

FSME39 - NSTS Amended Requirements in 10 CFR 20.2207

In current 10 CFR 20.2207, reporting to NSTS, the terms "licensee" and "person" are used interchangeably. Unfortunately, the term "person" could refer to a single corporation holding multiple licenses. By using the term "person", a corporation holding multiple licenses from different States is not required to report those transactions in NSTS. FSME/MSSA's expectation is that any time material is switched from one license to another then it should be reported to NSTS. MSSA has discussed this with OGC, and would like this to be considered as a direct final rule in FY12.

This rule scored 26 points (14, 5, 2, 5) because :

- it is a moderate contributor towards the Security Goal and implements Security Goal strategies 1 and 4.
- it is a moderate contributor towards Effectiveness organizational excellence objective and implements Effectiveness Strategy 3.
- it is an indirect contributor to closing a regulatory gap, and the Commission has provided no specific direction or priority for this rule
- there is a substantial interest among licensees and States to clarify this reporting requirement in the regulations.

Start technical basis – 09/11

Tech basis complete – 01/12

FSME40 – PCTE Membranes in 10 CFR 30.15

Following submittal of PRM-30-65 by GE Osmonics in April 2011, the Petition Review Board agreed that the issues identified in the petition should be considered in rulemaking. The petition response is planned for publication in the Federal Register in early 2012. FSME/MSSA is waiting for information from GE Osmonics that would inform the regulatory basis. The petitioner is seeking exempt distribution of its track etch membranes that have been irradiated with mixed fission products as part of the membrane production process.

This rule scored 16 points (6, 3, 2, 5) because:

- it is a low contributor to the Safety Goal;
- it is a low contributor to the Openness organizational excellence objective;
- there is interest in this rule in three States where the petitioner has operations; and
- there is substantial interest by the petitioner, whose operations in Texas are shut down, pending resolution of the regulatory change and submittal of the license amendment.

Start technical basis – TBD

Tech basis complete – TBD

FSME41 – Prompt Remediation

This is a follow-up to the Decommissioning Planning Rule, with the development of the regulatory basis specified in SRM-SECY-07-0177, dated 12/10/2007. A public webinar was held July 25, 2011, to gather information supporting the draft regulatory basis to address prompt remediation of residual radioactivity during the operational phase of licensed material sites and nuclear reactors.

This rule scored 27 points (7, 5, 10, 5) because:

- it is a moderate contributor to the Safety Goal and implements Safety Goal strategy 6;
- it is a moderate contributor to the Effectiveness organizational excellence objective and implements Effectiveness strategies 1 and 6;
- SRM-SECY-07-0177 provides Commission direction to prepare this regulatory basis; and
- there is significant interest in this rule from industry and stakeholders.

Start technical basis – 06/2011.

Tech basis complete - 04/2012.

FSME42 – Revision to Part 32 to Allow Emergent Technologies

This regulatory basis would consider a revision to Part 32 to allow specific licensees to distribute either exempt or generally licensed items using criteria not specific to a particular device. This proposed revision to the Part 32 regulations would be similar to the requirements in 10 CFR 35.1000 designed for emergent medical technologies. Such a modification to Part 32 would allow the agency to efficiently address new emergent technologies that use byproduct material, such as tritium batteries, without the need to amend the regulations for each new specific use.

This rule scored 14 points (2, 8, 2, 2) because:

- it is a less substantial contributor to the Safety Goal.
- it is a moderate contributor to the Effectiveness organizational excellence objective and implements Effectiveness strategies 1 and 7.
- the regulatory basis is an outgrowth of the needs of the FSME/MSSA licensing branch who have received several license applications for different products that can be grouped as emergent technologies..
- it is a moderate contributor to reducing regulatory burden on licensees and staff.

Start technical basis – 08/12.

Tech basis complete – 08/13.

FSME43 – Cyber Security for Byproduct Material Licensees

This regulatory basis is in an early planning phase. FSME/SMPB plans to prepare a Commission paper on the topic and then proceed based on the SRM.

This rule scored 20 points (12, 5, 1, 2) because it is:

- a moderate contributor to the Security Goal and implements Security strategy 1;
- a moderate contributor to the Effectiveness organizational excellence objective and implements Effectiveness Strategy 1;
- an indirect contributor to closing a regulatory gap in cyber security for byproduct material licensees, and the Commission has provided no specific direction or schedule for the rule; and
- a significant interest of DHS, which may appoint a cyber-security czar to oversee Federal cyber-security regulation, and the NRC needs to establish its regulatory jurisdiction before DHS to avoid dual regulation.

Start technical basis – 08/12

Tech basis complete – 08/13

FSME45 – Cyber Security for Fuel Facilities

This regulatory basis is in an early planning phase.

This rule scored 20 points (12, 5, 1, 2) because:

- It is a moderate contributor to the Security Goal and implements Security strategy 1;
- It is a moderate contributor to the Effectiveness organizational excellence objective and implements Effectiveness Strategy 1;
- The Commission has provided no specific direction or schedule for the rule; and
- DHS has significant interest, and may be appointing a cyber-security czar to oversee Federal cyber-security regulation. The NRC needs to establish its regulatory jurisdiction before DHS to avoid dual regulation.

AH18 – Controlling the Disposition of Solid Materials

SRM-SECY-02-0133, dated 10/25/02, directed staff to proceed with a proposed rule. A public workshop to discuss the issues in the rule and the preliminary draft EIS were noticed on 2/28/03 (68 FR 9595). SECY-03-0312 (OUO) provided alternatives, with SRM-SECY-03-0312 dated 5/4/04 (OUO). The Commission disapproved the draft proposed rule package dated 3/31/2005. The Commission's decision was based on the fact that the agency is faced with several high priority and complex tasks, that the current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning. The Commission has deferred action on this rulemaking.

This rule scored 24 points (13, 7, 2, 2) because it is:

- a moderate contributor to the Safety Goal and implements Safety Goal strategy 5.
- a moderate contributor to the Effectiveness organizational effectiveness objective and implements Effectiveness strategies 1 and 5.
- an indirect contributor to closing regulatory gaps with States and the EPA, and the Commission has provided no recent specific direction or schedule for the rule since the direction to defer it.
- a moderate contributor to the consideration of public interest and media coverage for this rule.

Proposed rule to Commission – 09/15.

AI29 – Expansion of National Source Tracking System

The proposed rule would amend the Commission's regulations to expand the current National Source Tracking System (NSTS) to include certain additional sealed sources at IAEA Category 3 threshold values (73 FR 19749; 4/11/2008). In SRM-SECY-09-0086 (6/30/2009), the Commission was unable to reach a decision on the staff's recommendation to publish the final rule and, therefore, the recommendation was not approved. The program office (FSME/MSSA) has a continued interest in this rulemaking, because ... (Don't we need to explain why for an adequate defense of our continued interest, especially since this RM wasn't approved in '09? Has anything happened to change the Commission's mind since then?).

This rule scored 22 points (10, 5, 6, 1) because:

- it is a moderate contributor to the Security Goal and implements Security strategy 1.
- it is a moderate contributor to the Effectiveness organizational excellence objective and implements Effectiveness Strategy 6.
- the Commission has provided specific direction on this topic with no schedule for the rule.
- it is an indirect contributor toward addressing industry and State interest in the NSTS.

Re-proposed rule to the Commission – 09/14

FSME44 –Assured Isolation facilities (AIFs)

This effort responds to an SRM dated January 29, 2004, addressing SECY-03-0223, "Rulemaking Plan: Assured Isolation Facilities," dated December 24, 2003. In the SRM, the Commission directed the staff to "defer rulemaking on assured isolation facilities at this time and to annually review the need for further action in this area. The annual review should include not only the need for potential rulemaking associated with assured isolation facilities but also the potential need for rulemaking and/or regulatory guidance for long term storage of low-level radioactive waste in general." In a Commission paper (ML113120130) that was in draft form in December 2011, FSME/DWMEP reaffirmed staff's previously stated position that rulemaking related to extended low-level radioactive waste (LLRW) storage is unnecessary.

This rule scored 3 points (1, 1, 1, 0) because:

- it is an indirect contributor to the Safety Goal;
- it is an indirect contributor to the Openness organizational excellence objective;
- it is an indirect contributor to prior Commission direction and the Commission has provided no specific direction or schedule for the rule, and the program Office does not support the rule; and.
- there is no external interest for this activity.

Start technical basis – 09/15