

exporters to report on license applications the foreign obligations associated with nuclear material being imported or exported (65 FR 70287; November 22, 2000).

A change has also been made to the timing of the yearly statement required for source material with a foreign obligation, providing licensees with increased flexibility. Licensees are given a choice of submitting their annual inventory statements either at the same time as they submit the material status reports on special nuclear material that are required under Parts 72 and 74, or within 30 days after September 30th of each year, as is currently required.

In addition, a change is made to require reporting for any Agreement State licensee who exports one kilogram or more of uranium or thorium source material. The current regulations only require licensees that import such material to report. This information is needed because the U.S. Government is required to report all exports of source material of 1 kg or more to the International Atomic Energy Agency (IAEA). Part 40 already contains this requirement.

Finally, to clarify the scope of this amendment, parts 40 and 150 will define the term "foreign obligations" for use in those parts to mean "the commitments entered into by the U.S. Government under Atomic Energy Act (AEA) section 123 agreements for cooperation in the peaceful uses of atomic energy. Imports and exports of material or equipment pursuant to such agreements are subject to these commitments, which in some cases involve an exchange of information on imports, exports, retransfers with foreign governments, peaceful end-use assurances, and other conditions placed on the transfer of the material or equipment. The U.S. Government informs the licensee of obligations attached to material." This definition is consistent with the definition of "obligations" in part 110.

### Section-by-Section Analysis

#### Section 40.4—Definitions

This section is revised to add a definition of "foreign obligations."

#### Section 40.64—Reports

This section is revised to reflect a change from a requirement to report source material of foreign origin to reporting source material with foreign obligations. This section is also revised to allow licensees to submit their yearly inventory statement of source material with foreign obligations with their material status reports on special

nuclear material, providing more flexibility to licensees.

#### Section 150.3—Definitions

This section is revised to add a definition of "foreign obligations." In addition, the format of this section is updated to conform to current Office of the Federal Register standards for the listing of definitions in 10 CFR Chapter 1. The paragraph designations are removed and the definitions in the section are presented in alphabetical order.

#### Section 150.17—Submission to Commission of Source Material Reports

This section is revised to reflect a change from a requirement to report source material of foreign origin to reporting source material with foreign obligations. This section is also revised to require the reporting of exports of 1 kilogram or more of source material. This amendment makes Part 150 consistent with Part 40, which already requires the reporting of such exports. In addition, this section is revised to allow licensees to submit their yearly inventory statement of source material with foreign obligations with the licensee's material status reports on special nuclear material, providing more flexibility to licensees.

### Procedural Background

Because the NRC considers this action to be noncontroversial and because it is necessary in order to support the U.S. Government's obligations in this area, the NRC is using the direct final rule process for this rule. The amendments to the rule will become effective on October 1, 2003. However, if the NRC receives significant adverse comments on this direct final rule by April 4, 2003, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this **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 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.

(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.

### Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws but does not confer regulatory authority on the State.

### Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing" directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

### Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is revising the reporting requirements for source material, using as the basis of the requirement whether the material has