

November 18, 2004

MEMORANDUM TO: Joseph G. Giitter, Chief  
Special Projects Branch  
Division of Fuel Cycle Safety  
and Safeguards

THRU: Brian W. Smith, Chief /RA/  
Gas Centrifuge Facility Licensing Section  
Special Projects Branch, FCSS

FROM: Timothy C. Johnson /RA/  
Senior Project Manager  
Gas Centrifuge Facility Licensing Section  
Special Projects Branch, FCSS

SUBJECT: NOVEMBER 10, 2004, MEETING SUMMARY: LOUISIANA ENERGY  
SERVICES MEETING

On November 10, 2004, U.S. Nuclear Regulatory Commission (NRC) staff met with staff from Louisiana Energy Services (LES) to discuss foreign ownership, control, or influence; International Atomic Energy Agency safeguards; and transportation security issues applicable to the LES gas centrifuge uranium enrichment plant project proposed to be located in Eunice, New Mexico. I am attaching the meeting summary for your use. This summary contains no sensitive or classified information.

Docket: 70-3103

Attachment: Louisiana Energy Services  
Meeting Summary

cc:	William Szymanski/DOE Monty Newman/Hobbs Peter Miner/USEC Glen Hackler/Andrews Dennis Holmberg/Lea County Michael Marriotte/NIRS Derrih Watchman-Moore/NM Tannis Fox/NMED Lindsay Lovejoy/NIRS	Claydean Claiborne/Jal James Curtiss/W&S Betty Richman/Tatum John Parker/New Mexico Richard Ratliff/Texas Jerry Clift/Hartsville Joseph Malherk/PC Patricia Madrid/NMAG	Rod Krich/LES Troy Harris/Lovington James Ferland/LES James Brown/Eunice Lee Cheney/CNIC CO'Claire/Ohio Ron Curry/NMED Glen Smith/NMAG
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VMitlyng/RegIII	Hearing file	LES Website-YES	

**ML043240259 (Package)**    **ML043240265 (Memo)**    **ML043280277(Attachment)**

OFC	GCFLS		GCFLS		NSIR		NSIR		GCFLS	
NAME	TCJohnson:os	LMarshall	KEverly	BMoran	MLayton				BSmith	
DATE	11/15/04	11/16/04	11/17/04	11/17/04	11/18/04				11/18/04	

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Summary of  
Louisiana Energy Services Meeting on Foreign Ownership, Control or Influence;  
International Atomic Energy Agency Safeguards; and Transportation Security

Dates: November 10, 2004

Place: U.S. Nuclear Regulatory Commission (NRC) offices  
Rockville, MD

Attendees: See Attachment 1

Purpose:

The purpose of this meeting was to discuss foreign ownership, control, or influence (FOCI); International Atomic Energy Agency (IAEA) safeguards; and transportation security issues applicable to the proposed Louisiana Energy Services (LES) gas centrifuge uranium enrichment plant project. The meeting agenda is in Attachment 2.

Discussion:

After introductions, Mr. Keith Everly of NRC led the discussions on FOCI issues. On October 27, 2004, NRC staff had transmitted to LES several requests for additional information (RAIs). The LES had provided a package of FOCI information, which NRC had provided to the U.S. Department of Energy (DOE) for their review. DOE performs these reviews for NRC in accordance with an NRC/DOE Memorandum of Understanding. The DOE reviews are performed in accordance with DOE Orders. The objective of the review is to ensure that classified information generated in the United States (U.S.) is protected from disclosure to foreign entities. Where foreign ownership is a concern, DOE wants to ensure that the foreign entities are not fronts for terrorists.

LES staff acknowledged that it is substantively owned and controlled by Urenco, a company owned by interests in the United Kingdom, The Netherlands, and Germany. In this case, classified information belonging to these three countries is being provided to the U.S. in accordance with a Quadripartite Agreement between the U.S. and the three countries that addresses the transfer of classified information for the LES project.

In the discussion, LES staff questioned the DOE review, indicating that this case is not the routine review situation in which U.S. classified information is being used by DOE contractors and that the Quadripartite Agreement covers information transfer between countries. LES also acknowledged that the FOCI review applied only for its proposed enrichment facility operations in New Mexico.

Based on the above discussion, it was agreed that DOE staff would re-assess its RAIs with follow-up discussions with NRC staff.

Mr. Bruce Moran of NRC then discussed the status of discussions with IAEA on implementing a safeguards inspection program at centrifuge enrichment plants in the United States (see Attachment 3). He indicated that he appreciated the support from Urenco on a site visit to Urenco's Capenhurst facility in the United Kingdom. Mr. Moran noted that IAEA safeguards

inspections at the Capenhurst site have been conducted for 20 years. He stated that the U.S. has added the LES facility to its IAEA inspection eligibility list and expected that IAEA would select the site for IAEA inspections. These inspections would occur during construction and operation to ensure verification of design information, accountability of materials produced, and ensure that no undeclared production of low and high enriched uranium occurs at the site.

LES staff indicated that it appreciated the opportunity to participate in the IAEA safeguards inspections, and it intends to use the same techniques currently being used to address this issue at Capenhurst. LES staff indicated that it looks forward to beginning discussions with IAEA on the inspections and stated that it will be ready to start these talks early next year. LES staff agreed that it is acceptable to provide the general information in the facility safety analysis report in Section 1.1 to IAEA staff for preliminary discussions between NRC and IAEA.

Mr. Moran indicated that the U.S. needs to provide to IAEA preliminary and final questionnaires on the facility 180 days prior to construction and receipt of licensed material, respectively. He also said that there are upcoming IAEA meetings the week of November 15, 2004, and in May or June 2005 during which the LES facility would be discussed.

In the area of transportation security, Mr. Mike Layton of NRC indicated that LES based its transportation security information on Regulatory Guide 5.59, "Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." However, this document has not been updated to reflect more recent rulemakings in the transportation area. Consequently, additional information needs to be provided. Mr. Layton and his staff are preparing a set of RAIs that will address this area. He also provided a matrix showing the differences in the new and old requirements (see Attachment 4).

LES staff requested that NRC set up a conference call to discuss the detailed comments prior to transmittal of the RAI package. NRC staff agreed.

#### Action Items

1. NRC staff to further discuss FOCI issues with DOE and revise the RAIs as needed.
2. NRC staff to prepare RAI package on transportation security and conduct a conference call with LES prior to transmittal.

#### Attachments

1. Attendee list
2. Meeting agenda
3. IAEA safeguards handouts
4. Transportation security matrix

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**LES Meeting on FOCI, IAEA Safeguards, and Transportation Security**  
**November 10, 2004**

Name	Affiliation	Telephone Number	Email Address
TC Johnson	NRC	301-415-7299	TCJ@NRC.GOV
RAY Holmer	DOE / SD-20.2	301-903-7325	raymond.holmer@hq.doe.gov
Bruce W. Moran	NRC / NSIR / DNS	301-415-7871	bwm@nrc.gov
Michael Layton	NRC / NSIR / DNS	301-415-5751	mcl@nrc.gov
SKIP YOUNG	NRC / NSIR / DNS	301-415-6396	FIY@NRC.GOV
Timothy E. Lambright	Lux/Lambright Green	864-599-4303	+Lambright@jic.com
Dan Green	EXCEL	979-568-2270	dgreen@l.excel.com
Jim Curtiss	Winston & Strawn	(202) 371-5751	J.CURTISS@Winston.com
R. Knobrich	IES	630-657-2813	raknobrich@exeloncorp.com
YAWAR FAZAL	NRC / FCSS	301-415-8113	y-f@nrc.gov
ANDREA JENNETH	INSA Inc.	202-547-8300	ajennetha@innu.co
Daniel Horne	McGraw-Hill	202-3583-2164	daniel_horne@plst.com
James Silivrius	NRC / NSIR / ISS	301-415-2214	als@nrc.gov
Kerry L. Givens	NRC / NSIR / ISS	301-415-7048	JKG@nrc.gov
Dave McIntyre	NRC / OPA	301-415-8206	dmc@nrc.gov
Lisa Clark	NRC	301-415-1571	LBC@nrc.gov
Chris Graves	NRC / NSIR / FCSS	301-415-6525	DCG@NRC.GOV

**LES Meeting on FOCI, IAEA Safeguards, and Transportation Security**  
**November 10, 2004**



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

MEETING NOTICE

Applicant: Louisiana Energy Services  
Suite 610  
2600 Virginia Avenue, NW  
Washington, DC 20037

Docket: 70-3103

Date and Time: November 10, 2004; 2:00 P.M.

Location: U.S. Nuclear Regulatory Commission  
One White Flint North, Room O8B4  
11555 Rockville Pike  
Rockville, Maryland 20852

Purpose: To discuss International Atomic Energy Agency safeguards; foreign ownership, control, and influence; and transportation security issues related to the Louisiana Energy Services application for a gas centrifuge uranium enrichment facility proposed to be constructed in Eunice, New Mexico. The transportation security portion of the meeting will be closed to the public.

NRC Attendees: J. Giitter, B. Smith, T. Johnson, B. Moran, K. Everly, L. Clark, and project staff

Other Attendees: R. Krich/LES and LES project staff

Contact: T. Johnson; 301-415-7299; tcj@nrc.gov

Category: Category 1 Meeting: The public is invited to observe this meeting and will have one or more opportunities to communicate with the NRC after the business portion, but before the meeting is adjourned.

NOTE: NRC Meetings are open for interested members of the public to attend pursuant to the "Enhanced Public Participation in NRC Meetings; Policy Statement," 67 *Federal Register* 36920, May 28, 2002.

Attachment: Meeting agenda

cc:	James Curtiss/W&S Peter Miner/USEC Dennis Holmberg/Lea County Betty Rickman/Tatum William Floyd/NM Derrith Watchman-Moore/NM Jerry Clift/Hartsville Tannis Fox/NMED Lindsay Lovejoy/NIRS	James Ferland/LES William Szymanski/DOE Claydean Clairborne/Jal Monty Newman/Hobbs Richard Ratliff/Texas Michael Marriotte/NIRS Joseph Malherrek/PC Patricia Madrid/NMAG	Rod Krich/LES James Brown/Eunice Troy Harris/Lovington Glen Hackler/Andrews Carol O'Claire/Ohio Lee Cheney/CNIC Ron Curry/MNED Glen Smith/NMAG
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Louisiana Energy Services Meeting Agenda  
November 10, 2004

Purpose/Introductions

International Atomic Energy Agency Safeguards Issues

Foreign Ownership, Control, or Influence Issues

Transportation Security Issues (Closed to the Public)

Questions and Answers

**International Safeguards  
Obligations Affecting  
the LES National Enrichment  
Facility**

Bruce W. Moran, Senior International  
Safeguards Technical Analyst,  
NRC/NSIR/DNS  
November 10, 2004

**US-IAEA Safeguards Agreement**

- Safeguards Agreement entered into force in December 1980
- All U.S. facilities not of direct national security significance to be placed on list of U.S. facilities eligible for IAEA inspections
- 19 U.S. facilities have been selected from the Eligible Facilities List, at some time

**Hexapartite Approach**

- U.S. Government participated in Hexapartite Safeguards Project (1980-83)
  - Australia, Germany, Japan, Netherlands, UK, and US, with Euratom and IAEA (as observers)
  - Safeguards approach designed to protect proliferation sensitive centrifuge enrichment design information
  - IAEA verification using Limited Frequency- Unannounced Access (LFUA) approach

### Hexapartite Agreement

- Formal exchange of letters between governments
  - Implement LFUA at centrifuge plants existing, planned, or under consideration
  - Place centrifuge facilities under IAEA safeguards
- IAEA commitment to apply safeguards to centrifuge plants in U.K. and U.S.
- 20 years IAEA experience with centrifuge plants in Capenhurst, Gronau, and Almelo, as well as Japanese centrifuge plants

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### Hexapartite Commitments

- U.S. committed to place gas centrifuge enrichment plant on Eligible Facilities List one year before nuclear material received.
- U.S. and IAEA committed to maintain safeguards on gas centrifuge enrichment plant and not remove from safeguards inspections
- DOE determined that a gas centrifuge enrichment plant was not of direct national security significance and could be placed on Eligible Facilities List

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### GCEP

- The Portsmouth Gas Centrifuge Enrichment Plant (GCEP) was selected for IAEA inspections in 1983
- IAEA safeguards verification inspections were conducted from 1983 through facility shutdown in 1985
  - Design information verification
  - Material accountancy
  - Undeclared production of HEU

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### Pressures

- U.S. is urging other countries to meet safeguards commitments for centrifuge enrichment plants
- IAEA safeguarded centrifuge enrichment plants in China, Japan, U.K., Germany, The Netherlands, Brazil
- Safeguards implementation difficulties in Brazil
- Controversial centrifuge enrichment program in Iran
- Undeclared centrifuge enrichment programs discovered in North Korea, Iraq, and Libya
- Centrifuge enrichment in Pakistan outside NPT

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### Status

- USG Inter-Agency Meetings
- American Centrifuge Lead Cascade and National Enrichment Facility Added to Eligible Facilities List in October 2004
- American Centrifuge Plant to be Added when List Next Updated
- US-IAEA Discussions

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### Additional Protocol

- Additional Protocol to the U.S.-IAEA Safeguards Agreement approved by Senate
- General description of all buildings on designated site of facility selected from Eligible Facilities List
- Protection of proliferation sensitive, export controlled, and proprietary information is a common issue for all enrichment plants

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## Actions

- Provide General Facility Description to IAEA
- Coordinate with IAEA on priorities and schedule for selection and interactions
- Begin IAEA-USG-LES coordination
  - Urenco baseline
- Preliminary Design Information Questionnaire 180 days before construction begins
- Final Design Information Questionnaire 180 days before nuclear material received

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**10 CFR 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.**

**73.67(c) submission, record retention, revision, and implementation of security plans**

73.67(c) Each licensee who transports or delivers to a carrier for transport 10 kg or more of special nuclear material of low strategic significance shall

	REGULATORY REQUIREMENTS	REGULATORY GUIDE 5.59/ CONTENT*
73.67 (c) (1)	Submit a security plan describing how the licensee will comply with all the requirements of paragraph (g) including schedules of implementation.  Retain a copy of the effective security plan as a record for 3 years after the period ends when the licensee possesses SNM under each license for which the original [security] plan was submitted.	NA  NA
	Retain a copy of any superseded [security plan] material for 3 years after each change [to the plan].	NA
73.67	Implement the security plan within 30 days of NRC approval of the plan or when specified by the NRC in writing.	NA

**73.67 (g) In-transit requirements for special nuclear material of low strategic significance**

73.67 (g) (1) Each licensee who transports or who delivers to a carrier for transport SNM-LSS shall

**5. Material transportation requirements**

73.67 (g) (1) (i)	(i) Provide advance notification to the receiver specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier, and transport identification	<b>5.1 Advanced Notification</b> The licensees should ensure that prior to each shipment, the receiver will be notified of the impending shipment and provided the following types of information: the mode of transport (truck, train, plane, ship), estimated time of arrival,
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		location of the nuclear material transfer point, name of carrier, and transport identification (e.g., truck, train, flight number; ship name)
73.67 (g) (1) (ii)	(ii) Receive confirmation from the receiver prior to commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport	<u>5.2 Receiver Confirmation</u> Describe what procedures will be used to ensure that shipment does not take place until the receiver acknowledges the planned shipment and mode of transport and readiness to accept the shipment at the planned time and location
73.67 (g) (1) (iii)	(iii) Transport the material in a tamper indicating sealed container	<u>5.3 Container</u> Describe the types of seals that will be used to secure the material's container during transport.
73.67 (g) (1) (iv)	(iv) Check the integrity of the containers and seals prior to shipment	<u>5.4 Inspection</u> Describe the procedures to be used to ensure that the integrity of the containers or seals is checked just prior to shipment.
73.67 (g) (1) (v)	(v) Arrange for the in-transit physical protection in accordance with the requirements of 73.67(g)(3), unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.	<u>5.5 Responsibility for In-Transit Physical Protection</u> In its security plan, the shipper should either acknowledge responsibility for the in-transit physical protection of SNM-LSS or ensure that a written agreement from the receiver has been received in which the receiver accepts either full responsibility or shared responsibility for the in-transit physical protection of this material in accordance with paragraph 73.67(g)(3) of 10 CFR Part 73.

73.67 (g) (2) Each licensee who receives SNM-LSS shall

#### 6. Receiver Requirements -- Transportation

73.67 (g) (2) (i)	(i) Check the integrity of the containers and seals upon receipt of the shipment	<u>6.1 Inspection</u> Describe the procedures to be used to ensure that the integrity of the containers and seals will be checked upon receipt of the material shipment.
73.67 (g) (2) (ii)	(ii) Notify the shipper of receipt of the material as required in 74.15 [NOTE: Regulation needs to be updated and should refer to § 74.15; vice § 70.54] [May need to address as an NRC-identified exemption per § 73.5]	<u>6.2 Notification</u> Ensure that a completed copy of Form DOE/NRC Form741, "Nuclear Material Transaction Report," will be sent to the shipper, using a mutually agreeable method, within 10 days after a material shipment has been received as required in §74.15.

	[Intent: Reference to applicant's compliance with its Fundamental Nuclear Material Control Plan and § 74.15 will satisfy (g)(2)(ii).]	
73.67 (g) (2) (iii)	(iii) Arrange for the in-transit physical protection of SNM-LSS, IAW § 73.67(g)(3), unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection	<p><b>6.3 Responsibility for In-Transit Physical Protection</b></p> <p>In its security plan, the receiver should either acknowledge responsibility for the in-transit physical protection of SNM-LSS or ensure that a written agreement from the shipper has been received in which the shipper accepts either full responsibility or shared responsibility for the in-transit physical protection of this material in accordance with paragraph 73.67(g)(3) of 10 CFR Part 73.</p>

73.67 (g) (3) Each licensee, either shipper or receiver, who arranges for the in-transit physical protection shall

#### 7. In-Transit Physical Protection Requirements

73.67 (g) (3) (i)	<p>(i) Establish and maintain response procedures for dealing with threats or thefts of this material</p> <p>Retain a copy of the current response procedures as a record for 3 years after the period ends when the licensee possesses SNM under each license for which the security procedures were established.</p> <p>Retain a copy of any superseded [response procedure] material for 3 years after such changes [to the procedures].</p>	<p><b>7.1 Response Procedures</b></p> <p>Identify those events for which response procedures will be developed. Also describe the type of response to be accomplished for each event identified and the duties and responsibilities of the security organization and management involved in the response. Ensure that the NRC will be notified immediately in the event of theft or attempted theft of the material.</p> <p>NA</p> <p>NA</p>
73.67 (g) (3) (ii)	(ii) Make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination	<p><b>7.2 Notification</b></p> <p>Describe the arrangements and procedures that will be used for notifying the licensee who arranges for the physical protection of material in transit (1) of the arrival of the shipment at its destination or (2) of any such shipment that is lost or unaccounted for after the estimated time of arrival</p>

		at its destination.  [Intent: Notification of shipment arrival should be made by a notification other than the § 74.15 notification]
73.67 (g) (3) (iii)	(iii) Conduct immediately a trace investigation of any shipment that is lost or unaccounted for and notify the NRC Operations Center within one hour after the discovery (and recovery) in accordance with 73.71	<b>7.3 Lost Material Notification</b> Describe what procedures will be used to trace any shipment that is lost or has not arrived by the estimated arrival time. Ensure that all lost or missing material will be immediately reported to the NRC Operations Center per § 73.71, along with what actions are being taken to trace the shipment, and that the shipper or receiver, as appropriate, will also be notified.

73.67 (g) (4) Each licensee who exports SNM-LSS shall

73.67 (g) (4)	Comply with the appropriate requirements specified in paragraphs (c) and (g) (1) and (3) of this section  Retain a copy of the records required by these sections [regarding export shipments] for 3 years after the period ends when the licensee possesses SNM under each license for which authorized the export of material.  Retain a copy of any superseded [export record] material for 3 years after each change [to an export record].	<b>8. Export Requirements</b>  Using Chapters 5, "Material Transportation Requirements [73.67(g)(1)]," and 7, "In-Transit Physical Protection Requirements [73.67(g)(3)]," of Part II of this Standard Format, describe the security procedures that will be used to protect the material up to the point where the receiver accepts physical protection responsibility for the shipment.  NA  NA
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73.67 (g) (5) Each licensee who imports SNM-LSS shall

73.67 (g) (5) (i)	(i) Comply with the requirements specified in paragraphs (c) and (g) (2) and (3) of this section	<b>9. Import Requirements</b>  <b>9.1 Security Requirements</b> Using Chapters 6, "Receiver Requirements—Transportation [73.67(g)(2)]," and 7, "In-Transit Physical Protection Requirements [73.67(g)(3)]," of Part II of this Standard Format, describe the security procedures that will be used to protect the material from the first point where the shipment is picked up.
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	Retain a copy of the records required by these sections [regarding export shipments] for 3 years after the period ends when the licensee possesses SNM under each license for which authorized the import of material.	NA
	Retain a copy of any superseded [export record] material for 3 years after each change [to an import record].	NA
73.67 (g) (5) (ii)	(ii) Notify the person who delivered the material to a carrier for transport of the arrival of such material	<u>9.2 Notification</u> Describe the procedures to be used for notifying the exporter of the material that the shipment was received.

### 73.71 Reporting of safeguards events

73.71 (a)(1)	Each licensee subject to the provisions of 73.67(g) shall notify the NRC Operations Center within one hour after discovery of the loss of any SNM shipment, and within one hour after recovery of or accounting for such lost shipment.	NA
73.71 (a)(2)	This notification must be made via the Emergency Notification System, if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the notification via commercial telephonic service or other dedicated telephonic system [301-816-5100] or any other methods that will ensure that a report is received by the NRC Operations Center within one hour.	NA
73.71 (a)(3)	The licensee shall, upon request to the NRC, maintain an open and continuous communication channel with the NRC Operations Center.	NA
73.71 (a)(4)	The initial telephonic notification must be followed within a period of 60 days by a written report. In addition to the addressees specified in 73.4, the licensee shall also provide a copy addressed to the Director, NSIR/DNS.	NA
73.71 (a)(5)	Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written	NA

	report must be telephonically reported to the NRC Operations Center and also submitted in a revised written report (with the revisions indicated) to the Regional Office and the Document Control Desk.	
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73.71 (b)(1)	Each licensee subject to the provisions of 73.67 shall notify the NRC Operations Center within 1 hour of discovery of the safeguards events described in paragraph I(a)(1) of appendix G	NA
73.71 (b)(2)	This notification must be made in accordance with the requirements of paragraphs (a)(2), (3), (4), and (5) of this section	NA

## Appendix G to Part 73 – Safeguards Event Reporting

Each licensee subject to 73.67 shall report the following safeguards events within 1 hour:

I.(a)(1)	Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a credible threat to commit or cause a theft or unlawful diversion of SNM	NA
I.(b)	An actual entry of an unauthorized person into a transport	NA
I.(c)	Any failure, degradation, or discovered vulnerability in a safeguard system that could allow unauthorized or undetected access into a transport	NA
I.(d)	The actual or attempted introduction of contraband into a transport	NA

Each licensee subject to 73.67 shall record within 24 hours of discovery in the safeguards event log the following safeguards events:

II.(a)	Any failure, degradation, or discovered vulnerability in a safeguard system that could have allowed unauthorized or undetected access into a transport, had compensatory measures not been established	NA
II.(b)	Any other threatened, attempted, or committed act not previously defined in Appendix G with the potential for reducing the effectiveness of the safeguards system below that committed to in a licensed physical security or	NA

	contingency plan or the actual conditions of such reduction in effectiveness	
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#### 74.11 Report of loss or theft or attempted loss or theft or unauthorized production of SNM

##### 74.11(c) duplicate reports

74.11(c)	Reports required under § 73.71 [regarding loss or theft or attempted loss or theft during transport] need not be duplicated under the requirements of this section.	Duplicate reports are not required
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#### 73.73 Requirement for advance notice and protection of export shipments of SNM-LSS.

##### 73.73 (a) A licensee authorized to export SNM-LSS shall:

73.73 (a)(1)	Notify in writing the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, using any appropriate method listed in § 73.4	NA
73.73 (a)(2)	Assure that the notification will be received at least 10 days before transport of the shipment commences at the shipper's facility	NA
73.73 (a)(3)	Include the following information in the notification: (i) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s); (ii) A physical description of the shipment (the elements, isotopes, form, etc.); (iii) A listing of the mode(s) of shipment, transfer points, and routes to be used; (iv) The estimated time and date that shipment will commence and that each country along the route is scheduled to be entered; and (v) The estimated time and date of arrival of the shipment at the destination	NA
73.73 (a)(4)	Assure that during transport outside the United States, the shipment will be protected in accordance with Annex I to the Convention on the Physical Protection of Nuclear Material (see appendix E of this part)	NA

**73.74 Requirement for advance notice and protection of import shipments of nuclear material from countries that are not party to the Convention on the Physical Protection of Nuclear Material**

73.74 (a) A licensee authorized to import SNM-LSS from a country not a party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in appendix F of this part) shall

73.74 (a)(1)	Notify in writing the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response	NA
73.74 (a)(2)	Assure that the notification will be received at least 10 days before transport of the shipment commences at the shipper's facility	NA
73.74 (a)(3)	Include the following information in the notification (i) The name(s), address(es) and telephone number(s) of the shipper, receiver, and carrier(s); (ii) A physical description of the shipment (the isotopes, enrichment, quantity, etc.); (iii) A listing of mode(s) of shipment, transfer points, and routes to be used; (iv) The estimated time and date that shipment will commence and that each country along the route is scheduled to be entered; and (v) The estimated time and date of arrival of the shipment at the destination	NA

73.74 (c) A licensee authorized to import from a country not a party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in appendix F of this part) a formula quantity of special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, shall

	assure that during transport outside the United States the shipment will be protected in accordance with Annex I to the Convention on the Physical Protection of Nuclear Material (see appendix E of this part)	NA
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## Appendix E to Part 73--Levels of Physical Protection to Be Applied in International Transport of Nuclear Material

(a) Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(a)(1)	For Category III materials, storage within an area to which access is controlled	NA
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(b) Levels of physical protection for nuclear material during international transport include

(b)(1)	For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility	NA
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\* Regulatory Guide 5.59, as it relates to the security of transportation of SNM-LSS consists of five chapters that address the contents of 73.67(g)(1)-(5). Each chapter provides the text of the respective paragraph of the regulations, discusses the intent of the paragraph, and describes the recommended corresponding contents of the licensee's security plan.

### Comparison of 10 CFR 73.67(g) and Regulatory Guide 5.59 regulatory language

Regulatory Guide 5.59's regulatory language with respect to 73.67(g) is generally in alignment with that in the current regulations. There are the following differences, however:

- sections 73.67 (g)(3)(i), (4), and (5)(i) in Regulatory Guide 5.59 do not contain the requirement (or similar requirement) to: "retain a copy of the current response procedures as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the procedures were established. Copies of superseded material must be retained for three years after each change."
- According to Regulatory Guide 5.59 73.67 (g)(3)(iii) contains: "Conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix A of the action being taken to trace the shipment."

In contrast, current regulations state: "Conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and notify the NRC Operations Center within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accounting for such lost shipment in accordance with the provisions of § 73.71 of this part."

The applicant's plan should indicate that all security event or emergency notifications should be made directly to the NRC Operations Center, not to the Regional Office (as indicated in the RG. Operations Center personnel will make subsequent notifications to NRC Offices, Regions, and other Federal Agencies, as required.