is such an issue. Through its standards and required exercises, the Commission ensures that existing emergency plans are adequate throughout the life of any plant, even in the face of changing demographics and other site-related factors. The emergency preparedness regulations in 10 CFR part 50 require licensees to test the adequacy of their preparedness and ability to respond to emergency situations through the performance of a full-scale exercise at least once every two years. These drills and independent evaluations provide a process to ensure continued adequacy of emergency preparedness in light of changes in site characteristics. Consequently, consistent with the Commission's policy to confine the review of issues during license renewal to those uniquely relevant to protecting the public health and safety and common defense and security during the renewal period, we find no lost opportunity here and see no necessity for a review of emergency planning as part of the license renewal process.

Dated at Rockville, Maryland, this 25th day of July 2008.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. E8-17544 Filed 7-30-08; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### 28 CFR Part 23

[Docket No. OJP 1473]

RIN 1121-AA59

#### Criminal Intelligence Systems Operating Policies

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Justice Programs is publishing this proposed rule to amend its regulations that govern the operating policies of criminal intelligence systems that receive federal funding under the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("Crime Control Act"). The regulations were issued pursuant to 42 U.S.C. 3789(g), which requires that "criminal intelligence systems" receiving Crime Control Act support must collect, maintain, and disseminate criminal intelligence information "in conformance with policy standards

which are prescribed by the Office of Justice Programs." The statute specifies that the policy standards must be written to assure that the funding and operation of the systems further the purpose of the funding provisions and assure that such systems "are not utilized in violation of the privacy and constitutional rights of individuals." The existing regulations were last revised in 1993 and the purpose of the revisions proposed in this document is to clarify and update the regulations in light of the new, post-9/11 information sharing environment and investigative policies aimed at preventing terrorism.

**DATES:** Written comments must be submitted on or before September 2, 2008.

**ADDRESSES:** Comments may be mailed to Michael Dever, Bureau of Justice Assistance, 810 7th Street, NW., Washington, DC 20531. To ensure proper handling, please reference OJP Docket No. 1473 in your correspondence. You may submit comments electronically or view an electronic version of this proposed rule at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Dever, Bureau of Justice Assistance, 810 7th Street, NW., Washington, DC 20531. Telephone: (202) 616-6500.

**SUPPLEMENTARY INFORMATION:**

**Posting of Public Comments**

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as name and address) voluntarily submitted by the commenter.

If you wish to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not wish for it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You also must locate all the personal identifying information you do not wish to be posted online in the first paragraph of your comment and identify what information you would like redacted.

If you wish to submit confidential business information as part of your comment but do not wish for it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted

within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**Discussion**

The proposed rule would revise the Office of Justice Program (OJP) regulations in 28 CFR part 23 that set forth policy guidelines for Crime Control Act-funded state criminal intelligence information systems. The part 23 regulations were issued pursuant to a requirement in 42 U.S.C. 3789(g) that "criminal intelligence systems" receiving Crime Control Act support must collect, maintain, and disseminate criminal intelligence information "in conformance with policy standards which are prescribed by the Office of Justice Programs." The statute specifies that the policy standards must be written to assure that the funding and operation of the systems further the purpose of the funding provisions and assure that such systems "are not utilized in violation of the privacy and constitutional rights of individuals."

The existing part 23 regulations were last revised in 1993 and the purpose of the revisions proposed in this notice is to clarify and update the regulations in light of the new, post-9/11 information-sharing environment and investigative policies aimed at preventing terrorism. Multiple initiatives are being pursued at the federal, state, and local levels to promote and strengthen information sharing among responsible government agencies that can promote risk identification and protective action, including, for example, the creation of state, local, and regional fusion centers across the country and information sharing initiatives involving Joint Terrorism Task Forces. The intent of these proposed revisions to part 23 is to ensure that the standards for sharing criminal intelligence information subject to the regulation be uniform and clear and not create unreasonable impediments to information sharing, whether real or perceived, while at the same time continuing to ensure that the systems not be used in violation of the privacy and constitutional rights of individuals.