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TITLE: PR-032 - 60FR03735 - REQUIREMENT TO REPORT
TRANSFERS OF DEVICES TO GENERALLY LICENSED
PERSONS

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60FR03735

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STATUS OF RULEMAKING

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PROPOSED RULE FED REG CITE:	60FR03735		
PROPOSED RULE PUBLICATION DATE:	01/19/95	NUMBER OF COMMENTS:	0
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NOTES ON:	FINAL RULE SIGNED BY EDO. FILE LOCATED ON P1.		
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HISTORY OF THE RULE

PART AFFECTED: PR-032			
RULE TITLE: REQUIREMENT TO REPORT TRANSFERS OF DEVICES TO GENERALLY LICENSED PERSONS			
PROPOSED RULE SECY PAPER:	PROPOSED RULE SRM DATE:	/ /	DATE PROPOSED RULE SIGNED BY SECRETARY: / /
FINAL RULE SECY PAPER:	FINAL RULE SRM DATE:	/ /	DATE FINAL RULE SIGNED BY SECRETARY: 03/23/95

STAFF CONTACTS ON THE RULE

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DOCKET NO. PR-032
(60FR03735)

In the Matter of
REQUIREMENT TO REPORT TRANSFERS OF DEVICES TO
GENERALLY LICENSED PERSONS

DATE DOCKETED	DATE OF DOCUMENT	TITLE OR DESCRIPTION OF DOCUMENT
01/17/95	01/05/95	FEDERAL REGISTER NOTICE - FINAL RULE

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Original sent to the
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DOCKET NUMBER
PROPOSED RULE PR 32
(60FR 03735)

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USNRC [7590-01-P]

NUCLEAR REGULATORY COMMISSION

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10 CFR Part 32

RIN 3150-AF26

OFFICE OF SECRETARY
DOCKETING & SERVICE
PR 32

Requirement to Report Transfers of Devices
to Generally Licensed Persons

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing the reporting of transfers of devices to generally licensed persons. The amendments relieve initial distributors of the devices from their requirement to provide copies of the transfer reports to each appropriate NRC Regional Office. Because the reports are already sent to NRC Headquarters, it is not necessary for each Regional office to receive copies. These amendments would reduce the administrative burden on the initial distributors.

EFFECTIVE DATE: December 31, 1994.

FOR FURTHER INFORMATION CONTACT: John W. Lubinski, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7868.

Pub. 1/19/95
(60FR 3735)

SUPPLEMENTARY INFORMATION:

Background

Each person licensed to initially transfer devices to persons generally licensed under 10 CFR 31.5 or 31.7 is required, in part, to send a report of all transfers of devices to generally licensed persons to the Director, Office of Nuclear Material Safety and Safeguards (NMSS), with a copy of the report to each appropriate Regional Office. The reports are required to either be submitted on a quarterly basis in accordance with 10 CFR 32.52 or on annual basis in accordance with 10 CFR 32.56. The general licensees are not required to report receipt of the devices. Therefore, the reports from the distributors are the only notification to NRC concerning who is using byproduct material under the general license. The information is required to be submitted so that NRC is aware of the identity of all persons using byproduct material under a general license.

Discussion

NMSS is maintaining a computerized database at NRC Headquarters which contains the information provided in the transfer reports submitted in accordance with 10 CFR 32.52 and 32.56. The database allows the NRC staff to query specific information about the general licensees and the devices they possess and to print standard and custom reports. Information from the database allows the NRC staff to locate information without sifting through each report submitted by the distributors. The information in the database is

available to all NRC personnel who request it from the database administrator.

Specific information from the reports required by 10 CFR 32.52 or 32.56 is more useful to NRC Regional staff because it is generated from the computerized database. Therefore, it is not necessary for vendors to provide copies of the reports to the Regional Offices. It is only necessary for the initial distributor to continue to provide the reports to NRC Headquarters through the Director, NMSS.

Changes in the Regulations

Paragraph (a), under 10 CFR 32.52 "Same: Material transfer reports and records," and 10 CFR 32.56 "Same: Material transfer reports," require, in part, that the initial distributors of generally licensed devices provide copies of the reports of transfer to general licensees to each appropriate NRC Regional Office. This regulation is being amended to remove this requirement. The distributors will only be required to submit copies to the Director, NMSS.

These amendments are exempt from the notice and comment requirements of section 553 of the Administrative Procedure Act (APA). The general rulemaking provision of the APA, §553(b)(A), permits an agency to issue procedural rules without prior notice since such rules do not alter any person's substantive rights. These amendments fall within the exemption provided by the APA because they address the administrative procedures used by the NRC to process reports received pursuant to 10 CFR 32.52 and 32.56 and will not affect the public health and safety.

Waiver of Administrative Procedure Act Requirements

Because these amendments deal with agency practice and procedure, the notice and comment provisions of the APA do not apply pursuant to 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments address the administrative procedures used by the NRC to process reports received from licensees. The change provides for a decrease in the number of reports the distributors must submit and will not affect public health and safety.

Compatibility of Agreement State Regulations

10 CFR 32.52 and 32.56 are currently designated Division II matters of compatibility for Agreement State regulations. The revisions addressed in this rule deal solely with a reduction in the administrative burden on those licensees (initial distributors) required to send reports to the NRC for the transfer of devices for use by persons generally licensed under 10 CFR 31.5 or 31.7. The rule does not affect the current compatibility designations and therefore, 10 CFR 32.52 and 32.56 continue to be designated as Division II matters of compatibility.

Environmental Impact: Categorical Exclusion

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

been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends the information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150-0001.

The public reporting burden will be reduced as a result of this rule change. It is estimated that the average annual reduction in burden to each licensee distributing devices in accordance with 10 CFR 32.52 will be 1.2 hours per year. This represents a reduction in the time needed to copy and mail reports. The average annual reduction in burden to each licensee distributing devices in accordance with 10 CFR 32.56 will be negligible. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for further reducing this burden, to the Information and Records Management Branch (T6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0001), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The NRC has not prepared a regulatory analysis for this final regulation since the change is only administrative in nature and represents a reduction in burden to all affected licensees.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 32

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

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 32.

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

1. The authority citation for 10 CFR 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).

2. In §32.52, paragraph (a) is revised to read as follows:

§32.52 Same: Material transfer reports and records.

* * * * *

(a) Report to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, all transfers of such devices to persons for use under the general license in §31.5 of this chapter. Such reports must identify each general licensee by name and address, and individual by name and/or position who may constitute a point of contact between the Commission and the general licensee, the type of device transferred, and the quantity and type of byproduct material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under §31.5 of this chapter during the reporting period, the report must so indicate. The report must cover each calendar quarter and must be filed within 30 days thereafter.

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3. In §32.56, paragraph (a) is revised to read as follows:

§32.56 Same: Material transfer reports.

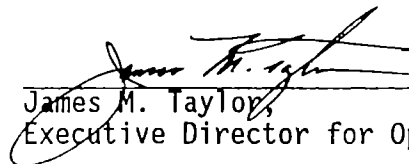
Each person licensed under §32.53 shall file an annual report with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, which must state the total quantity of tritium or promethium-147 transferred to persons generally licensed under §31.7 of this chapter. The report must identify each general licensee by

name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. Each report must cover the year ending June 30 and must be filed within thirty (30) days thereafter.

* * * * *

Dated at Rockville, Maryland, this 5th day of January, 1995.

For the Nuclear Regulatory Commission.


James M. Taylor,
Executive Director for Operations.