

[Federal Register: March 26, 2003 (Volume 68, Number 58)]
[Rules and Regulations]
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[DOCID:fr26mr03-2]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 71, and 73

RIN 3150-AH09

Filing and Notification Requirements for the Shipments of Certain Radioactive Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise filing and advance notification requirements for the shipments of certain radioactive materials. These amendments are necessary to reflect the recent organizational and administrative changes within NRC and to inform the public and licensees of these changes.

EFFECTIVE DATE: March 26, 2003.

FOR FURTHER INFORMATION, CONTACT: Kim Karcagi, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6701, e-mail: kxk2@nrc.gov, or Philip Brochman, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6557, e-mail: PGB@nrc.gov.

SUPPLEMENTARY INFORMATION: In 1995, NRC transferred responsibility for receiving advance notification of shipments of certain licensed radioactive material from the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Industrial and Medical Nuclear Safety, and NRC Regional Administrators, to the Spent Fuel Project Office (SFPO) in NMSS. On January 25, 2002, NRC issued a final rule (67 FR 3584) that amended the regulations in 10 CFR Parts 1, 20, 34, 70, 71, 72, and 73, to reflect these and other changes. On April 2, 2002, the Commission created the Office of Nuclear Security and Incident Response (NSIR). The Division of Nuclear Security (DNS) within NSIR was assigned the responsibility for receiving advance notifications, under Parts 70, 71, and 73, for shipments of certain radioactive materials. Accordingly, licensees should address these advance notifications to the DNS, rather than the SFPO. This final rule will inform licensees and the public of these organizational changes.

Because these minor amendments only reflect organizational changes, the notice and comment provisions of the Administrative Procedures Act do not apply, pursuant to 5 U.S.C. 553(b)(A). These amendments are effective on publication in the Federal Register. Good cause exists to dispense with the usual 30-day delay in the effective date, pursuant to 5 U.S.C. 553(d)(3), because these amendments are of a minor and administrative nature, dealing with NRC's organization.

Environmental Impact: Categorical Exclusion

NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0009, 3150-0008, and 3150-0002.

Public Protection Notification

The NRC may not conduct nor sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule, because this rule is administrative, in that it amends the regulations to update the filing and advance notification requirements. These are considered minor non-substantive amendments and will not have a significant impact on NRC licensees or the public.

Backfit Analysis

NRC has determined that the backfit rules do not apply to this final rule, because this rule does not involve any provisions that would impose a backfit, as defined in 10 CFR Chapter 1. Therefore, a backfit analysis is not required for this rule.

List of Subjects

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

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, NRC is adopting the following amendments to 10 CFR Parts 70, 71, and 73.

PART 70--DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

Sec. 70.5 [Amended]

2. Section 70.5 is amended as follows:

a. In paragraphs (a)(1) and (a)(2), after the words "Director, Office of Nuclear Material Safety and Safeguards" add the words "and Director, Office of Nuclear Security and Incident Response,"

b. In paragraph (b), remove the word "five" and add, in its place, the word "four"

Sec. 70.20b [Amended]

3. Section 70.20b is amended as follows:

a. In paragraphs (f)(1) and (g)(1), remove the words "Director, Spent Fuel Project Office," and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,"

b. In paragraphs (f)(2)(ii) and (f)(2)(iii), remove the words "Director, Spent Fuel Project Office has been notified by telephone at (301) 415-8500," and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security has been notified by telephone at (301) 415-6828,".

Sec. 70.32 [Amended]

4. Section 70.32 is amended as follows:

- a. In paragraph (c)(2), remove the word "five" and add, in its place, the word "four".
- b. In paragraph (c)(2), after the words "Director, Office of Nuclear Material Safety and Safeguards," add the words "and Director, Office of Nuclear Security and Incident Response,".
- c. In paragraph (e), after the words "Director, Office of Nuclear Material Safety and Safeguards," add the words "and Director, Office of Nuclear Security and Incident Response,".
- d. In paragraph (i), after the words "Director, Office of Nuclear Material Safety and Safeguards," add the words "and Director, Office of Nuclear Security and Incident Response,".

PART 71--PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

5. The authority citation for Part 71 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 71.97 also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789-790.

Sec. 71.97 [Amended]

6. Section 71.97 is amended as follows:

- a. In paragraphs (c)(1) and (f)(1), remove the words "Director, Spent Fuel Project Office." and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security."

PART 73--PHYSICAL PROTECTION OF PLANTS AND MATERIALS

7. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

Sec. 73.4 [Amended]

8. Section 73.4 is amended as follows:

- a. In the first sentence, after the words "as appropriate," add the words "and Director, Office of Nuclear Security and Incident Response,"

Sec. 73.26 [Amended]

9. Section 73.26 is amended as follows:

a. In paragraph (i)(6), remove the words "Director, Spent Fuel Project Office" and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security"

Sec. 73.27 [Amended]

10. Section 73.27 is amended as follows:

a. In paragraph (b), in the first, second, third, and fourth sentences, remove the words "Director, Spent Fuel Project Office" and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security".

Sec. 73.67 [Amended]

11. Section 73.67 is amended as follows:

a. In paragraph (e)(7)(ii), remove the words "Director, Spent Fuel Project Office" and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security"

Sec. 73.71 [Amended]

12. Section 73.71 is amended as follows:

a. In paragraph (a)(4), remove the words "Director, Spent Fuel Project Office." and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security."

Sec. 73.72 [Amended]

13. Section 73.72 is amended as follows:

a. In paragraph (a)(1), remove the words "Director, Spent Fuel Project Office," and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,"

b. In paragraphs (a)(4) and (a)(5), remove the words "Director, Spent Fuel Project Office by telephone at (301) 415-8500" and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415-6828".

Sec. 73.73 [Amended]

14. Section 73.73 is amended as follows:

a. In paragraph (a)(1), remove the words "Director, Spent Fuel Project Office," and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,"

b. In paragraph (b), remove the words "Director, Spent Fuel Project Office at (301) 415-8500." and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415-6828."

Sec. 73.74 [Amended]

15. Section 73.74 is amended as follows:

a. In paragraph (a)(1), remove the words "Director, Spent Fuel Project Office," and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security,"

b. In paragraph (b), remove the words "Director, Spent Fuel Project Office at (301) 415-8500." and add, in their place, the words "Director, Office of Nuclear Security and Incident Response, Division of Nuclear Security at (301) 415-6828."

Dated at Rockville, Maryland, this 11th day of March, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,
Executive Director for Operations.
[FR Doc. 03-7265 Filed 3-25-03; 8:45 am]

BILLING CODE 7590-01-P