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NEI NUCLEAR ENERGY INSTITUTE

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April 4, 2003

Secretary
U.S. Nuclear Regulatory Commission
Attn: Rulemakings and Adjudications Staff
Washington, D.C. 20555-0001

**REFERENCE:** **Comments on the Direct Final Rule for Source Material Reporting Under International Agreements (68 *Fed. Reg.* p. 10410, March 5, 2003)**

Dear Sir or Madam:

The Nuclear Energy Institute (NEI)[1] on behalf of its industry members has reviewed the draft direct final rule to modify the source material reporting requirements for NRC, and specifically Part 40, licensees. Foreign obligation accounting data are needed to enable the U.S. Government to meet its international reporting commitments for nuclear materials. Collection of these data will necessitate certain changes in the Nuclear Materials Management and Safeguards System (NMMSS), including, for example, implementation of a new tracking system to replace the existing Country Control Number (CCN) mechanism which has limitations in tracking material with attached foreign obligations. The proposed direct final rule will address the data collection requirements for NRC licensees that possess source material, including the frequency and timing of source material inventory reports.

The changes to 10 CFR 40.64 ('Reports') and to the corresponding regulations for Agreement State licensees (10 CFR 150) broaden the type of source material subject to filing of Nuclear Material Transaction Reports from '*source material of foreign origin*' to '*source material with foreign obligations.*' The proposed revisions to §40.64(b) and §150.17(b) would enable a licensee to file concurrently an annual

[1] NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry

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statement of its source material inventory (with foreign obligations) with its annual Material Status Report.

NEI supports the intent of the draft final rule. Changes to source material reporting regulations that are not burdensome to licensees, but which will facilitate compliance of the United States government with international treaty commitments for cooperation in the peaceful use of atomic power warrant industry's support. In practice, we foresee few changes to licensee regulatory reporting requirements. Although the *Federal Register* notice does not specify what information would be expected in the annual source material inventory (with foreign obligations) report, so long as it closely parallels that included in a licensee's Material Status Report, the added report should not impose a material burden on licensees.

Power reactor licensees who possess more than 1,000 kg of U+Th source material (with foreign obligations) must also prepare and submit an annual statement of such inventory. However, the proposed direct final rule and changes to the 10 CFR 74 Material Control and Accounting regulations that become effective on October 1, 2003 [see 67 *Fed. Reg.* 78130, December 23, 2002] would allow such licensees to file their source material inventory statement concurrently with their annual Material Status Report for Special Nuclear Material. Both the source material inventory statement and the Material Status Report would be filed within sixty days of the start of the licensee's annual physical inventory. This proposed change in the filing date for both reports will facilitate licensees in complying with the new source material reporting requirements without imposing additional burdens.

NEI recommends that the draft final rule be implemented as planned. To facilitate this initial reporting requirement, the NRC should provide potentially impacted reactor and fuel cycle licensees with guidance on the format of the required report and the scope of source material information required so as to be consistent with NMMSS requirements. NEI would also encourage the NRC to promptly revise NUREG/BR-0006 and -0007 to address implementation of the proposed direct final rule regulatory changes.

Sincerely,

Felix M. Killar, Jr.