

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150-AI22

National Source Tracking of Sealed Sources; Revised Compliance Dates

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise the compliance dates for licensees to begin reporting source transactions and initial source inventory information to the National Source Tracking System for nationally tracked sources. No other requirements related to the National Source Tracking System are being revised by this rule.

DATES: *Effective Date:* This final rule is effective immediately upon publication. *Compliance Dates:* Compliance with the reporting provisions in 10 CFR 20.2207 is required by January 31, 2009 for both Category 1 sources and Category 2 sources.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-8126, e-mail, mlh1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion and Need for the Rule

The President signed the Energy Policy Act of 2005 (Pub. L. No. 109-58, 119 Stat. 594) into law on August 8, 2005. It contains a provision on national source tracking that requires the NRC to issue regulations establishing a mandatory tracking system for radiation sources in the United States. The NRC issued the final rule for the National Source Tracking System on November 8, 2006 (71 FR 65686).

The National Source Tracking System rule requires licensees to report information on the manufacture, transfer, receipt, disassembly, and disposal of nationally tracked sources. This information will be entered into a computerized data base. The National Source Tracking System will capture information on the origin of each nationally tracked source (manufacture or import), all transfers to other licensees, all receipts of nationally tracked sources, and endpoints of each nationally tracked source (disassembly, disposal, decay, or export). Ultimately, the National Source Tracking System will be able to provide a domestic life history account of all nationally tracked sources.

The compliance dates for licensees to report initial source inventories was November 15, 2007, for Category 1 sources and November 30, 2007, for Category 2 sources. These were also the dates to start reporting source transactions for entry into the system. The NRC anticipated that system development and all testing would be complete and the National Source Tracking System would be operational by November 2007. However, system development has taken longer than anticipated and the system will not be ready to accept data by November 2007. Therefore, the NRC is revising the compliance dates for which reporting is to start.

The requirements for Category 1 nationally tracked sources will now be implemented by January 31, 2009. This means that by this date any licensee that possesses a Category 1 level

source must have reported its initial inventory and must begin reporting all transactions involving Category 1 sources to the National Source Tracking System. The requirements for Category 2 nationally tracked sources will also be implemented by January 31, 2009. By this date, all licensees must have reported their initial inventories of Category 2 nationally tracked sources and begin reporting all transactions to the National Source Tracking System.

II. Section by Section Analysis of Substantive Changes

§ 20.2207-- Reports of transactions involving nationally tracked sources.

Paragraph (h) is revised to require a licensee to report its initial inventory of Category 1 nationally tracked sources by January 31, 2009, and the inventory of Category 2 nationally tracked sources by January 31, 2009.

III. Bases and Findings for Dispensing With Notice and Comment and for Making Rule Immediately Effective

Generally, NRC rulemaking involves issuing rules using the public notice and comment procedures set forth in the Administrative Procedure Act (APA). Typically, a proposed rule is issued for comment and any comments submitted are evaluated in the agency's development of the final rule. But under 5 U.S.C 553(b)(3)(B), a federal agency such as the NRC may dispense with those procedures where it finds for "good cause" that notice and public procedures thereon are "impracticable, unnecessary, or contrary to the public interest." In this case, notice-and-comment procedures are not required because the usual public rulemaking procedures are impracticable. The National Source Tracking System will not be ready to

accept data received from licensees by the original compliance dates in the final rule. Compliance with the rule by those dates is not feasible, and no purpose would be served by seeking public comment on whether to extend the compliance dates. Therefore, under 5 U.S.C. 553(b)(3)(B), good cause exists to dispense with notice and comment procedures.

In addition, this rule is immediately effective upon publication in accordance with 5 U.S.C. 553(d)(1) because it is a substantive rule granting or recognizing an exemption or relieving a restriction. Specifically, the rule relieves licensees from the requirement to report initial source inventories and source transactions for entry into the National Source Tracking System by the dates for compliance specified in the final rule.

IV. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act (AEA), the Commission is amending 10 CFR part 20 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule will 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 in the final rule on National Source Tracking is 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 data base would be maintained by NRC. The Agreement States are expected to adopt legally binding requirements on their licensees such that all licensees, both NRC and Agreement States, will begin reporting at the same time.

VI. 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 final rule, the NRC is revising the compliance dates for licensees to begin reporting information on source transactions and initial source inventories of nationally tracked sources to the National Source Tracking System. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VII. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

VIII. Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing

requirements were approved by the Office of Management and Budget, approval numbers 3150-0014, 3150-0001, and 3150-0202.

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.

IX. Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because it relieves restrictions and does not impose any regulatory burdens on licensees.

X. Backfit Analysis

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

XI. Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of Office of Management and Budget.

List of Subjects in 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.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 20.

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), Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

2. Section 20.2207 is revised to read as follows:

§ 20.2207 Reports of transactions involving nationally tracked sources.

(h) 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 January 31, 2009. 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 January 31, 2009. The information may be submitted by using any of the methods identified by paragraph (f)(1) through (f)(4) of this section. The initial inventory report must include the following information:

- (1) The name, address, 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 at Rockville, Maryland, this 3rd day of October, 2007.

For the Nuclear Regulatory Commission.

/RA/

William F. Kane,
Acting Executive Director for Operations.

System by January 31, 2009. 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 January 31, 2009. The information may be submitted by using any of the methods identified by paragraph (f)(1) through (f)(4) of this section. The initial inventory report must include the following information:

- (1) The name, address, 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 at Rockville, Maryland, this 3rd day of October, 2007.

For the Nuclear Regulatory Commission.
/RA/

 William F. Kane,
 Acting Executive Director for Operations.

ML072330236

OFFICE	DILR	DILR	MSSA	DILR
NAME	MHorn	MDelligatti	JSchlueter	PBubar
DATE	9/5/2007	9/5/2007	7/9/2007	9/5/2007
OFFICE		ADM	OIS	OGC
NAME	DRathbun	MLesar by memo	MJanney by memo	FCameron NLO
DATE	9/6/2007	8/14/2007	8/14/2007	8/16/2007
OFFICE	FSME	EDO		
NAME	SReynolds for CMiller	William Kane for LReyes		
DATE	9/17/2007	10/03/2007		