FLORIDA DEPARTMENT OF HEALTH

Jeb Bush
Governor

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary

PR 20 and 32
(71FR34024)

July 27, 2006

DOCKETED
USNRC

July 27, 2006 (12:20pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

(7)

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemaking and Adjudications Staff
Sent By E-mail Only SECY@nrc.gov
(Subject Line Added RIN 3150-AH48)

RE: RIN 3150-AH48 National Source Tracking of Sealed Sources 71 FR 34024.

Dear Mr. Secretary:

This letter is to provide Florida's comments on RIN 3150-AH48 National Source Tracking of Sealed Sources as listed in 71 FR 34024 where NRC is proposing changing the Agreement State Compatibility to a "Compatibility Category B" from a "Compatibility Category NRC" as originally proposed in 70 FR 43646 "National Source Tracking of Sealed Sources 07/28/2005." Federal Register 70 FR 43646 is attached for reference as well as NRC's All Agreement State Letter dated July 14, 2006 entitled "Supplemental to the June 22 Hearing Record Submitted to the Environment and Public Works Committee to Address Senator Clinton's Questions Regarding the NRC Basis Change Rational for the National Source Tracking System (STP-06-63)."

We disagree with the re-classification to category "B" and believe the original category "NRC" to be the correct designation. The explanation NRC provides is based in part on the argument that because Agreement States have issued licensed conditions or other legally binding requirements for the increased controls, they can do so again for this rule. Legally binding requirements for increased controls was acceptable in Florida to address local public health and safety concerns regarding possession of these materials only. Simply because Florida was able to timely implement increased controls through legally binding mechanisms for increased controls does not mean we have the resources or desire to do so again for the National Source Tracking of Sealed Sources. The states ability to quickly implement health and safety requirements of increased controls is not a reason to change a designation from a national common defense and security to a public health and safety designation.

Bureau of Radiation Control • Division of Environmental Health
Bin C21 • 4052 Bald Cypress Way • Tallahassee, FL 32399-1741

Template=SECY-067

SECY-02

We also disagree with NRC's statement that "the requirements are laid out in the rule and it should be a straightforward matter for states to develop the legally binding requirements" and with NRC's statement that "It is anticipated that no more than 1 hour of inspection effort per licensee will be necessary for the NSTS." Our experience on inspecting for increased controls as part of the routine inspections with minimal additional time needed and performing 274i inspections has shown this is not the case and we believe that NRC has vastly underestimated the time needed for these inspections. In addition, NRC has not allowed for or provided adequate training opportunity for us to conduct these inspections taking into account the states organizational structure and inspection needs. Based on our experience in the past, we anticipate that implementing this program will take considerable more effort than NRC is proposing. Currently Florida has ~ 60-70 licensees that meet the current criteria, should NRC expand the criteria these numbers could easily triple. At this time, we currently do not have the resources to implement this program.

To summarize, the National Source Tracking of Sealed Sources is not a local or State issue but a national issue. The compatibility designation "NRC" as common defense and security issue is correct for the reasons stated in 70 FR 43646. While Florida will need access to this data for local health and safety concerns, developing, implementing and inspection of this National Source Tracking of Sealed Sources is a national common defense and security issue and not a local or state health and safety issue.

If you have any questions, please contact us at (850) 245-4266.

Sincerely,

William A. Passetti

William A. Passetti, Chief
Bureau of Radiation Control

Attachments: 71 FR 34024
70 FR 43646
July 14, 2006 All Agreement Letter "Supplement to the June 22 Hearing Record Submitted to the Environment and Public Works Committee to Address Senator Clinton's Questions Regarding the NRC Basis Change Rationale for the National Source Tracking System (STP-06-063)

cc: Janet Schlueter, Director -STP JRS1@NRC.GOV
Sheri Minnick, Regional State Agreements Officer-STP SAM9@NRC.GOV
Duncan White, Regional State Agreements Officer-STP ADW@NRC.GOV
Kathy Schneider, Agreement State Project Officer-STP KXS@NRC.GOV

BAP/mns

Proposed Rules

Federal Register
Vol. 71, No. 113
Tuesday, June 13, 2006

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 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 July 3, 2006. 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 Web site 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 e-mail 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, this 7th day of June, 2006.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E6–9179 Filed 6–12–06; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25001; Directorate Identifier 2006–NM–079–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800 and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes. This proposed AD would require replacing the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines with new, improved aero/fire seals. This proposed AD results from a report that the top three inches of the aero/fire seals of the blocker doors on the thrust reverser torque boxes are not fireproof. We are proposing this AD to prevent a fire in the fan compartment (a fire zone) from migrating through the seal to a flammable fluid in the thrust reverser actuator compartment (a flammable leakage zone), which could result in an uncontrolled fire.

DATES: *We must receive comments on* this proposed AD by July 28, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6504; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA–2006–25001; Directorate Identifier 2006–NM–079–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that Boeing found that on a Model 737 airplane, the upper three inches of the aero/fire seal of the blocker doors on the thrust reverser torque box extended past the metal v-blade/groove designed to serve as a firewall for the seal. The seal itself serves as a firewall between a fire zone and a flammable leakage zone in the upper region of the thrust reverser torque box. The seal is not fireproof (unable to withstand 2,000 degrees Fahrenheit for 15 minutes) and could allow a fire in the fan compartment, which is a fire zone, to migrate to a flammable fluid in the thrust reverser actuator compartment, which is a flammable leakage zone. This condition, if not corrected, could result in an uncontrolled fire.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–78–1074, Revision 1, dated September 15, 2005. The service bulletin describes procedures for replacing the aero/fire seals of the blocker doors on the thrust reverser torque boxes on the engines with new, improved aero/fire seals. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,595 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 616 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Required parts would cost about $3,910 per airplane. Based on these figures, the estimated cost of the proposed AD for

Proposed Rules

Federal Register
Vol. 70, No. 144
Thursday, July 28, 2005

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 32, and 150

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 implement a National Source Tracking System for certain sealed sources. The proposed amendments would require licensees to report certain transactions involving these sealed sources to the National Source Tracking System. These transactions would include manufacture, transfer, receipt, or disposal of the nationally tracked source. The proposed amendment would also require each licensee to provide its initial inventory of nationally tracked sources to the National Source Tracking System and annually verify and reconcile the information in the system with the licensee's actual inventory. In addition, the proposed amendment would require manufacturers to assign a unique serial number to each nationally tracked source.

DATES: Submit comments on the rule by October 11, 2005. Submit comments specific to the information collections aspects of this rule by August 29, 2005. Comments received after the above dates 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 Web site to Carol Gallagher (301) 415–5905; e-mail *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 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966).

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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*.

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I. Background

As a result of the terrorist attacks in the United States on September 11, 2001, the NRC has undertaken a comprehensive review of nuclear material security requirements, with particular focus on radioactive material of concern. This material (which includes Cobalt-60, Cesium-137, Iridium-192, and Americium-241

isotopes, as well as other isotopes) has the potential to be used in a radiological dispersal device (RDD) or a radiological exposure device (RED) in the absence of proper security measures. The NRC's review takes into consideration the changing domestic and international threat environments and related U.S. Government-supported international initiatives in the nuclear security area, particularly activities conducted by the International Atomic Energy Agency (IAEA).

In June 2002, the Secretary of Energy and the NRC Chairman met to discuss the adequate protection of inventories of nuclear materials that could be used in a RDD. At the June meeting, the Secretary of Energy and the NRC Chairman agreed to convene an Interagency Working Group on Radiological Dispersal Devices to address security concerns. In May 2003, the joint U.S. Department of Energy (DOE)/NRC report was issued. The report, entitled, "Radiological Dispersal Devices: An Initial Study to Identify Radioactive Materials of Greatest Concern and Approaches to Their Tracking, Tagging, and Disposition" is available on the DOE Web site at: *http://www.energy.gov/engine/doe/files/dynamic/9620039919_RDDRPTF14MAY.pdf.* One of the recommendations contained in the report is that a national source tracking system be developed to better understand and monitor the location and movement of sources of interest. The full report contains a list of radionuclides and thresholds above which tracking of the sources is recommended. Note that in the public version the table of radionuclides has been redacted.

The NRC has also supported U.S. Government efforts to establish international guidance for the safety and security of radioactive materials of concern. This effort has resulted in a major revision of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct). The revised Code of Conduct was approved by the IAEA Board of Governors in September 2003, and is available on the IAEA Web site at *http://www-pub.iaea.org/MTCD/publications/PDF/Code-2004.pdf.* In particular, the Code of Conduct recommends that each IAEA member State develop a national source registry of radioactive sources that should include Category 1 and 2 radioactive sources as described in Annex 1 of the Code of Conduct. The recommendation covers 16 isotopes that should be included in the source registry.

The work on the DOE/NRC joint report was done in parallel with the work on the Code of Conduct and the development of IAEA TECDOC–1344, "Categorization of Radioactive Sources." TECDOC–1344 provides the underlying methodology for the development of the Code of Conduct thresholds. The quantities of concern identified in the DOE/NRC report are similar to the Code of Conduct Category 2 threshold values, so to allow alignment between the domestic and international efforts to increase the safety and security of radioactive sources, NRC has adopted the Category 2 values.

The U.S. Government has formally notified the Director General of the IAEA of its strong support for the current Code of Conduct. Although the Code of Conduct does not have the stature of an international treaty, and its provisions are non-binding on IAEA member States, the U.S. Government has endorsed the Code of Conduct and is working toward implementation of its various provisions. The Commission is conducting this rulemaking and an import/export rulemaking to reflect those Code of Conduct recommendations which are consistent with NRC responsibilities under the Atomic Energy Act, including promotion of the common defense and security. This is the second rulemaking that the Commission has undertaken to implement provisions of the Code of Conduct. A final rule addressing the import/export of Category 1 and 2 radioactive materials was published on July 1, 2005 (70 FR 37985).

Efforts to improve controls over sealed sources face significant challenges, especially balancing the need to secure the materials without discouraging their beneficial use in academic, medical, and industrial applications. Radioactive materials provide critical capabilities in the oil and gas, electrical power, construction, and food industries; are used to treat millions of patients each year in diagnostic and therapeutic procedures; are used in a variety of military applications; and are used in technology research and development involving academic, government, and private institutions. These materials are as diverse in geographical location as they are in functional use.

National source tracking is part of a comprehensive radioactive source control program for radioactive materials of greatest concern. Although neither a national source tracking system nor source registry can ensure the physical protection of sources, it will provide greater source accountability which will foster increased control by licensees. A national source tracking system in conjunction with controls such as those imposed by Orders on irradiator licensees, manufacturer and distributor licensees, and other material licensees will result in improved security for radioactive sources.

There is clearly broad U.S. Government and international interest in tracking radioactive sources to improve accountability and control. Currently, there is no single U.S. source of information to verify the licensed users, locations, quantities and movement of these materials. Separate NRC and Agreement State systems contain information on licensees and the maximum amounts of materials they are authorized to possess but do not record actual sources or their movements.

To address this lack of information on such issues as actual material possessed, the NRC, with the cooperation of the Agreement States, began working on an interim database of sources of concern. In November 2003, both NRC and Agreement State licensees were contacted and requested to voluntarily provide some basic information on the sealed sources located at their facilities. Of the approximately 2600 licensees contacted, over half of the licensees reported possessing Category 1 or Category 2 sealed sources. The interim database will be updated in 2005 and again in 2006 and will ultimately be replaced by the National Source Tracking System. While the interim database provides a snapshot in time, the National Source Tracking System will provide information on an ongoing basis.

Development of the National Source Tracking System is a two-part activity that includes both a rulemaking and information technology development. When completely operational, the National Source Tracking System will be a web-based system that would allow licensees to meet the proposed reporting requirements on-line with ease. The system will contain information on NRC licensees, Agreement State licensees, and DOE facilities. This proposed rulemaking would impose requirements on both NRC and Agreement State licensees and would establish the regulatory foundation for the National Source Tracking System recommended in the DOE/NRC report and implement the Code of Conduct recommendation to develop a source registry. National Source Tracking is being developed and would be implemented under the NRC's statutory authority to promote the common defense and security. To

inform the development of the National Source Tracking System, the NRC established an Interagency Coordinating Committee to provide guidance regarding interagency issues associated with the development, coordination, and implementation of the system and to prevent licensees from receiving similar requests from more than one agency. The Committee membership consists of representatives from various Federal Agencies with an interest in source security and a representative from the Agreement States. The views of the Committee were included in the development of the requirements for the National Source Tracking System and this rulemaking. NRC will be the database manager of the National Source Tracking System, however, the other agencies may become users of the system and have limited access.

II. Discussion

A. What Action Is the NRC Taking?

The NRC is proposing a rule that would implement a new program called the National Source Tracking System. The proposed rule would require licensees to report information on the manufacture, transfer, receipt, and disposal of nationally tracked sources. This information would capture the origin of each nationally tracked source (manufacture, recycling, or import), all transfers to other licensees, all receipts of nationally tracked sources, and endpoints of each nationally tracked source (disposal or export). Ultimately, the National Source Tracking System would be able to provide a life history account of all nationally tracked sources.

A system of this type would need prompt updating to be useful and accurate. In order to capture information as soon as possible, licensees would be required to report information on nationally tracked source transactions by the close of the next business day. To ease the burden on licensees, the NRC is planning to establish a secure Internet-based interface to the National Source Tracking System. This interface would permit licensees access to the system using an Internet browser. Licensees would log on to the system and enter the required information by filling out a form on-line. While on-line access should be fast, accurate, and convenient for licensees, the NRC would also allow licensees the option of completing and mailing or faxing paper forms. In addition, licensees would also be able to provide batch information using a computer readable format file. The format will be specified in a guidance document on implementation of the National Source Tracking System.

B. What Is a Nationally Tracked Source?

A sealed source consists of radioactive material that is permanently sealed in a capsule or closely bonded to a non-radioactive substrate designed to prevent leakage or escape of the radioactive material. In either case, it is effectively a solid form of radioactive material which is not exempt from regulatory control. A nationally tracked source is a sealed source containing a quantity of radioactive material equal to or greater than the Category 2 levels listed in the proposed new Appendix E to 10 CFR part 20. A nationally tracked source may be either a Category 1 source or a Category 2 source. For the purpose of this rulemaking, the term nationally tracked source does not include material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Material encapsulated solely for disposal refers to material that without the disposal packaging would not be considered encapsulated. For example, a licensee's bulk material that it plans to send for burial may be placed in a matrix (*e.g.* mixed in concrete), to meet burial requirements. The placement of the radioactive material in the matrix material may be considered encapsulating. This type of material would not be covered by the rule. However, if a nationally tracked source were to be placed in a matrix material, the sealed source would still be covered by the rule.

Category 1 nationally tracked sources are those containing a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold. This definition is based on the IAEA Code of Conduct and is consistent with the definition of sealed sources in other parts of the NRC regulations and with definitions contained in Agreement State regulations.

The specific radioactive material and amounts covered by this rule are listed in the proposed Appendix E to part 20. The isotopes and thresholds of 15 of the isotopes are identical to the Table I values from the Code of Conduct. The IAEA Code of Conduct includes a recommendation that these isotopes and thresholds be included in a national source registry. The U.S. Government has formally endorsed these values. The NRC has adopted the Category 2 values to allow alignment between domestic and international efforts to increase the safety and security of radioactive sources.

The Terabecquerel (TBq) values listed in Appendix E are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The Ci values are provided for practical usefulness only and are rounded after conversion. The curie values are not intended to be the regulatory standard.

Table I of the IAEA Code of Conduct actually lists 16 isotopes that should be included in a national source registry. Included in this listing is radium (Ra)-226. Because NRC does not regulate Ra-226, it will not be subject to the proposed rule requirements. However, the National Source Tracking System will allow licensees to voluntarily enter transactions for Ra-226 sealed sources. Additionally, States may decide to develop regulations that require their licensees to report Ra-226 transactions to the State. The NRC could decide to allow such transaction reports to be recorded in the National Source Tracking System. The Category 2 threshold for Ra-226 is 0.4 TBq.

The Commission recognizes that by allowing voluntary reporting, the Ra-226 information in the National Source Tracking System will not be reliable. Some licensees might report their Ra-226 transactions and others might not. This could result in one-sided transactions in the system. For example, a licensee may report the transfer of a Ra-226 source but the recipient may not report its receipt of the Ra-226 source. However, there were no Ra-226 sealed sources reported to the interim database, and while this does not mean that there are no Ra-226 sealed sources (the interim database survey did not go to the entire population of facilities that could possess Ra-226), the Commission believes that the inclusion of voluntary reporting of Ra-226 sealed sources will allow the U.S. Government to more fully address the Code of Conduct recommendation for a source registry. The NRC specifically invites comment on whether States would be willing to develop regulations that would require their licenses to report Ra-226 to either the State or to the National Source Tracking System.

The Commission has expanded the National Source Tracking System list of isotopes to include 6 isotopes that are not on the Code of Conduct list and one isotope that is listed in the Code of Conduct but is not included in the recommendation for the source registry. The 7 additional isotopes to be included are actinium (Ac)-227, plutonium (Pu)-236, Pu-239, Pu-240, polonium-210, thorium (Th)-228, and Th-229. The

DOE/NRC RDD report recommendation for a National Source Tracking System included these 7 isotopes. The thresholds were developed using the same methodology as those listed in the Code of Conduct. These isotopes were included in the interim database. Based on information from the interim database, NRC and Agreement State licensees do not possess large numbers of nationally tracked sources containing these isotopes. However, this is a national system and will include information from DOE facilities. DOE facilities are more likely to possess these isotopes and DOE agreed that these isotopes should be included. Therefore, the Commission is including them in this rulemaking.

At this time, the NRC does not plan to include Category 3 sources (sources at 1/10th of the Category 2 threshold). However, we may consider the inclusion of Category 3 sources in the future because a licensee possessing a large number of Category 3 sources could present a security concern. An item level tracking system cannot include aggregation of sources because the sources may move in and out of the tracking system with changes in ownership. For example, a manufacturer could possess enough material that a Category 3 source would be reported, however, a licensee receiving the Category 3 source may not need to report the receipt because this is its only source. The tracking system would have information on the manufacture and transfer of the source, but not on its receipt. The data on Category 3 sources could quickly become unreliable. The best way to address the concern of aggregation within an item-level tracking system would be to the lower the threshold for tracking so that all parties would be required to report transactions.

The NRC specifically invites comment on the inclusion of Category 3 sources in the National Source Tracking System. We are interested in information concerning:

(1) The number of additional licensees that would be impacted;

(2) The number of Category 3 sources possessed by licensees; and

(3) How often those sources change hands.

This information will enable the NRC to make a more informed decision on the inclusion of Category 3 sources in the National Source Tracking System. Category 3 sources are typically used in fixed industrial gauges involving high activity sources (*e.g.*, level gauges, dredger gauges, conveyor gauges, and spinning pipe gauges) and in high dose rate remote afterloaders for medical therapy.

C. Who Would This Action Affect?

The proposed rule would apply to any person (entity or individual) in possession of a Category 1 or Category 2 source. It would apply to—

All licensees, both those with NRC licenses and those with Agreement State licenses;

Manufacturers and distributors of Category 1 and Category 2 sources;

Medical facilities, radiographers, irradiators, reactors, and any other licensees that are the end users of nationally tracked sources; and

Disposal facilities and waste brokers.

The proposed rule would apply whether the source is actively used or in long-term storage.

Nationally tracked sources are possessed by all types of licensees, but primarily by byproduct material licensees. Nationally tracked sources are used in the oil and gas, electrical power, construction, medical, and food industries. They are used in a variety of military applications and in technology research and development. Nationally tracked sources are classified either Category 1 or 2 based on the activity level of the radioactive material of concern. Category 1 sources are typically used in devices such as radiothermal generators and irradiators, and in practices such as radiation teletherapy. Category 2 sources are typically used in industrial gamma radiography, blood irradiators, and some well logging.

D. How Would Information Be Reported to the National Source Tracking System?

Licensees would have several options for reporting transaction information to the National Source Tracking System. These methods would include on-line, computer-readable format files, paper, fax, and telephone. For most licensees, the most convenient, least burdensome method will be to report the information on-line. To report information on-line, a licensee would need to establish an account with the National Source Tracking System. Once an account is established, the licensee would be provided with password information that would allow access to the on-line system. A licensee would have access only to information regarding its own material or facility; a licensee would not have access to information concerning other licensees or facilities. When logged on, the licensee could type the necessary information onto the on-line forms. Once a source is in the system, the licensee would be able to click on the source and report a transfer or other transaction. The identifying information would not need to be typed in a second time because information such as license number, facility name, and address would pop up automatically.

Many licensees conduct a large number of transactions, especially manufacturing and distribution licensees. We recognize that most licensees have a system in which information on sources is maintained. The National Source Tracking System would be able to accept batch load information using a computer-readable format. This should ease the reporting burden for a licensee with a large number of transactions. The licensee would be able to electronically send a batch load using a computer readable format file that contained all of the transactions that occurred that day. The format could also be used for reporting the initial inventory. The computer-readable format that would be used has not been developed yet. NRC and the company responsible for developing the National Source Tracking System will work with licensees to develop the mechanism to accept batch load information so that it is compatible with many of the existing systems in use by licensees.

Licensees would also be able to complete a paper version of the National Source Tracking Transaction form and submit the form by either mail or fax. Additionally, licensees would be able to provide transaction information by telephone and then follow-up with a paper copy. Additional guidance on submitting information will be provided when the final rule is published. The guidance would contain mailing addresses and telephone and fax numbers for providing information to the National Source Tracking System, as well as information on the computer-readable format to be used.

E. Would a Licensee Need To Report Its Current Inventory to the System?

Yes, licensees would be required to report their current inventory of nationally tracked sources by a specified date. There would be separate report dates for Category 1 and Category 2 level nationally tracked sources. Licensees would be required to report all Category 1 sources to the National Source Tracking System by December 31, 2006, and all Category 2 sources by March 31, 2007.

To ease the reporting process, information already in the interim database would be downloaded to the National Source Tracking System. Each licensee that reported information to the interim database would be provided a

copy of its information and asked to either verify the information or provide updated information. NRC staff and the company that will operate the National Source Tracking System will work with licensees to make sure the inventory information is correct. Licensees that did not provide information to the interim database would need to report the information on its nationally tracked source inventory by the specified dates. Disposal facilities would not need to report sources that have already been buried or otherwise disposed.

F. What Information Would Be Collected on Source Origin?

Each time a nationally tracked source is manufactured in the United States, the licensee would be required to report the source information to the National Source Tracking System. The information must be reported by the close of the next business day. The licensee would report the manufacturer (make), model number, serial number, radioactive material, activity at manufacture, and manufacture date for each source. The licensee must also provide its license number, facility name, as well as the name of the individual that prepared the report.

Some sources are recycled or reconfigured. For example, a source that has decayed below its usefulness is sometimes returned to the manufacturer for reconfiguration. The decayed source may be placed in a reactor and reactivated. The source retains its serial number, but now has a new activity. The new activity and date must be reported to the National Source Tracking System.

For every nationally tracked source that is imported, the facility obtaining the source would be required to report the source information to the National Source Tracking System by the close of the next business day after receipt of the imported source at the site. For the purposes of the National Source Tracking System, this would be considered the source origin unless the source had been previously possessed in the United States. The licensee would need to report the manufacturer (make), model number, serial number, radioactive material, activity at manufacture or import, and manufacture or import date for each source. The licensee must also provide its license number, facility name, as well as the name of the individual that prepared the report and the date of receipt. The licensee would also need to provide information on the facility (name and address) that sent the source and the import license number.

Under separate regulations on import/export of radioactive material, the NRC will be notified on imports of radioactive material at Category 2 levels or above (70 FR 37985; July 1, 2005). This notification should include source identification information. NRC staff would enter the notification information into the National Source Tracking System. Therefore, a licensee that is receiving imported nationally tracked sources may be able to report the transaction as a simple receipt, if using the on-line method. Much of the source information would already be in the National Source Tracking System; the licensee would be able to click on the pending import and then click on the source to indicate that the source had been received at the site.

G. What Information Would Be Collected on Source Transfer?

Each time a nationally tracked source is transferred to another authorized facility, the licensee would be required to report the transfer to the National Source Tracking System by the close of the next business day. The licensee must report the recipient name (facility the source is being transferred to) and license number, the shipping date, the estimated arrival date, and the identifying source information (manufacturer, model number, serial number, and radioactive material). If the source is being exported, the export license number would be reported for the recipient's license number. The licensee also would need to provide its name and license number as well as the name of the individual making the report. For nationally tracked sources that are transferred as waste under a Uniform Low-level Radioactive Waste Manifest, the licensee would also have to report the waste manifest number and the container identification number for the container with the nationally tracked source.

Source transfer transactions only cover transfers between different licensees and/or authorized facilities (DOE site or an export). They do not include transfer to a temporary job site. Transactions in which the nationally tracked source remains in the possession of the licensee would not require a report to the National Source Tracking System. For example, a radiographer conducting business would not need to report transfers between temporary job sites, even if the temporary job site is located in another state or if the work is conducted under a reciprocity agreement. The NRC specifically invites comment on whether licensees should be required to report as a transaction the use of a nationally tracked source at temporary job sites. Specifically should the NRC require reporting of:

(1) All transactions involving the use of a nationally tracked source at a temporary job site;

(2) Any transactions involving the use of a nationally tracked source at a temporary job site in another state either under the same license or a different license; or

(3) No transactions involving the use of a nationally tracked source at a temporary job site (as proposed in the rule)? If the NRC were to require reporting of transactions involving temporary job sites, how much additional burden would be imposed on licensees and what should the reporting timeframe be?

H. What Information Would Be Reported for Receipt of Sources?

A licensee would be required to report each receipt of a nationally tracked source by the close of the next business day. The licensee must report the identifying source information (manufacturer, model number, serial number, and radioactive material) and the date of receipt. The licensee must include its facility name and license number and the name of the individual that prepared the report. The licensee must also provide the name and license number of the facility that sent the source because this information is necessary to match the transactions. If the source is an import, the licensee would also need to report the source activity and associated activity date. The import license number would be reported as the license number of the sending facility. If a licensee receives a nationally tracked source as part of a waste shipment, the licensee must provide the Uniform Low-level Radioactive Waste Manifest number and the container identification for the container that contains the nationally tracked source. A waste broker or disposal facility are examples of licensees that might receive a nationally tracked source as part of a waste shipment. These licensees would not be expected to open the waste container and verify the presence of the nationally tracked source; they may rely on the licensee who shipped the source. Because there is no verification that the source is in the waste container, should the facility be required, at a minimum, to investigate the container for any indication of tampering? The NRC specifically invites comment on whether a waste broker or disposal facility should be required to inspect the waste container for an indication of tampering to provide additional

assurance the source is still in the container.

I. What Information Would Be Reported on Source Endpoints?

Endpoints for a source include export, disposal, decay, and destruction of the source. Exports would be treated as a transfer. (See Section G for more information on source transfer.) An export is considered a reversible endpoint because the source can be imported back into the country. The export license number would be reported as the license number of the receiving facility.

Disposal of a source would be reported by the licensee conducting the actual burial in a low-level disposal facility or other authorized disposal mechanism. Licensees sending a source to a low-level burial ground for disposal would treat the transaction as a transfer, and would report the types of information to be reported for a transfer, including the waste manifest number and the container identification number. The disposal facility may rely on the information from the licensee that sent the waste for disposal and is not expected to open the waste container to verify contents. The disposal facility must report to the National Source Tracking System the date and method of disposal, the waste manifest number, and the container identification number for the container with the nationally tracked source. The disposal facility must also provide its facility name and license number, as well as the name of the individual that prepared the report. The report must be made by the close of the next business day.

One feature of the National Source Tracking System would be that the decay of a source would be automatically calculated so a licensee would not need to report an endpoint of decay. Once a source has decayed below Category 2 levels, the source would be automatically removed from a licensee's active inventory in the National Source Tracking System. The licensee would receive a notification that the source has decayed below the tracking level and that transactions for this source no longer need to be reported.

Licensees currently report accidental destruction of sources to the NRC Operations Center or to the Agreement States. NRC staff would enter the information from the event report into the National Source Tracking System. Because sealed sources are designed to be robust, accidental destruction is rare. Examples of accidental destruction include sources destroyed during attempts to remove them from devices, and well logging sources that become disconnected downhole and destroyed during retrieval attempts.

Other endpoints that would be captured by the National Source Tracking System include a lost or stolen source or a source abandoned in a well. These events are already reported to either NRC or to the Agreement State. Licensees would not be required to report this information a second time to the National Source Tracking System. Agreement State licensees would continue to report to the Agreement State. NRC staff would obtain the information on these events from the event reports or the Nuclear Medical Event Database and enter the information into the National Source Tracking System.

J. How Would the National Source Tracking System Information Be Kept Current?

Data integrity for the National Source Tracking System is extremely important and necessary to keep the information correct and up-to-date. Licensees are expected to provide correct information to the National Source Tracking System and should double-check the accuracy of information before submission. To address quality assurance concerns on the data, the NRC is considering adding a requirement that would require licensees to double-check the accuracy of the data by using two independent checkers before submission of the transaction report. The NRC specifically invites comment on the inclusion of a requirement for a quality assurance check of the data before submission. We are interested in information concerning:

(1) Whether these are the appropriate requirements for quality assurance;

(2) What are the appropriate requirements for quality assurance; and

(3) The additional burden such a requirement would impose on licensees.

If licensees accurately report their transactions in a timely manner, the National Source Tracking System would contain correct, up-to-date information. However, we recognize that some transactions may be missed and that errors may be introduced into the system over time. Typical reasons for discrepancies, which might nevertheless occur, could be failure to report the receipt of a source, failure to report the transfer of a source to another licensee, missing a source during the reporting of the initial inventory, selection of the wrong model number, or incorrectly typing the serial number. Each licensee would be required to correct any errors or missed transactions that it discovers within 5 business days of the discovery. In addition, licensees would be required to reconcile their on-site inventory of nationally tracked sources with the information previously reported to the National Source Tracking System. This reconciliation would occur during the month of June of each year. This reconciliation would be necessary to maintain the accuracy and reliability of the National Source Tracking database. The licensee would be able to print a copy of the inventory information from the National Source Tracking System. Licensees without on-line access would receive a paper copy of the information in the National Source Tracking System. The licensee would compare the information in the system to the actual inventory at the licensee's facility, including a check of the model and serial number of each source. This reconciliation would not require the licensee to conduct an additional physical inventory of its sources. Licensees are currently required to conduct physical inventories either annually, semi-annually, or quarterly depending on the type of license. The licensee would be required to reconcile any differences by reporting the appropriate transaction(s) or corrections to the National Source Tracking System. The licensee would be required to verify by the end of June of each year that the inventory in the National Source Tracking System is correct. The first reconciliation would occur in June 2007.

K. How Would Incorrect Information Be Changed in the National Source Tracking System?

Each licensee would be responsible for correcting any incorrect information in the National Source Tracking System, regardless of the source of the error, within 5 business days of the discovery. Typing errors and errors such as inadvertent selection of the wrong model number need to be corrected in the system so that the information in the National Source Tracking System is correct. A licensee would be able to submit a corrected form that contains the correct information online or through any other permitted reporting mechanism at any time.

L. Some Licensees Now Must Report Similar Information to the Nuclear Materials Management Safeguards System. Would This Rule Result in a Duplication in Reporting?

Yes, some information on plutonium (Pu) and thorium (Th) would be collected by both the Nuclear Materials Management Safeguards System (NMMSS) and the National Source Tracking System. The current regulations require reporting transfers,

receipts, and inventory to NMMSS for one gram or more of plutonium and any thorium that has foreign obligations. However, NMMSS does not collect information at the source level; therefore, the detailed information (make, model, serial number) on sealed sources could not be extracted from NMMSS to provide input into the National Source Tracking System. The National Source Tracking System would only have information on sealed sources and would not contain information on sources that are not considered sealed or on any bulk material that a licensee may possess. The thresholds are also different for the two systems. Therefore, we would not be able to extract information from the National Source Tracking System to support NMMSS. Neither system would be able to collect the needed information for the other system without modifications to the database and additional changes to the regulations. The two system also have different purposes.

In practice, NRC finds that these Pu and Th sources are typically held by licensees for long time periods and not routinely transferred to other licensees, so incidences of double-reporting are expected to be rare. No licensee reported Th sources to the interim database, and there were only 21 Pu sealed sources reported that were above the Category 2 threshold. The NRC does not believe that the limited number of licensees and transactions likely to be affected by this dual reporting requirement would impose an unnecessary burden. The NMMSS and the National Source Tracking System would collect information on these isotopes for different purposes and in different formats and with different levels of detail and thresholds as needed by each system. Therefore, the Commission believes that NMMSS and the National Source Tracking System should remain separate.

M. Are the Proposed Actions Consistent With International Obligations?

Yes, the National Source Tracking System will be consistent with international obligations. The system is intended to respond to the recommendation in the IAEA Code of Conduct for development of a national source registry.

N. When Do These Actions Become Effective?

The rule would become effective 60 days after the final rule is published in the **Federal Register**. The requirements for Category 1 nationally tracked sources would be implemented by December 31, 2006. This means that by this date any licensee that possesses a Category 1 level source must have reported its initial inventory and report thereafter all transactions involving Category 1 sources to the National Source Tracking System. The requirements for Category 2 nationally tracked sources would be implemented by March 31, 2007. By this date, all licensees must have reported their initial inventory of nationally tracked sources and report thereafter all transactions to the National Source Tracking System.

O. Who Would Have Access to the Information and What Would It be Used for?

Information in the National Source Tracking System will be considered Official Use Only; the information will not be considered to be Safeguards Information or Safeguards Information—Modified Handling. A licensee would be able to view the data on its facility, but not data on other licensees. Agreement State staff would be able to view information on the licensees in their state, but would not be able to view information on licensees in other states. The one exception is information related to lost or stolen sources. Agreement State staff would be able to view the information on lost or stolen sources from all licensees. This will enable better coordination of recovery efforts. Other Federal and State agencies will also be able to view the information on lost or stolen sources and other information on a need-to-know basis.

Licensees are not required to protect Official Use Only information, it is the equivalent of company proprietary information and licensees may share the information at their discretion. The NRC specifically invites comment on whether this provides adequate protection of the information or whether licensees should be required to protect the information that is reported to the National Source Tracking System. If additional protection should be necessary, what level of protection is viewed to be necessary?

Once fully operational, the National Source Tracking System would be used for a variety of purposes. This standardized, centralized information will help NRC and Agreement States to monitor the location and use of nationally tracked sources; conduct inspections and investigations; communicate nationally tracked source information to other government agencies; verify legitimate ownership and use of nationally tracked sources; and further analyze hazards attributable to the possession and use of these sources.

P. What Other Things Would Be Required by the Proposed Action?

The proposed rule would also require manufacturers of nationally tracked sources to use a unique serial number for each source. The combination of manufacturer, model, and serial number will be used in the National Source Tracking System to track the history of each source.

Q. What Should I Consider As I Prepare My Comments to NRC?

Tips for preparing your comments. When submitting your comments, remember to:

i. Identify the rulemaking (RIN 3150–AH48).

ii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iii. Describe any assumptions and provide any technical information and/or data that you used.

iv. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

v. Provide specific examples to illustrate your concerns, and suggest alternatives.

vi. Explain your views as clearly as possible.

vii. Make sure to submit your comments by the comment period deadline identified.

viii. See item B of the Discussion portion of this notice for NRC's specific request for comments regarding State development of regulations on R-226 and the future inclusion of Category 3 sources in the National Source Tracking System. See item G of the Discussion portion of this notice for the request for comments on requiring licensees to report use of nationally tracked sources at temporary job sites. See item H of the Discussion portion of this notice for the request for comment on requiring waste brokers and disposal facilities to inspect waste containers for an indication of tampering. See item J of the Discussion portion of this notice for the request for comments regarding the inclusion of a quality assurance provision on data submission. See item O of the Discussion portion of this notice for the request for comments on licensee protection of the information reported to the National Source Tracking System. See section IX for the request for comments on the information collection aspects and section XII for the request for comments on the impacts to small businesses.

III. Discussion of Proposed Amendments by Section

Section 20.1003 Definitions

A definition of nationally tracked sources would be added to the regulations.

Section 20.2207 Reports of Transactions Involving Nationally Tracked Sources

A new section would be added to the regulations to require licensees to report to the National Source Tracking System transactions involving nationally tracked sources. New paragraph (a) Would require the reporting of the manufacture of a nationally tracked source. New paragraph (b) would require the reporting of all transfers of nationally tracked sources to another authorized facility. New paragraph (c) would require the reporting of all receipts of a nationally tracked source. New paragraph (d) would require the reporting of the disposal of any nationally tracked source. Each of these paragraphs would require the licensee to report specific information for the transaction, which would include for each source information such as the manufacturer, model, serial number, radioactive material, activity and activity date, and the transaction date. The licensee would also need to provide the facility name, license number, address, and name of the individual that prepared the report. If the transaction involves the use of the Uniform Low-Level Radioactive Waste Manifest, the licensee would need to report the waste manifest number and the container identification for the container with the source.

New paragraph (e) would require licensees to report these transactions to the National Source Tracking System by the close of the next business day. The regulations would allow the licensee to report the transactions either on-line, electronically using a computer-readable format, by facsimile, by mail, or by telephone.

New paragraph (f) would require each licensee to correct any error in a previously filed report or file a new report for a missed transaction within 5 business days of the discovery of the error or missed transaction. Each licensee would also be required to reconcile and verify the information in the National Source Tracking System during the month of June each year. This process would involve comparing the inventory information in the National Source Tracking System and the actual inventory possessed by the licensee. The proposed amendment would require any discrepancies to be resolved by filing the reports identified by paragraphs (a) through (d) described above.

New paragraph (g) would require a licensee to report its initial inventory of Category 1 nationally tracked sources by December 31, 2006, and the inventory of Category 2 nationally tracked sources by March 31, 2007.

Appendix E Nationally Tracked Source Thresholds

A new appendix would be added to part 20 that provides the thresholds for nationally tracked sources at the Category 1 and Category 2 levels. The Terabecquerel (TBq) values listed in Appendix E are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The Ci values are provided for practical usefulness only and are rounded after conversion. The curie values are not intended to be the regulatory standard.

Section 32.2 Definitions

A definition of nationally tracked sources would be added to the regulations.

Section 32.201 Serialization of Nationally Tracked Sources

A new section would be added that requires manufacturers of nationally tracked sources to assign a unique serial number to each nationally tracked source that is manufactured after the effective date of the rule.

Section 150.3 Definitions

A definition of nationally tracked sources would be added to the regulations.

Section 150.15 Persons Not Exempt

A new section is added that would require source manufacturers licensed by Agreement States to assign a unique serial number for each nationally tracked source that is manufactured after the effective date of the rule.

Section 150.18 Submission to Commission of Nationally Tracked Source Transaction Reports

A new section would be added to the regulations to require Agreement State licensees to report to the National Source Tracking System all transactions involving nationally tracked sources. New paragraph (a) would require the reporting of the manufacture of a nationally tracked source. New paragraph (b) would require the reporting of all transfers of nationally tracked sources to another authorized facility. New paragraph (c) would require the reporting of all receipts of a nationally tracked source. New paragraph (d) would require the reporting of the disposal of any nationally tracked source. Each of these paragraphs would require the licensee to report specific information for the transaction, which would include for each source information such as the manufacturer, model, serial number, radioactive material, activity and activity date, and the transaction date. The licensee would also need to provide the facility name, license number, address, and name of the individual that prepared the report. If the transaction involves the use of the Uniform Low-Level Radioactive Waste Manifest, the licensee would need to report the waste manifest number and the container identification for the container with the source.

New paragraph (e) would require licensees to report these transactions to the National Source Tracking System by the close of the next business day. The regulations would allow the licensee to report the transactions either on-line, electronically using a computer-readable format, by facsimile, by mail, or by telephone.

New paragraph (f) would require each licensee to correct any error in a previously filed report or file a new report for a missed transaction within 5 business days of the discovery of the error or missed transaction. Each licensee would also be required to reconcile and verify the information in the National Source Tracking System during the month of June each year. This process would involve comparing the inventory information in the National Source Tracking System and the actual inventory possessed by the licensee. The proposed amendment would require any discrepancies to be resolved by filing the reports identified by paragraphs (a) through (d) described above.

New paragraph (g) would require a licensee to report its initial inventory of Category 1 nationally tracked sources by December 31, 2006, and the inventory of Category 2 nationally tracked sources by March 31, 2007.

IV. Criminal Penalties

For the purpose of section 223 of the Atomic Energy Act (AEA), the Commission is proposing to amend 10 CFR parts 20, 32, and 150 under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

V. 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 proposed rule is classified as Compatibility Category "NRC." The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

VI. Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing" directed that the Government's writing be in plain language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

VII. Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would require licensees that possess, manufacture, transfer, receive, or dispose of nationally tracked sources to report the information relating to such transactions to the National Source Tracking System. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

VIII. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1) for the proposed changes to part 150 and as described in 10 CFR 51.22(c)(3)(iii) for the changes to parts 20 and 32. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

Type of submission, new or revision: Revision; NRC Form 748—New.

The title of the information collection: 10 CFR 20, 32, and 150, "National Source Tracking of Sealed Sources."

The form number if applicable: NRC Form 748, "National Source Tracking Transaction Report."

How often the collection is required: Initially, at completion of a transaction, and at inventory reconciliation.

Who will be required or asked to report: Licensees that manufacture, receive, transfer, or dispose of nationally tracked sources.

An estimate of the number of annual responses: 4,423 (NRC Form 748—2613 responses; 10 CFR 20—467 responses; 10 CFR 32—10 recordkeepers; 10 CFR 150—1333 responses).

The estimated number of annual respondents: 1,350.

An estimate of the total number of hours needed annually to complete the requirement or request: 2,662 (NRC Form 748—412 hours [an average of 10 minutes per response]; 10 CFR 20—467 [1 hour per response]; 10 CFR 32—450 hours [45 hours per recordkeeper]; 10 CFR 150—1333 hours [1 hour per response]).

Abstract: The NRC is proposing to amend its regulations to implement a National Source Tracking System for certain sealed sources. The proposed amendments would require licensees to report certain transactions involving nationally tracked sources to the National Source Tracking System. These transactions would include manufacture, transfer, receipt, or disposal of the nationally tracked source. The proposed amendment would require each licensee to provide its initial inventory of nationally tracked sources to the National Source Tracking System and annually verify and reconcile the information in the system with the licensee's actual inventory. The proposed rule would also require manufacturers of nationally tracked sources to assign a unique serial number of each source. This information collection is mandatory and will be used to populate the National Source Tracking System.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in this proposed rule on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC Worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the NRC rulemaking Web site, *http://ruleforum.llnl.gov.*

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by August 29, 2005, to the Records and FOIA/Privacy Services Branch (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0001, 3150–0014, 3150–0032, and 3150–xxxx), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also comment by telephone at (202) 395–3087.

X. Public Protection Notification

The NRC may not conduct or 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.

XI. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission.

The largest burden would likely fall on the manufacturers and distributors of

nationally tracked sources because they will have the most transactions to report. The NRC believes that by allowing batch loading of information using a computer readable format, the burden on the high transaction licensees will be lessened. The present value of the costs of the National Source Tracking System to NRC is estimated to be $21.8 million and to industry is estimated to be $1.7 million in 2005 dollars using a 3 percent discount rate. These estimated costs include the cost of development of the system and operation and maintenance thru the year 2016.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading. The analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the regulatory analysis are available from Merri Horn, telephone (301) 415–8126, e-mail, *mlh1@nrc.gov* of the Office of Nuclear Material Safety and Safeguards.

XII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would affect about 350 NRC licensees and an additional 1,000 Agreement State licensees. Affected licensees include laboratories, reactors, universities, colleges, medical clinics, hospitals, irradiators, and radiographers, some of which may qualify as small business entities as defined by 10 CFR 2.810. However, the proposed rule is not expected to have a significant economic impact on these licensees.

The total time required by a licensee to complete each National Source Tracking Transaction report is estimated to be approximately 15 minutes, depending on the number of sources involved in the transaction and the method of reporting. This is time needed to complete the report. No research or compilation is necessary as all information is transcribed from bills of lading, in-house records kept for other purposes, sales agreements, etc. Each licensee would also spend on average 1 hour on the annual reconciliation. The total annual burden to perform the proposed reporting is approximately 2,662 hours. Based on the draft regulatory analysis conducted for this action, the costs of the proposed amendments for affected licensees are estimated to be $232,000 total or on average about $172 per affected licensee. The NRC believes that the selected alternative reflected in the proposed amendment is the least burdensome, most flexible alternative that would accomplish the NRC's regulatory objective.

Because of the widely differing conditions under which impacted licensees operate, the NRC is specifically requesting public comment from licensees concerning the impact of the proposed regulation. The NRC particularly desires comment from licensees who qualify as small businesses, specifically as to how the proposed regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety and common defense and security. Comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss—

(a) The size of the business and how the proposed regulation would result in a significant economic burden upon it as compared to a larger organization in the same business community;

(b) How the proposed regulation could be further modified to take into account the business's differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter;

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations as opposed to providing special advantages to any individuals or groups; and

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety and common defense and security.

Comments should be submitted as indicated under the **ADDRESSEES** heading.

XIII. Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

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. 553; the NRC is proposing to adopt the following amendments to 10 CFR parts 20, 32, and 150.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

2. In § 20.1003, a new definition *Nationally tracked source* is added in alphabetical order to read as follows:

§ 20.1003 Definitions.

* * * * *

Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1 or 2 levels of any radioactive material listed in Appendix E of this Part. In this context a sealed source is defined as radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the

Category 2 threshold but less than the Category 1 threshold.

* * * * *

3. In § 20.1009 paragraph (b) is revised and paragraph (c)(6) is added to read as follows:

§ 20.1009 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 20.1003, 20.1101, 20.1202, 20.1203, 20.1204, 20.1206, 20.1208, 20.1301, 20.1302, 20.1403, 20.1404, 20.1406, 20.1501, 20.1601, 20.1703, 20.1901, 20.1904, 20.1905, 20.1906, 20.2002, 20.2004, 20.2005, 20.2006, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, 20.2207, 20.2301, and appendix G to this part.

(c) * * *

(6) In § 20.2207, NRC Form 748 is approved under control number 3150–xxxx.

4. Section 20.2207 is added to subpart M to read as follows:

§ 20.2207 Reports of transactions involving nationally tracked sources.

Each licensee who manufactures, transfers, receives, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748) as specified in paragraphs (a) through (d) of this section for each type of transaction.

(a) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The manufacturer, model, and serial number of the source;

(4) The radioactive material in the source;

(5) The initial source strength in becquerels (curies) at the time of manufacture; and

(6) The manufacture date of the source.

(b) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The name and license number of the recipient facility and the shipping address;

(4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(5) The radioactive material in the source;

(6) The initial or current source strength in becquerels (curies);

(7) The date for which the source strength is reported;

(8) The shipping date;

(9) The estimated arrival date; and

(10) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(c) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The name and license number of the person that provided the source;

(4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(5) The radioactive material in the source;

(6) The initial or current source strength in becquerels (curies);

(7) The date for which the source strength is reported;

(8) The date of receipt; and

(9) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(d) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The waste manifest number;

(4) The container identification with the nationally tracked source;

(5) The date of disposal; and

(6) The method of disposal.

(e) The reports discussed in paragraphs (a) through (d) of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(1) The on-line National Source Tracking System;

(2) Electronically using a computer-readable format;

(3) By facsimile;

(4) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or

(5) By telephone with followup by facsimile or mail.

(f) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Each licensee shall reconcile and verify the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The verification must be conducted during the month of June in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by paragraphs (a) through (d) of this section.

(g) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by December 31, 2006. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by March 31, 2007. The information may be submitted by using any of the methods identified by paragraph (e)(1) through (e)(4) of this section. The initial inventory report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(4) The radioactive material in the sealed source;

(5) The initial or current source strength in becquerels (curies); and

(6) The date for which the source strength is reported.

5. In Part 20, new Appendix E is added to read as follows:

Appendix E To Part 20—Nationally Tracked Source Thresholds

The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values

specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-236	60	1,600	0.6	16
Plutonium-238	60	1,600	0.6	16
Plutonium-239	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Plutonium-240	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

6. The authority citation for part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

7. In § 32.2, the paragraph designations are removed and a new definition *Nationally tracked source* is added in alphabetical order to read as follows:

§ 32.2 Definitions.

* * * * *

Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1 or 2 levels of any radioactive material listed in Appendix E to Part 20 of this Chapter. In this context a sealed source is defined as radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

8. Section 32.8 paragraph (b) is revised to read as follows:

§ 32.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.17, 32.18, 32.19, 32.20, 32.21, 32.21a, 32.22, 32.23, 32.25, 32.26, 32.27, 32.29, 32.51, 32.51a, 32.52, 32.53, 32.54, 32.55, 32.56, 32.57, 32.58, 32.61, 32.62, 32.71, 32.72, 32.74, 32.201, and 32.210.

* * * * *

9. Section 32.201 is added under subpart D to read as follows:

§ 32.201 Serialization of nationally tracked sources.

Each licensee who manufactures a nationally tracked source after [the effective date of final rule] shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

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

10. 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); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). 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).

11. In § 150.3, a new definition *Nationally tracked source* is added in alphabetical order to read as follows:

§ 150.3 Definitions.

* * * * *

Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1 or 2 levels of any radioactive material listed in Appendix E to Part 20 of this Chapter. In this context a sealed source is defined as radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater

than the Category 2 threshold but less than the Category 1 threshold.

* * * * *

12. Section 150.8 paragraph (b) is revised and paragraph (c)(3) is added to read as follows:

§ 150.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 150.16, 150.17, 150.17a, 150.18, 150.19, 150.20, and 150.31.

(c) * * *

(3) In § 150.18, NRC Form 748 is approved under control number 3150–xxxx.

13. In 150.15 paragraph (a)(10) is added to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(10) The assignment of unique serial numbers to each newly manufactured nationally tracked source as required by § 32.201 of this chapter.

* * * * *

14. Section 150.18 is added to read as follows:

§ 150.18 Submission to Commission of National Source Tracking Transaction Reports.

Each person who, pursuant to an Agreement State specific license, manufactures, transfers, receives, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748) as specified in paragraphs (a) through (d) of this section for each type of transaction.

(a) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The manufacturer, model, and serial number of the source;

(4) The radioactive material in the source;

(5) The initial source strength in becquerels (curies) at the time of manufacture; and

(6) The manufacture date of the source.

(b) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The name and license number of the recipient facility and the shipping address;

(4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(5) The radioactive material in the source;

(6) The initial or current source strength in becquerels (curies);

(7) The date for which the source strength is reported;

(8) The shipping date;

(9) The estimated arrival date; and

(10) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(c) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The name and license number of the person that provided the source;

(4) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(5) The radioactive material in the source;

(6) The initial or current source strength in becquerels (curies);

(7) The date for which the source strength is reported;

(8) The date of receipt; and

(9) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(d) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report (NRC Form 748). The report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The waste manifest number;

(4) The container identification with the nationally tracked source.

(5) The date of disposal; and

(6) The method of disposal.

(e) The reports discussed in paragraphs (a) through (d) of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(1) The on-line National Source Tracking System;

(2) Electronically using a computer-readable format;

(3) By facsimile;

(4) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or

(5) By telephone with followup by facsimile or mail.

(f) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Each licensee shall reconcile and verify the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The verification must be conducted during the month of June in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by paragraphs (a) through (d) of this section.

(g) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by December 31, 2006. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by March 31, 2007. The information may be submitted by using any of the methods identified by paragraph (e)(1) through (e)(4) of this section. The initial inventory report must include the following information:

(1) The name and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(4) The radioactive material in the sealed source;

(5) The initial or current source strength in becquerels (curies); and

(6) The date for which the source strength is reported.

Dated in Rockville, Maryland, this 22nd day of July, 2005.

For the Nuclear Regulatory Commission.
Annette Vietti-Cook,
Secretary of the Commission.
[FR Doc. 05–14919 Filed 7–27–05; 8:45 am]
BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–12–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Rolls-Royce plc (RR) RB211–22B series, RB211–524B, –524C2, –524D4, –524G2, –524G3, and –524H series, and RB211–535C and –535E series turbofan engines with high pressure compressor (HPC) stage 3 disc assemblies, part numbers (P/Ns) LK46210, LK58278, LK67634, LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 installed. That AD requires removing from service certain disc assemblies before they reach their full life if not modified with anticorrosion protection. This proposed AD would require the same actions as AD 2004–01–20, but would shorten the compliance time for disks that entered service before 1990. This proposed AD results from the manufacturer's reassessment of the corrosion risk on HPC stage 3 disc assemblies not modified with sufficient application of anticorrosion protection. We are issuing this AD to prevent corrosion-induced uncontained disc failure, resulting in damage to the airplane.

DATES: We must receive comments on this proposed AD by September 26, 2005.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–12–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov.*

You can get the service information identified in this proposed AD from Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245–418.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include "AD Docket No. 2003–NE–12–AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Discussion

On January 8, 2004, we issued AD 2004–01–20, Amendment 39–13434 (69 FR 2661, January 20, 2004). That AD allows certain disc assemblies to reach their full life only after modifying the disc assemblies with anticorrosion protection. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on RR RB211–22B series, RB211–524B, –524C2, –524D4, –524G2, –524G3, and –524H series, and RB211–535C and –535E series turbofan engines with HPC stage 3 disc assemblies, P/Ns LK46210, LK58278, LK67634, LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 installed. The CAA advises that inspections at overhaul found many disc assemblies with corrosion-induced pitting. RR reassessed the risk of corrosion-induced pitting of disc assemblies that have not incorporated any revision of RR service bulletin (SB) No. RB.211–72–9434, or any revision of RR SB No. RB.211–72–5420, which rework the discs and apply anticorrosion protection, lowered the disc lives from those published in the Time Limits Manuals. These SBs rework the discs and apply anticorrosion protection, and lower the disc lives accordingly in the Time Limits Manuals.

Actions Since AD 04–01–20 Was Issued

Since we issued that AD, we found that we made an oversight in the rule regarding the compliance time for disks that entered into service before 1990. We allowed operators to remove and rework these disks within five years after the effective date of that AD, but we intended to set a fixed calendar date based on inspection findings and metallurgical results. This proposed AD corrects that oversight. Also, we omitted paragraph (f)(5) from the original rule. We issued a correction to AD 04–01–20 on July 29, 2004, to include paragraph (f)(5). This proposed rule includes that paragraph.

Relevant Service Information

We have reviewed and approved the technical contents of Rolls-Royce plc SB No. RB.211–72–9434, Revision 4, dated January 12, 2000, and SB No. RB.211–72–5420, Revision 4, dated February 29, 1980, which describe procedures for reworking of HPC stage 3 rotor disc assemblies by machining, and application of anticorrosion protection. The CAA, which is the airworthiness authority for the U.K., classified these SBs as mandatory and issued airworthiness directive 004–01–94, dated January 4, 2002.

Bilateral Agreement Information

This engine model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. In keeping with this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 14, 2006

ALL AGREEMENT AND NON-AGREEMENT STATE

SUPPLEMENT TO THE JUNE 22 HEARING RECORD SUBMITTED TO THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE TO ADDRESS SENATOR CLINTON'S QUESTIONS REGARDING THE NRC BASIS CHANGE RATIONALE FOR THE NATIONAL SOURCE TRACKING SYSTEM (STP-06-063)

Purpose: To inform Agreement State program staff of the supplement to the June 22, 2006 hearing record submitted to the Environment and Public Works Committee. Also, to remind you of the extension to the comment period through June 28, 2006 for the proposed change of basis to the National Source Tracking System (NSTS).

Background: On May 25, 2006, the Commission approved the change in basis for the NSTS from common defense and security to public health and safety. In a letter dated June 13, 2006, (STP-06-051), we gave notice of an opportunity to comment on the Commission's proposed change of basis for the NSTS. The *Federal Register* Notice was published on June 13, 2006 (71 FR 113,34024 - 34025). The comment period for this proposed rule was to have expired on July 3, 2006; however, it has been extended to July 28, 2006.

Contents: The supplement provided in the enclosure was prepared after the June Senate hearing to document the Commission majority position and to address Senator Clinton's questions regarding the NRC basis change rationale for the NSTS. Senator Hillary Rodham Clinton and Representative Edward Markey requested an extension to the comment period. A Chairman response to Senator Clinton's and Representative Markey's questions to NRC is currently being processed. The Office of State and Tribal Programs will provide these response letters once they have been issued. Information regarding the NSTS rule making and the questions posed by Senator Clinton and Representative Markey can be viewed at the following NRC web site.

http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=tracking_lib&file=*&st=prule

NRC Point of Contact: If you have any questions regarding the NSTS, contact Merri Horn, Office of Nuclear Material Safety and Safeguards, telephone (301) 415-8126, e-mail, mlh1@nrc.gov.

If you have any questions regarding this correspondence, please contact the individual named below.

STP CONTACT: Joshua Palotay
TELEPHONE: 301-415-6231
INTERNET: jxp5@nrc.gov
FAX: 301-415-3502

/RA/

Janet R. Schlueter, Director
Office of State and Tribal Programs

Enclosure:
As stated

STP-06-063

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June 28, 2006

The Honorable George V. Voinovich
Chairman, Subcommittee on Clean Air, Climate Change,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As requested at the June 22, 2006, Subcommittee on Clean Air, Climate Change, and Nuclear Safety hearing regarding oversight of the U.S. Nuclear Regulatory Commission (NRC), enclosed for the record is an insert from Chairman Diaz, Commissioner Merrifield and Commissioner Lyons to address Senator Clinton's questions regarding the NRC basis change rationale for the National Source Tracking Rule.

Sincerely,

/RA/

Rebecca L. Schmidt, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Thomas R. Carper

ADAMS ACCESSION #: ML061800355

Supplement to the June 22 Hearing Record Submitted to the Environment and Public Works Committee to Address Senator Clinton's Questions Regarding the Nuclear Regulatory Commission Basis Change Rationale for the National Source Tracking Rule

Previously, on July 28, 2005, the Nuclear Regulatory Commission (NRC) published a proposed rule in the *Federal Register* on national source tracking. The proposed rule was promulgated under the NRC's authority to promote common defense and security. The decision to issue the proposed rule under this authority was based primarily on concerns over effectiveness and timeliness: all licensees will need to begin reporting to the National Source Tracking System (NSTS) at the same time, and the NRC was concerned that Agreement States would not have sufficient time to issue regulations to cover their licensees, potentially making implementation of the reporting requirements less effective. After reviewing the comments on the proposed rule, and after gaining more experience with Agreement State implementation of increased controls on radioactive sources, the NRC staff recommended that the basis of the rulemaking be changed from promotion of the common defense and security to protection of the public health and safety. This change in basis would enable Agreement States to oversee their licensees' data reporting to the NSTS. It is important to note that the system itself will remain a national system developed and maintained by the NRC, and Agreement States will not develop or maintain their own databases. The Commission approved the change of basis in an Affirmation Vote dated May 25, 2006, with Chairman Diaz and Commissioners Merrifield and Lyons voting in favor of the change of basis, and Commissioners McGaffigan and Jackzo voting against it. This supplement was prepared by the three concurring Commissioners to document the majority position. Time constraints at the June 22, 2006 hearing only permitted the minority position to be presented.

The Commission majority view is that, in general, the American people are better served when the NRC works in partnership with the current 34 Agreement States, rather than when the NRC "goes it alone." For the NSTS rule, the path the Commission has chosen will allow for more prompt verification that the rule's reporting requirements are being implemented, and for more effective and efficient inspections as a result of the Agreement States' familiarity with their licensees. Further, this approach will reduce unnecessary regulatory burden on material licensees. At the same time, the NRC has mechanisms to ensure national consistency. The rule will be immediately effective upon promulgation, and, because of its direct and significant transboundary implications, Agreement States will be required to adopt program elements that are essentially identical to those of the NRC. In addition, the NRC will monitor Agreement State oversight of their licensees' implementation of the NSTS reporting requirements through the periodic reviews of Agreement State programs conducted under the Integrated Materials Performance Evaluation Program, or IMPEP. The final NSTS rule complies with the plain language of Section 651 of the Energy Policy Act of 2005, which requires that the NRC issue regulations establishing a mandatory tracking system for radiation sources in the United States, not later than August 8, 2006. The rule clearly does this. The Commission majority further believes that giving the Agreement States an enhanced role in overseeing the rule's implementation will result in more effective fulfillment of the purposes of Section 651.

The NSTS will be a truly national system. The NSTS is being developed, and will be maintained, by the NRC. The system will contain information on NRC licensees, Agreement State licensees, and Department of Energy (DOE) facilities. Licensees will be required to report transactions to the NSTS involving the manufacture, transfer, receipt, disassembly, and disposal of radioactive sources. The NRC has held numerous meetings to engage stakeholders, and to ensure that other government agencies were included in the planning phases for the NSTS. Federal agencies that will have access to information in the NSTS include the U.S. Customs and Border Patrol Service, the Domestic Nuclear Detection Office, and DOE. The NSTS Interagency Coordinating Committee is developing policies and procedures governing requests for NSTS data from other agencies. Agreement States will have access to information on licensees located within their respective States. In addition, Agreement States will have access to the national listing of lost and/or stolen sources to facilitate recovery of these materials.

The NSTS rule imposes data reporting requirements related to source transactions. It does not impose any controls on the use of sources. The actual security and control of the sources is provided by measures imposed pursuant to NRC's authority to protect public health and safety for the majority of licensees possessing IAEA Code of Conduct Category 1 and 2 sources. The NSTS will provide better accountability of the sources and will provide information to the government that was not previously readily available. This information can be used as a tool to enhance both security and safety overall. As a practical matter, safety and security are intertwined in the industrial, medical, and academic uses of materials, and the goal in both safety and security is to prevent the loss of control of material.

The NRC's and Agreement States' experiences with the interim database currently in use demonstrated that Agreement State licensees responded more promptly when contacted by Agreement State officials with whom they were familiar than when contacted by NRC officials with whom they had no history. A similar effect is expected with the NSTS, which will replace the interim database. Of great importance, the Agreement States have further demonstrated that they can issue legally binding requirements in both a timely and consistent manner, as exemplified by their recent implementation of increased controls on radioactive sources. In this effort, the Agreement States are inspecting and enforcing the implementation of these requirements for over 80% of the applicable licensees in this country. Therefore, it became no longer necessary for the rule to be based on promotion of the common defense and security for the purposes of expediting implementation. The lead time for the NSTS requirements will be about 6 months from the date of publication of the final rule. The requirements are already laid out in the rule, and it should be a straightforward matter for the States to develop the legally binding requirements.

The time added to inspecting for compliance with NSTS in expected to be minimal, and the NSTS will provide data which will actually simplify aspects of the inspections. For NRC and Agreement State licensees, inspections will be conducted during routine safety and/or security inspections. It is anticipated that no more than 1 hour of inspection effort per licensee will be necessary for the NSTS. The only pre-inspection effort will be to print the inventory/transaction report on the licensee from the NSTS. It is estimated that the NSTS reporting requirements will apply to about 1,000 Agreement State licensees, and the Agreement States will be responsible for providing oversight, i.e., inspection and enforcement, of their licensees' implementation of

these requirements. All licensees should be inspected in the first year to make sure they have reported their entire inventory of Category 1 and 2 sources. In later years, the inspection effort would be based on reporting discrepancies.

The proposed rule on the NSTS was originally published for a 75-day comment period. Several of the Agreement States requested alignment of the basis for rule with the day-to-day radiation protection activities they conduct to maintain adequate protection of public health and safety. The NRC staff considered the request, and the Commission directed a change in the rule's basis from common defense and security to protection of public health and safety. A 20-day comment period was proposed by the staff and accepted by the Commission because: 1) this rule addressed the majority of the comments received on the proposed rule; 2) the Agreement States were given advance notice of the proposed change; and 3) due to the broad support among the Agreement States for changing the rule's basis, the staff did not believe, at the time, that there would be significant adverse comments on the basis change.

In conclusion, the NSTS rule solely concerns collecting data, submitting it to a national data base developed and maintained by the NRC, and ensuring the data are appropriately updated in a timely manner. Issuing this rule under the NRC's authority to protect the public health and safety in no way diminishes NRC authority to take appropriate action, nor lowers the significance of NRC actions. In fact, the safety of the public is the main reason for implementing security measures for radioactive materials.

From: <Mike_Stephens@doh.state.fl.us>
To: <SECY@NRC.GOV>, <Bill_Passetti@doh.state.fl.us>
Date: Thu, Jul 27, 2006 12:20 PM
Subject: RIN 3150-AH48

Dear Mr. Secretary:

Please find attached Florida's comments regarding RIN 3150-AH48 regarding changing the compatibility designation for the previously proposed National Source Tracking of Sealed Sources Rule.
<<FL_Reply_71_FR_34024 (RIH 3150-AH48).pdf>>
If you do not receive the attachment or have trouble opening the attachment, please contact me.
Note: These comments are being sent E-mail only to meet the reply deadline of 07/28/2006.

Sincerely-
MIkeS
Michael N. Stephens
Bureau of Radiation Control
(850)-245-4266
Fax (850) 487-0435
Visit our Web Site: http://www.doh.state.fl.us/environment/radiation/
How are we doing? Please take our survey:
http://www.doh.state.fl.us/environment/radiation/survey.htm
Mission: To promote and protect the health and safety of all people in Florida through the delivery of quality public health services and promotion of health care standards.
****
Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

CC: <JRS1@NRC.GOV>, <sam9@NRC.GOV>, <ADW@NRC.GOV>, <KXS@NRC.GOV>

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