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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 50

RuleNet Communication Program; Fire Protection Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: RuleNet program: notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of a new pilot computer based program called "RuleNet" to maximize communication between the NRC and the public on rulemaking issues. The RuleNet pilot will be used initially to gather information on the safety issue of fire protection at nuclear power plants. RuleNet will allow participants in an NRC rulemaking proceeding to communicate both with the NRC and among themselves, with a view toward defining issues, eliminating misunderstanding, and finding areas of common ground. In addition to providing the NRC and the public with valuable information, RuleNet will test the usefulness of computer-based communications as a tool in the rulemaking process.

DATES: The public can access the RuleNet world wide site beginning November 20, 1995. Participant registration will be conducted from November 20, 1995 through January 2, 1996. RuleNet pilot will run from January 2, 1996 through February 9, 1996.

ADDRESSES: The world wide web site will be linked to NRC's home page: <http://www.nrc.gov> or it may be accessed directly by loading the following URL: <http://nssc.lnl.gov/RuleNet>.

FOR FURTHER INFORMATION CONTACT: Francis Cameron, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission is undertaking a project of an entirely novel kind, designed to use state-of-the-art computer technology to maximize communication between the NRC and the public on an important nuclear power plant safety issue, fire protection. This project, called RuleNet, is intended to serve not only to provide the NRC and the public with valuable information, but also to test the usefulness of computer-based communications as a tool in the rulemaking process.

The concept underlying RuleNet is that computer-based communications technology makes it possible for participants in an NRC proceeding to communicate both with the NRC and among themselves, with a view toward defining issues, eliminating misunderstanding, and finding areas of common ground.

The issue on which RuleNet will be gathering information is one that has been of concern to the Commission for some time. The Commission's overall approach to safety issues in recent years has been to move in the direction of performance-based regulations and away from prescriptive regulations. The Commission has already determined that fire protection is one area in which a shift to performance-based regulation is appropriate.¹ Thus, although a

¹ On February 4, 1992, the Commission published notice in the Federal Register, at 57 FR 4166, that it regarded the NRC's fire protection rules, set forth in appendix R to 10 CFR part 50, as a candidate for being made less prescriptive, with some requirements relaxed or eliminated on the basis of cost-benefit considerations. Later in the same year, the Commission announced its intention to begin rulemaking to develop a performance-based fire protection regulation, that would rely in part on risk analyses. 57 FR 55156 (November 24, 1992). Subsequently, the NRC staff published a general framework for developing performance-based, "risk-informed" regulations. 58 FR 6196 (January 27, 1993). At a public workshop held in April, 1993, the NRC staff invited discussions on this general regulatory framework and on specific proposals for changing the appendix R fire protection rules. (The proceedings of the workshop, including comments from members of the public and the regulated industry, were documented in NUREG/CP-0129, issued in September, 1993.) At the workshop, industry representatives presented their plans for submitting a rulemaking petition to the NRC. (Such a petition was in fact filed on February 2, 1995.) On May 18, 1994, the Commission approved the policies and framework proposed by the NRC staff in SECY-94-090 for revising its fire protection regulations, including the

petition was filed in February 1995, by the Nuclear Energy Institute, asking the Commission to add a performance-based alternative to the existing prescriptive regulations, the Commission would be examining the issue of performance-based fire protection rules even in the absence of such a petition.²

The NRC has already innovated in the area of rulemaking in two significant ways: Through the concept of "enhanced participatory rulemaking," designed to promote Early public comment and interaction on rulemaking issues before a proposed rule is developed; and through electronic bulletin boards, which allow comments on a proposed rule to be submitted electronically. RuleNet represents a step toward melding these two approaches: early public comment and interaction, as in the enhanced participatory rulemaking, together with communications technology, developed specially for this purpose, to permit participants to deal with one another and with the NRC by computer. (Participants will not be restricted to communication by computer, however; written comments may be submitted in place of or in addition to electronic communications.³)

A comparison with traditional rulemaking, as conceived in the Administrative Procedure Act (APA), may help make clear why this fresh approach to the rulemaking process has the potential to make the participation of all interested parties—governmental units, industry, and members of the public—significantly more effective and influential.

In the classic model of APA rulemaking, the agency publishes either an advance notice of proposed rulemaking or, eliminating that step, issues a proposed rule. In the former case, the process is generally extremely time-consuming; in the latter, there is a

initiation of a staff study to support the effort. The NRC staff published the petition on June 6, 1994, at 60 FR 29784, received public comment on it, and is currently reviewing it within the context of the policies and framework approved by the Commission.

² The RuleNet initiative does not supersede the NEI petition, which will continue to be considered on its own merits.

³ Written comments will be scanned and placed on the electronic network for all participants to read. Clearly, therefore, those who choose to take part through the electronic network will be in a better position to respond to the views of other participants.

risk that the agency may be too wedded to the proposed approach to be able to rethink the issue from the ground up if a wholly new proposal is submitted by a commenter. In either case, the hub-and-spoke structure of the process, in which all communication is directed to the agency, does not tend to encourage interested parties to work among themselves toward common ground.

The NRC has already made strides to improve on the traditional rulemaking with innovative procedures, such as workshops in which different participants interact with agency staff and with each other. RuleNet represents a further development along those lines. Because participants can take part from home, workplace, or public library, this step opens up the process to persons who might otherwise have been unable to take part. The NRC Headquarters Public Document Room will also have a computer terminal from which access to RuleNet will be available.

The capacity of computer technology to improve the current rulemaking process can be readily illustrated. In a traditional rulemaking, if a particular matter raises questions in the minds of participants, they have no recourse other than to point out the issue in their written comments. If the rulemaking is on a proposed rule, the commenter may not learn the answer to the question until the final rule is issued. The computer, however, allows the agency staff to analyze the comments and questions received, ascertain which questions arise most often, and then post electronically a list of "Frequently Asked Questions" and their answers. In this way, doubtful points can be clarified before, not after, comments are filed.

The dialogue through the RuleNet computer network is not intended to supplant formal comments (submitted in writing or electronically). Rather, RuleNet is intended to provide additional opportunities for commenters to provide input to agency personnel before the agency has developed text on which formal written comments are required to be filed. This can mean better informed, focused, and influential comments. Likewise, the ability of commenters to interact among themselves before comments are filed means that misunderstandings and miscommunications can be corrected in a timely way. However, because the electronic communications will contribute to the information base used by the agency in the rulemaking process, a copy of these communications will be placed in the rulemaking record.

For facilitating exchanges of views, a central element in the rulemaking is the "caucus," designed to allow discussions among subgroups of participants. These caucuses may be of two kinds. First, participants of similar viewpoints can join together on an issue or issues to maximize their effectiveness. Second, caucuses can be used to allow a specific issue to be placed before all participants for highly focused consideration. In this way, a particular topic can be considered in detail, the strengths and weaknesses of conflicting positions can be analyzed, and the possibilities of a compromise resolution can be explored. Caucusing may take place either separate from the rulemaking, by the private interaction of participants, or through the rulemaking's electronic communications, and either with or without facilitation provided by a contractor.

Such assistance will come from facilitators and/or moderators supplied through the NRC contract with Lawrence Livermore National Laboratory for technical support on the development of RuleNet. Such facilitators can serve a variety of functions: Helping to categorize comments on fire protection issues; helping to maximize the usefulness of the electronic communications process; and providing assistance to facilitate on-line and off-line caucuses, including helping participants to articulate and refine their positions on issues. The facilitators/moderators themselves will have no stake in the outcome, however; independent of any of the parties, their role will simply be to contribute to the smooth and productive functioning of the process.

Computer-based technology can not hope to substitute altogether for the actual reading of comments submitted by participants (except where the computer identifies a comment as identical to one previously filed and analyzed). Computer technology can, however, facilitate greatly the process of analyzing and tabulating comments. For example, persons participating electronically may be asked to indicate by clicking screen icons whether they agree, disagree, agree with qualifications, etc., with the proposition on which they are commenting. In this way, rather than the agency characterizing the positions of the participants, the participants can do so themselves. In addition, computer technology, searching for specific words and phrases, can make it easier to find where if at all a participant is addressing a particular issue in his or her comment.

The electronic forum outlined here points to a potential greater democratization of the rulemaking process. The individual person with expertise and good ideas to offer has as much access to the forum as any governmental unit, corporation, or law firm, and if his or her thinking is sound, may be just as influential or more so. With discussions held via computer, rather than in a meeting room in the Washington, D.C. area, and with access to the forum already available in millions of homes nationwide (and at terminals in public libraries, for those who do not already have access elsewhere), there is the potential to level the playing field to an unprecedented degree.

Phases of the RuleNet Process

As a preliminary step, necessary to allow meaningful participation in the RuleNet process, the NRC is making relevant information on fire protection available to all who can use it: that is, both potential participants and those who want only to observe the process. Toward this end, the agency has loaded some basic fire protection documents onto the network in searchable full text form. Specific discussion topics will be loaded at a later point.

The first phase of the process itself will begin with a "virtual kickoff" in which all participants will be able to communicate in a simultaneous discussion via computer. This will be followed by a period of 5 days for any caucuses; for the posting of questions and requests for clarification, directed either to the NRC or to other participants, and for the posting of answers to those questions; and for the identification of any further issues to be addressed, or challenges to be met, in the rulemaking.

In the second phase of the process, which will comprise approximately 10 days, the NRC will solicit proposed solutions to the challenges and issues identified in the first phase. This will also be the opportunity for participants to respond to comments and suggestions made during the first phase.

After the second phase, the NRC technical staff, acting with the assistance of staff supplied by the contractor, will consolidate and synthesize the challenges and the proposed solutions, using them to develop more concrete proposals, which will be posted electronically. The participants will then respond to the proposals just identified. As before, there will be the opportunity for participants to caucus either within the electronic rulemaking or outside of it.

We do not need to decide at this time exactly how many rounds of comment there will be. One of the advantages of RuleNet's interactive approach is that the participants can offer their views as to procedures as well as substance. Accordingly, the agency plans to take a flexible approach, shaping its procedures as needed to meet the goals of the process.

Terms of Participation

The electronic network will be available both to those who want to participate directly in RuleNet and to those who want only to observe the process. Participants must identify themselves (just as participants in a written comment process identify themselves). The NRC fully expects that all participants will recognize that certain norms of civility will be observed. (In the event that a participant's conduct was such as to warrant his or her severance from the electronic dialogue, the option of submitting paper comments would remain, but it seems unlikely that this issue would ever arise.)

Conclusion

The RuleNet project is one of a number of high performance computing initiatives advanced by the NRC. It has no costs over and above those already budgeted for these initiatives generally. Before the type of electronic exchange being demonstrated in the RuleNet project became a part of the agency's usual process for the development of rules, it would have to be shown to be cost-effective.

It is worth emphasizing that in proceeding in this new direction, using procedures that have not previously been tried by this or any other federal agency, the NRC is focusing on *potential* benefits. Whether those benefits will in fact be realized depends in large part on the willingness of the affected public—which includes governmental units, industry, organizations, and individuals—to take part in the process and attempt to make it work. RuleNet can help establish whether computer communications technology can make a significant contribution to the interaction of citizens and a government agency regulating in a technical field.

Dated at Rockville, Maryland, this 8th day of November, 1995.

For the Nuclear Regulatory Commission,
John C. Hoyle,
Secretary of the Commission.
[FR Doc. 95-28152 Filed 11-14-95; 8:45 am]

BILLING CODE 7590-1-P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2607

RIN 1212-63

Disclosure and Amendment of Records Under the Privacy Act

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing to amend its regulations implementing the Privacy Act of 1974, as amended, to describe more accurately the exemption applicable to certain records maintained by the PBGC in view of changes to PBGC's Privacy Act systems of records. The PBGC also is proposing an amendment to increase its standard copying fee in view of increased costs.

DATES: Comments must be received on or before December 15, 1995.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or hand-delivered to Suite 340 at the above address between 9:00 a.m. and 5:00 p.m., Monday through Friday. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department, Suite 240, at the above address between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: D. Bruce Campbell, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4123 (202-326-4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC's rules implementing the Privacy Act of 1974, as amended ("Privacy Act") (5 U.S.C. 552a) (1) establish procedures whereby an individual can determine whether the PBGC maintains any system of records that contains a record pertaining to him or her, access that record, and seek to amend that record (29 CFR §§ 2607.3-2607.8), (2) establish fees for making copies of records (29 CFR § 2607.9), and (3) exempt a system of records from certain Privacy Act provisions (29 CFR § 2607.10).

The PBGC is proposing to amend § 2607.9(a) by increasing, from \$0.10 to \$0.15 per page, the fee it charges for record copies furnished to individuals. The PBGC will maintain the current exception for record copies of fewer than 10 pages by increasing from \$1.00 to \$1.50 the threshold amount under

which the agency does not assess a fee. The proposed fee, which is the same as the PBGC's standard fee for copies furnished under the Freedom of Information Act (see 29 CFR 2603.52(b)(2)), will reflect current costs more accurately. The current fee was established in 1975.

The PBGC is dividing an existing Privacy Act system of records into two systems of records, PBGC-5 (retitled Personnel Files—PBGC) and PBGC-12 (Personnel Security Investigation Records—PBGC). (The PBGC's notice of changes to its system of records, including proposed new and revised routine uses of records, appears elsewhere in today's Federal Register.) The PBGC proposes to amend § 2607.10 to exempt PBGC-12 from certain provisions of the Privacy Act because the records to which the exemption pertains will be maintained in PBGC-12 instead of PBGC-5.

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Based on fees assessed in the past, the PBGC estimates that the copying fee increase under the proposed rule will raise the total amount of fees assessed annually by less than \$1,000. In view of the small increase in anticipated costs, the PBGC certifies that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not apply because the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 29 CFR Part 2607
Privacy.

For the reasons set forth above, the PBGC is proposing to amend 29 CFR Part 2607 as follows:

PART 2607—DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

1. The authority citation for Part 2607 continues to read as follows:

Authority: 5 U.S.C. 552a.

§ 2607.1 [Amended]

2. Paragraph (a) of § 2607.1 is amended by removing "which" and adding, in its place, "that" and by adding "or her" after "his" in the first sentence.

§ 2607.2 [Amended]

3. In § 2607.2, the definition of *record* is amended by adding "or her" after "his" both times it appears.