[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 32

RIN: 3150-AH48

National Source Tracking of Sealed Sources

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to establish a National Source Tracking System for certain sealed sources. The NRC is proposing to change the basis for the rule from the NRC's authority to promote the common defense and security to protection of the public health and safety and is seeking public comment on this issue.

DATES: Submit comments on the basis change by **(INSERT DATE 20 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER)**. Comments received after the above date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after these dates.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH48) in the subject line of your comments.

Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking web site. Personal information will not be removed from your comments.

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

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking web site at http://ruleforum.llnl.gov. Address questions about our rulemaking website to Carol Gallagher (301) 415-5905; email cag@nrc.gov. Comments can also be submitted via the Federal Rulemaking Portal http://www.regulations.gov.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking web site at http://ruleforum.llnl.gov.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at

http://www.nrc.gov/NRC/ADAMS/index.html. From this site, the public can gain entry into the NRC's Agencywide Document 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 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:

I. Background

The proposed rule on national source tracking was published in the Federal Register on July 28, 2005 (70 FR 43646) for public comment. The comment period closed October 11, 2005. The proposed rule was issued under the NRC's statutory authority to promote common defense and security. After publication of the proposed rule, the NRC issued Orders requiring increased controls for the remainder of the licensees possessing risk-significant quantities of radioactive material under the NRC's statutory authority to protect the public health and safety. Agreement States issued legally binding requirements for the increased controls for their licensees. The NRC has reevaluated the underlying basis for the National Source Tracking rule

and is now proposing that the rule be issued under its statutory authority to protect the public health and safety. The change in basis is consistent with the framework established for the increased controls that were issued by December 2005. The basis change will allow the Agreement States to issue legally binding requirements for their licensees and to conduct the national source tracking inspections of their licensees. The proposed changes to 10 CFR Part 150 would not be included in the final rule as these were to cover the Agreement State licensees.

The database for the National Source Tracking System would still be maintained by the NRC. Both NRC and Agreement State licensees would report their transactions to the National Source Tracking System.

The NRC is specifically inviting comment on the issue of the change in the basis for issuing the rule to protection of the public health and safety. Because the issue on which comment is sought is limited to a change in the basis under which the rule is to be issued, NRC is providing a limited comment period. With the change in basis, the final rule would be an immediate mandatory matter of compatibility and be classified as Compatibility Category “B.” The Agreement State Compatibility section of the Statement of Considerations would be revised and is provided below.

II. Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the *Federal Register* on September 3, 1997 (62 FR 46517), § 20.2207, the final rule would be classified as Compatibility Category "B." The NRC program elements in this category are those that apply to activities that have direct and significant transboundary implications. An Agreement State should adopt program elements essentially identical to those of NRC. Agreement State and NRC licensees would report their transactions to the National Source Tracking System. The database would be maintained by NRC.

Dated at Rockville, Maryland, ths 7th day of June, 2006.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.