

Done in Washington, DC, this 28th day of February 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40 and 150

RIN 3150-AH10

Source Material Reporting Under International Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations which require licensees to report their holdings of source material (uranium and thorium) to the agency. Currently, licensees are required to file a report with the NRC whenever they receive or transfer uranium or thorium mined outside the United States (U.S.). The amended regulations require licensees to report the receipt or transfer of source material controlled under any of the various international Agreements for Peaceful Nuclear Cooperation. This change will enable the U.S. Government to maintain the comprehensive national inventory of nuclear materials required under these agreements. This rule also allows licensees additional flexibility in submitting their annual source material inventory statements. The amended regulations permit licensees to submit these statements along with their material status reports for special nuclear material.

DATES: The final rule is effective October 1, 2003, unless significant adverse comments are received by April 4, 2003. A significant 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. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public

comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. You may also provide comments via this Web site by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail CAG@nrc.gov.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdrc@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8126; e-mail mlh1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Current regulations in 10 CFR Part 40 and 10 CFR part 150 require each NRC and Agreement State materials licensee to maintain an updated inventory of its holdings of source material of foreign origin (e.g., thorium, depleted uranium, and natural uranium mined outside the U.S.). Licensees are required to submit a report to the NRC whenever they receive or transfer source material of foreign origin. Some licensees are also required to submit an annual statement detailing their inventory of such material. Information in these reports is entered into a national nuclear materials database called the Nuclear Materials Management and Safeguards System (NMMSS). The NMMSS, managed jointly by the NRC and the Department of Energy (DOE), is the U.S. Government's official computerized accounting system for the possession, use, and shipment of nuclear materials (primarily special nuclear material and source material) in the U.S., whether of foreign or domestic origin.

The U.S. Government uses data in the NMMSS to meet its source material reporting requirements under a number of international agreements promoting global cooperation in the peaceful uses

of nuclear energy. U.S. participation in international Agreements for Peaceful Nuclear Cooperation is provided for in Section 123 of the Atomic Energy Act, and approximately 24 such Agreements are in place and active at this time. Under these Agreements, the U.S. Government is obliged to impose controls on the use of certain nuclear materials, ensure that such materials are used only for peaceful ends, and enforce other conditions placed on the import, export, or transfer of specific equipment and nuclear material. As part of an information exchange required by the Agreements, the U.S. Government periodically provides to the governments of cooperating countries an updated inventory of certain nuclear material held in the U.S. To enable the U.S. Government to meet this obligation, the NRC must ensure that licensees document movement within the U.S. of nuclear material subject to these Agreements, and track any additional nuclear material produced through the use of that material.

As noted, existing NRC regulations require licensees to track and report their holdings of source material of foreign origin, *i.e.*, source material mined outside the U.S. However, under the Agreements for Peaceful Nuclear Cooperation to which it is a party, the U.S. Government is required to report a different range of source material. The NRC's current reporting requirements, which focus on the national origin of source material, no longer adequately serve this purpose. The aim of this rulemaking is to align the NRC's source material reporting requirements for licensees with international reporting requirements agreed to by the U.S. Government. The new requirements will require licensees to track and report source material which the U.S. Government is obliged to report under existing international agreements.

The amended regulation will replace requirements that licensee holdings of foreign-origin source material be reported to the NRC with requirements that licensees track and report source material with foreign obligations. Source material with foreign obligations (or foreign-obligated source material) is nuclear material that the U.S. is obliged to track, control, and report to foreign governments under existing international agreements. Requiring NRC licensees to track and report foreign-obligated source material will result in a database that is more robust and that will better satisfy the U.S. Government's need for specific information on source materials with foreign obligations. Part 110 was revised in 2000 to require importers and