

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Magwood
SUBJECT: COMSECY-14-0020: Revisions to Direct Final Rule:
Safeguards Information - Modified Handling
Categorization Change for Materials Facilities
(RIN 3150-AJ18)

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached X None ___



SIGNATURE

9 July 2014

DATE

Entered on "STARS" Yes X No ___

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 37, 73, and 150

[NRC-2012-0140]

RIN 3150-AJ18

Safeguards Information - Modified Handling Categorization

Change for Materials Facilities Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is proposing to amend its regulations to remove the Safeguards Information – Modified Handling (SGI-M) designation of the security-related information for large irradiators, manufacturer and distributors, and for transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI-M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information for these facilities and the transportation of certain materials would no longer be designated as SGI-M and will be protected under the information protection requirements that apply to other materials licensees that possess category 1 and category 2 quantities of radioactive material.

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DATES: ~~Submit comments on the proposed rule by~~ ~~– Comments on the proposed rule must be received on or before~~ **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. ~~Submit comments~~ ~~specific to the information collections aspects of this proposed rule by~~ **[INSERT DATE 30 DAYS AFTER**

PUBLICATION IN THE FEDERAL REGISTER. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this proposed rule, which the NRC possesses and is publicly available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0140. You may submit comments related to this proposed rule by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0140. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-8342; e-mail: Vanessa.Cox@nrc.gov.

SUPPLEMENTARY INFORMATION:

<http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

For additional information see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

II. Procedural Background

Because the NRC considers this action non-controversial, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*.

The direct final rule will become effective on **[INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** ~~March 19, 2014~~. However, if the NRC receives a significant **and** adverse comment on the proposed rule by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, then the NRC will publish a document to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

A significant **and** adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rules underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

Comment [JJ1]: And is needed here b/c the comment should be both significant and adverse to the proposed rule for a withdrawal request to occur

Comment [JJ2]: Same as previous comment

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

This proposed rule decreases the burden on recordkeepers to mark documents containing Safeguards Information designated as SGI-M as specified in § 73.23 (b), (d), and (f). The NRC is requesting comment on this decrease in recordkeepers' burden in Section III, Paperwork Reduction Act Statement, of this proposed rule.

III. 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 proposed rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR Parts 30, 37, 73, and 150, Safeguards Information - Modified

Handling Categorization, Change for Materials Facilities.

The form number if applicable: Not applicable.

How often the collection is required: The proposed rule would reduce annual recordkeeping requirements.

Who will be required or asked to report: The proposed rule would affect panoramic and underwater irradiators that possess greater than 370 TBq of byproduct materials; manufacturers and distributors of items containing source material, or byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern.

An estimate of the number of annual responses: A reduction of 112 recordkeeping responses.

The estimated number of annual respondents: A reduction of 112 recordkeepers subject to 10 CFR Part 73.

Physical Protection of Plants and Materials.

An estimate of the total number of hours needed annually to complete the requirement or request: A reduction of 616 recordkeeping hours.

Abstract: The proposed rule would decrease burden on 112 recordkeepers to mark documents containing Safeguards Information designated as SGI-M as specified in § 73.23 (b), (d), and (f). These 112 licensees include panoramic and underwater irradiators that possess greater than 370 TBq of byproduct materials; manufacturers and distributors of items containing source material, or byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; and transportation of source, byproduct, or special

nuclear material in greater than or equal to category 1 quantities of concern.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and 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?

The public may examine, and have copied for a fee, publicly available documents, including the supporting statement, at the NRC's Public Document Room, Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/>.

Comment [JJ3]: Insert commas as shown

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the previously stated issues, by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** to the FOIA, Privacy, and Information Collections Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to INFOCOLLECTS.RESOURCE@NRC.GOV and to the Desk Officer, Danielle Y. Jones, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0002), Office of Management and Budget, Washington, DC 20503. You may also e-mail comments to Danielle_Y_Jones@omb.eop.gov or comment by telephone at 202-395-1741. 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.

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.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirement.

10 CFR Part 37

Byproduct material, Criminal penalties, Export, Hazardous materials transportation, Import, Licensed material, Nuclear materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 37, 73, and 150

[NRC-2012-0140]

RIN 3150-AJ18

Safeguards Information - Modified Handling Categorization

Change for Materials Facilities Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is amending its regulations to remove the Safeguards Information – Modified Handling (SGI-M) designation of the security-related information for large irradiators, manufacturer and distributors, and for transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI-M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information for these facilities and the transportation of certain materials will no longer be designated as SGI-M and will be protected under the information protection requirements that apply to other materials licensees that possess category 1 and category 2 quantities of radioactive material.

DATES: This direct final rule is effective **[INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** ~~March 19, 2014~~, unless a significant and adverse comment is received by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** in response to the companion proposed rule published elsewhere in this issue of the *Federal Register*. Please see the companion proposed rule for detailed instructions on submitting a comment. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the *Federal Register*. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

Comment [JJ1]: "and" is needed here. Comment should be both significant and adverse to the proposed rule changes before a withdrawal request would be made

ADDRESSES: Please refer to Docket ID NRC-2012-0140 when contacting the NRC about the availability of information for this direct final rule. You may access information and comment submittals related to this direct final rule, which the NRC possesses and are publicly available, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0140.
- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

Comment [JJ2]: While comments or controversial issues are not expected, in the event that a member of the public had an adverse and significant comment--what's the process for submitting it? It's not until page 17 that there is even a faint mention of this part of the process and it it very vaguely directs the reader to the proposed rule...
Proposed fix: As shown

distributors of items containing source material, ~~or~~ byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern. The rule was effective on February 23, 2009. Orders containing the requirements for protection of SGI-M were not modified or rescinded after issuance of the final rule; therefore, licensees are currently subject to both the requirements in the regulations and the orders.

On March 16, 2012, the Commission approved publication of a new part 37 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material." The final rule was published on March 19, 2013 (78 FR 16922). NRC licensees ~~are~~ were required to comply with 10 CFR part 37 by March 19, 2014. The 10 CFR part 37 final rule establishes the security requirements for the protection of category 1 and category 2 quantities of radioactive material and for transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The rule also contains information protection requirements for the security plan, procedures, and other information.

II. Discussion

A. What Action is the NRC Taking?

The NRC is amending its regulations to remove the SGI-M designation of the security-related information for large irradiators, M&Ds, and transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI-M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information will instead

need-to-know determination.

E. Will Documents Now Designated SGI-M Still Have to be Protected as SGI-M?

Yes, documents marked as SGI-M must be protected as SGI-M until they are removed from the SGI-M category (destroyed or decontrolled). Once Part 37 or the equivalent Agreement State regulations are in place and the NRC security orders are rescinded, the SGI-M security orders and security plans required by the Orders must be destroyed in accordance with 10 CFR 73.23(i). Additionally, if a panoramic irradiator or M&D licensee develops a part 37 security plan in preparation for compliance with part 37 or the equivalent Agreement State regulation before § 73.23 is revised, the licensee must decontrol the part 37 security plan in accordance with § 73.23(h) once § 73.23 is revised.

The NRC does not expect licensees who were subject to the NRC security orders to find all stored documents designated as SGI-M solely for the purpose of destroying the documents. Instead, as those documents are removed from storage, the licensee must either destroy or decontrol the document(s) at that time. Documents marked as SGI-M must continue to be protected as SGI-M until they are destroyed or decontrolled. Additional information on the destruction or decontrolling of SGI is available in Section 9 of Regulatory Guide 5.79. "Protection of Safeguards Information."

The SGI-M security Orders, security plans required by the Orders, and any other SGI-M information must be destroyed in accordance with 10 CFR 73.23(i) once the rule is effective and the Orders are rescinded. Documents must be marked and protected as SGI-M until they are removed from the SGI category (decontrolled) destroyed. Documents or other matter originally containing SGI-M must be removed from the SGI category in accordance with § 73.23(h) when the information no longer meets the criteria for designation as SGI as defined by 10 CFR part 73. The authority to determine that a document or other matter may be decontrolled must be

~~exercised only by the NRC, or with NRC approval, or in consultation with the individual or organization that made the original SGI determination, in accordance with § 73.23(h). By issuance of this direct final rule, the NRC is approving the decontrol of the security-related information for licensees of panoramic and underwater irradiators that possess greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources; manufacturers and distributors of items containing source material, or byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; licensees that transport irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel; and licensees that transport source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of radioactive material. Additionally, if a panoramic irradiator or M&D licensee develops a part 37 security plan in preparation for compliance with part 37, before § 73.23 is revised, the licensee may decontrol the part 37 security plan in accordance with § 73.23(h). To decontrol the part 37 security-related information that is currently designated as SGI-M, the licensee should draw a horizontal line through the SGI designation on each page of the document and initial adjacent to the horizontal line.~~

~~NRC licensees may decontrol their SGI-M once this direct final rule is effective and the orders have been rescinded. Agreement State licensees will continue to be subject to the SGI-M provisions of the orders until the NRC rescinds the orders after the Agreement State adopts regulations compatible to the provisions of 10 CFR part 37. Once an Agreement State adopts regulations compatible to 10 CFR part 37 and the provisions are effective in the State, the NRC will rescind all relevant security orders for the licensees in that State. At that time the licensees may decontrol destroy SGI-M in their possession. To decontrol the security-related information that is currently designated as SGI-M, the licensee should draw a horizontal line through the SGI designation on each page of the document and initial adjacent to the horizontal line.~~

~~The NRC does not expect a licensee to find all documents designated as SGI-M that may be in storage solely for the purpose of decontrolling/destroying the documents. Instead, as those documents are removed from storage for use, the licensee can decontrol/destroy the document at that time. Instead of decontrolling a document, the licensee may also destroy the document in accordance with § 73.23(i) once the document is no longer needed. Additional information on the decontrol and destruction of SGI is available in Section 9 of Regulatory Guide 5.79, "Protection of Safeguards Information."~~

~~In addition, the SGI-M security Orders and security plans required by the Orders must be destroyed in accordance with 10 CFR 73.23(i) once the rule is effective and the Orders are rescinded. Documents must be marked and protected as SGI-M until they are destroyed. Additionally, if a panoramic irradiator or M&D licensee develops a Part 37 security plan, in preparation for compliance with Part 37 before § 73.23 is revised, the licensee may decontrol the Part 37 security plan in accordance with § 73.23(h).~~

F. What are the Information Protection Requirements under 10 CFR Part 37? How Does This Compare to the Information Protection Requirements Prescribed for SGI-M?

Part 37 rulemaking (10 CFR part 37) requires that a need-to-know determination be made before an individual is allowed to have access to the security-related information. Part 37 rulemaking (10 CFR part 37) requires licensees to limit access to and prevent unauthorized disclosure of their security plans and implementing procedures. When not in use, the security plan and implementing procedures must be stored in a manner that will prevent the unauthorized removal of those documents. Information stored in non-removable electronic form must be password-protected. These requirements are similar to the storage requirements for SGI-M.

The regulations in part 37 also require a background investigation to determine the trustworthiness and reliability of an individual seeking access to protected information. This

Protection of information at a level less than SGI-M will allow licensees to communicate more easily with regulators regarding implementation of the 10 CFR part 37 requirements, but still require licensees to limit access to specific security plans and procedures. For example, licensees will be required to limit access to the plans to those employees who need access to perform a job function. Licensees will also be required to store their security plans in locked cabinets while not in use, but could use normal lines of communication with the NRC or an Agreement State to discuss security-related questions or concerns. This approach achieves meaningful information protection without unduly burdening licensees' and regulators' ability to achieve effective implementation of the 10 CFR part 37 requirements.

If the security-related information for these facilities remains designated as SGI-M, the NRC will be responsible for inspection and enforcement of the SGI-M programs at those facilities regulated by an Agreement State. This can result in confusion for licensees. Results of many aspects of the security inspections would be SGI-M and could not be discussed in an open environment. Because only some security-related information at these facilities would be SGI-M, licensees would need to maintain two systems to protect security-related information, which needlessly increases the burden on the licensee.

H. Will the Orders be Rescinded?

Yes, the orders will be rescinded once 10 CFR part 37 is implemented for NRC licensees. For Agreement State licenses, the orders will be rescinded when the Agreement State adopts requirements ~~compatible based on those elements that embody the essential objectives of with~~ the 10 CFR part 37 requirements. Agreement States have until March 2016 to ~~adopt requirements compatible with the 10 CFR part 37~~ comply.

Comment [JJ3]: Taken from the section on compatability later in the document for consistency

I. Will the NRC Issue Guidance for This Rule?

No, the NRC does not plan to issue guidance specific to this rule. Existing guidance on SGI does not contain references to these types of facilities and, therefore, does not need to be revised. The guidance on 10 CFR part 37 will be revised to remove references to SGI-M. Change pages will be issued for the 10 CFR part 37 guidance document; the complete document will not be re-issued. The changes will be included in the next update.

J. Are individuals transporting Category 1 radioactive material subject to the background investigation requirements?

As part of this rulemaking, the NRC considered the level of responsibility to place on its licensees regarding fingerprinting and criminal history records checks for persons involved in the transportation of category 1 of radioactive material. Licensees covered by the fingerprinting and criminal history records check requirements of 10 CFR Part 37 may decide to transfer radioactive material away from the site or may receive radioactive material from another entity.

Such transfers or receipts may occur either as part of a shipment to or from a domestic company or an international company. Individuals involved in the shipment, in particular those employed by carriers or other organizations handling shipments, may have unescorted access to the material during the shipment process. These persons may not be employees of the licensee and thus may not be under the licensee's direct control. Section 37.29(a) grants relief from the background investigation for those individuals who are commercial vehicle drivers for category 2 road shipments and package handlers at transportation facilities such as freight terminals and railroad yards.

Under this final rule, the Commission is revising the listing of categories of individuals relieved from the background investigation requirements with the following modification. ~~Employees of carriers that transport category 1 quantities of radioactive material are also relieved to include commercial vehicle drivers for road shipments of category 1 quantities of~~

~~radioactive material as. These individuals would typically be outside the control of the licensee and the licensee would have no way of knowing or influencing who those individuals might be.~~

~~Additionally, information related to the physical protection of shipments of source material and byproduct material in category 1 quantities of radioactive material is no longer designated as SGI-M. For these reasons, the NRC will rely on the background investigations required by the U.S. Department of Transportation (DOT) and the Transportation Security Administration (TSA) programs for background investigations of these personnel. While the background investigation may not be identical to those required under 10 CFR part 37, the NRC believes that the potential risk that a commercial driver or package handler might pose due to any difference in the background investigation is acceptably small.~~

III. Summary of Changes

§ 30.4 Definitions.

The definition for “Quantities of concern” is removed from the regulations as it is no longer needed.

§ 30.32 Application for specific licenses.

Paragraph (k) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

§ 30.34 Terms and conditions of licenses.

Paragraph (l) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

Because the NRC considers this action to be non-controversial, the NRC is using the direct final rule process for this rule. The amendment to the rule will become effective on

~~**[INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**~~ March 19, 2014. However, if the NRC receives a significant and adverse comment on this direct final rule by

~~**[INSERT 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**~~ in response to the companion proposed rule published elsewhere in this issue of the Federal Register, then the NRC will publish a document that withdraws this action and will address the comments received in a final rule as a response to the companion proposed rule ~~published elsewhere in this issue of the Federal Register~~. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant and adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

Comment [JJ4]: Same as previous comment

This direct final rule decreases the burden on recordkeepers to mark documents containing Safeguards Information designated as SGI-M as specified in 10 CFR 73.23 (b), (d), and (f). The burden reduction for this information collection is estimated to average 5.5 hours per recordkeeper. Further information about information collection requirements associated with this direct final rule can be found in the companion proposed rule published elsewhere in this issue of the *Federal Register*. ~~Because the burden for this information collection is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the Office of Management and Budget, approval number 3150-0002.~~

This direct final rule is being issued prior to approval by the Office of Management and Budget (OMB) of these information collection requirements, which were submitted under OMB control number 3150-0002. When OMB notifies us of its decision, we will publish a document in the *Federal Register* providing notice of the effective date of the information collections or, if approval is denied, providing notice of what action we plan to take.

Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Information Services Branch, Mail Stop T-5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to Infocollects.Resource@NRC.gov and to the Desk Officer, Danielle Jones, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0002), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

Safeguards Information requiring modified handling requirements (SGI-M) from the specific Safeguards Information handling requirements applicable to facilities and materials needing a higher level of protection, as set forth in § 73.22.

(a) * * *

(2) *Physical protection in transit.* Information not classified as Restricted Data or National Security Information related to the physical protection of shipments of special nuclear material in less than a formula quantity (except for those materials covered under § 73.22), including:

* * * * *

Appendix I to Part 73 [Removed]

13. Remove Appendix I to Part 73.

Comment [JJ5]: State what app I is for consistency

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

14. The authority citation for part 150 continues to read as follows:

AUTHORITY: Atomic Energy Act secs. 161, 181, 223, 234(42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161). Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§ 150.15 [Amended]

15. In § 150.15, remove paragraph (a)(9).

Dated at Rockville, Maryland, this _____ day of _____, ~~2012~~20134.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,
Secretary of the Commission.