

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40 and 150

RIN 3150-AH10

Source Material Reporting Under International Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations which require licensees to report their holdings of source material (uranium and thorium) to the agency. Currently, licensees are required to file a report with the NRC whenever they receive or transfer uranium or thorium mined outside the United States (U.S). The proposed amendment would require licensees to report the receipt or transfer of source material controlled under any of the various international Agreements for Peaceful Nuclear Cooperation. This change will enable the U.S. Government to maintain the comprehensive national inventory of nuclear materials required under these agreements. This proposed rule will also allow licensees additional flexibility in submitting their annual source material inventory statements. The proposed amendment would permit licensees to submit these statements along with their material status reports for special nuclear material.

DATES: Comments on the proposed rule must be received on or before (**insert date 30 days after publication in the Federal Register**).

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, Room O-1F23, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8126, e-mail, mlh1@nrc.gov.

SUPPLEMENTARY INFORMATION:

For additional information see the Direct Final Rule published in the final rules section of this Federal Register.

Procedural Background

Because NRC considers this action noncontroversial and routine and because it is necessary in order to support the U.S. Government's obligations in this area, the NRC is publishing this proposed rule concurrently as a direct final rule. The direct final rule will become effective on October 1, 2003. However, if the NRC receives significant adverse comments on this direct final rule by **(insert 30 days after publication in the Federal Register)**, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

List of Subjects

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

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 40 and 150.

PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for Part 40 continues to read as follows:

AUTHORITY: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 40.4, the definition of Foreign obligations is added to read as follows:

§ 40.4 Definitions.

Foreign obligations means the commitments entered into by the U.S. Government under Atomic Energy Act (AEA) section 123 agreements for cooperation in the peaceful uses of atomic energy. Imports and exports of material or equipment pursuant to such agreements are subject to these commitments, which in some cases involve an exchange of information on imports, exports, retransfers with foreign governments, peaceful end-use assurances, and other

conditions placed on the transfer of the material or equipment. The U.S. Government informs the licensee of obligations attached to material.

3. In § 40.64, paragraphs (a) and (b) are revised to read as follows:

§ 40.64 Reports.

(a) Except as specified in paragraphs (d) and (e) of this section, each specific licensee who transfers, receives, or adjusts the inventory, in any manner, of uranium or thorium source material with foreign obligations by 1 kilogram or more or who imports or exports 1 kilogram of uranium or thorium source material shall complete a Nuclear Material Transaction Report in computer-readable format in accordance with instructions (NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Nuclear Safety, Washington, DC 20555-0001. Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has been previously submitted in paper form.

(b) Except as specified in paragraphs (d) and (e) of this section, each licensee authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year or with the licensee's material status reports on special

nuclear material filed under Part 72 or 74, a statement of its source material inventory with foreign obligations as defined in this part. This statement must be submitted to the address specified in the reporting instructions (NUREG/BR-0007), and include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee. Copies of the reporting instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Washington, DC 20555-0001.

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PART 150 - EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

4. The authority citation for Part 150 continues to read as follows:

AUTHORITY: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97 - 425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

5. In § 150.3, the paragraph designations are removed, the definitions are arranged in alphabetical order, and the definition of Foreign obligations is added to read as follows:

§ 150.3 Definitions.

Foreign obligations means the commitments entered into by the U.S. Government under Atomic Energy Act (AEA) section 123 agreements for cooperation in the peaceful uses of atomic energy. Imports and exports of material or equipment pursuant to such agreements are subject to these commitments, which in some cases involve an exchange of information on imports, exports, retransfers with foreign governments, peaceful end-use assurances, and other conditions placed on the transfer of the material or equipment. The U.S. Government informs the licensee of obligations attached to material.

6. In § 150.17, paragraphs (a) and (b) are revised to read as follows:

§ 150.17 Submission to Commission of source material reports.

(a) Except as specified in paragraph (d) of this section and §150.17a, each person who, pursuant to an Agreement State specific license, transfers or receives or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material with foreign obligations or who imports or exports 1 kilogram or more of uranium or thorium source material shall complete and submit in computer-readable format Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Washington, DC 20555-0001. Each person who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions no later than the close of business the next working day. Each person who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to

the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has been previously submitted in paper form.

(b) Except as specified in paragraph (d) of this section and §150.17a, each person authorized to possess at any one time and location, under an Agreement State license, more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year or with the licensee's material status reports on special nuclear material filed under Part 74, a statement of the licensee's source material inventory with foreign obligations as defined in this part. This statement must be submitted to the address specified in the reporting instructions (NUREG/BR-0007), and include the Reporting Identification Symbol (RIS) assigned by the

Commission to the licensee. Copies of the reporting instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Washington, DC 20555-0001.

* * * * *

Dated at Rockville, Maryland, this 21st day of Feb., 2003.

For the Nuclear Regulatory Commission.

/RA/

William D. Travers,
Executive Director for Operations.

Commission to the licensee. Copies of the reporting instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Washington, DC 20555-0001.

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Dated at Rockville, Maryland, this 21st day of Feb., 2003.

For the Nuclear Regulatory Commission.

/RA/

 William D. Travers,
 Executive Director for Operations.

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