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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 72, 75, 76, 95, 110, and 150

RIN 3150-AH38

[NRC-2008-0543]

Regulatory Changes To Implement the Additional Protocol to the US/IAEA Safeguards Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to implement the *Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* (Additional Protocol). The Additional Protocol requires the U.S. to report additional information on various nuclear fuel cycle-related activities and to provide the International Atomic Energy Agency (IAEA) with access to those locations beyond the information currently reported for nuclear facilities under the existing *Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* (Safeguards Agreement). The amended regulations codify the requirement for certain NRC and Agreement State licensees to report information and provide access under the Additional Protocol that are currently not subject to inspections or reporting under the Safeguards Agreement. These amendments enable the U.S. Government to meet its obligations related to the Safeguards Agreement and the Additional Protocol.

DATES: *Effective Date:* This final rule is effective December 23, 2008.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

The "United States Additional Protocol Implementation Act" (Title II of Pub. L. 109-401) assigns the President responsibility for implementing the Act and the U.S. Additional Protocol. Executive Order 13458 assigned the U.S. Departments of State, Defense (DOD), Commerce (DOC), and Energy (DOE), the Attorney General, and the NRC responsibility for implementing the Additional Protocol. The NRC is assigned specific responsibility for implementing the Additional Protocol at NRC and Agreement State licensees (except at those facilities for which the DOE or DOD are assigned lead agency responsibility). The DOC is responsible for reportable commercial activities conducted outside of NRC-related activities. The Additional Protocol, on which the U.S. Senate provided its consent to ratification on March 31, 2004, is a legal document that requires the United States to report information on various nuclear fuel cycle-related activities to the IAEA and, upon request, to provide the IAEA with access to these locations in the U.S. Locations, information, and activities determined by the U.S. government to be of direct national security significance are excluded.

The Additional Protocol augments the existing Safeguards Agreement by requiring the United States to provide the IAEA with information on civil nuclear and nuclear-related items, materials, and activities not presently covered, including but not limited to the following:

a. Information about and IAEA inspector access to nuclear fuel cycle-related locations for which access is not already provided under the Safeguards Agreement (e.g., uranium mines and ore concentrate storage installations);

b. Information on, and IAEA short-notice access to, all buildings on the sites of facilities selected by the IAEA from the U.S. Eligible Facilities List;

c. Access for IAEA collection of environmental samples at locations where such sampling is specifically authorized by the U.S. Government;

d. Information on research and development and manufacturing activities related to the nuclear fuel cycle; and

e. Expanded reporting of exports and imports of specific equipment and non-nuclear material.

The NRC is establishing these requirements to enable the United States to collect the information necessary to prepare the U.S. declaration to the IAEA.

Section-by-Section Analysis

Section 30.8 Information Collection Requirements: Office of Management and Budget (OMB) Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 30.34 Terms and Conditions of Licenses

In § 30.34, paragraph (k) is added to require byproduct material licensees to file location information described in § 75.11, to permit verification of information by the IAEA, and to take other actions as necessary to implement the Additional Protocol.

Section 40.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 40.31 Application for Specific Licenses

In § 40.31, paragraph (g) is amended to require both applicants for and recipients of a license to possess and use source material in a uranium or thorium processing plant and any other applicants for a license to possess source material to provide facility information described in new § 75.10. The section is also amended to require ore processing plants or facilities using or storing ore concentrates or impure source material to provide location information described in § 75.11.

Section 50.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 50.78 Facility Information and Verification

This section heading is amended. The codified text is also amended to require that both applicants for a construction permit or license, and recipients of a license submit information described in new § 75.10 and § 75.11. The section also permits verification of information by the IAEA and requires applicants for a construction permit or license and recipients of a license to take other actions as necessary to implement the Safeguards Agreement and Additional Protocol as described in 10 CFR Part 75.

Section 60.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

A new heading has been added after § 60.46 to read, "US/IAEA Safeguards Agreement."

Section 60.47 Facility Information and Verification

Section 60.47 is added to require applicants for a construction authorization or license and recipients of a license to submit information described in new § 75.10 upon a written request by the Commission. The section also permits verification of information by the IAEA and requires applicants for a construction authorization or license, and recipients of a license to take other actions as necessary to implement the Safeguards Agreement and Additional Protocol as described in Part 75.

Section 61.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 61.31 The heading of § 61.31 has been amended to read, "US/IAEA Safeguards Agreement."

Section 61.32 Facility Information and Verification

Section 61.32 is added to require applicants for a license and recipients of a license to submit information described in new § 75.10 and § 75.11. The section also permits verification of

information by the IAEA and requires applicants for a license, and recipients of a license to take other actions as necessary to implement the Safeguards Agreement as described in Part 75.

Section 63.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 63.46 The heading of § 63.46 is amended to read, "US/IAEA Safeguards Agreement."

Section 63.47 Facility Information and Verification

Section 63.47 is added to require applicants for a construction authorization or license and recipients of a license to submit information described in new § 75.10 and § 75.11. The section also permits verification of information by the IAEA and requires applicants for a construction authorization or license, and recipients of a license to take other actions as necessary to implement the Safeguards Agreement and Additional Protocol as described in Part 75.

Section 70.8 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 70.21 Filing

Paragraph (g) is amended to require applicants for a construction authorization or license and recipients of a license to submit information described in new § 75.10 and § 75.11. The section also permits verification of information by the IAEA and requires applicants for a construction authorization or license, and recipients of a license to take other actions as necessary to implement the Safeguards Agreement and Additional Protocol as described in Part 75.

Section 72.9 Information Collection Requirements: OMB Approval

This section is amended to include the approved OMB information collection control numbers for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 72.13 Applicability

This section is not amended because the ranges that specify applicability in § 72.13(b) and (c) already encompass the new § 72.79.

Section 72.79 Facility Information and Verification

Section 72.79 is added to require applicants for a certificate of compliance or license and recipients of a certificate of compliance or license to submit information described in new § 75.10 and § 75.11. The section also permits verification of information by the IAEA and requires applicants for a certificate of compliance or license, and recipients of a certificate of compliance or license to take other actions as necessary to implement the Safeguards Agreement and Additional Protocol as described in Part 75.

Section 75.1 Purpose

Section 75.1 is amended to include the Additional Protocol and clarify the types of obligations that the U.S. has made to meet the Safeguards Agreement.

Section 75.2 Scope

Section 75.2 is amended to include applicants for a construction permit, construction authorization, or license, recipients of a license, and certificate holders that will be required to report information and provide the IAEA with access under the Safeguards Agreement and Additional Protocol. The scope includes facilities, the sites of the facilities, nuclear fuel cycle-related research and development locations, manufacturers of nuclear fuel cycle-related equipment or materials, uranium or thorium mines or concentration plants, locations with or importing impure source materials, locations where IAEA safeguards have been exempted or terminated, locations receiving imported material or equipment that is subject to export controls, and the exporting of source material and non-nuclear material and equipment that is subject to export controls.

This section also provides a reference to the sections in this Part that contain reporting requirements, information to be provided, inspections, and material accounting and control requirements for facilities and locations.

Section 75.3 Exemptions

Section 75.3 is amended to change the word "Agreement" to "Safeguards Agreement and the Additional Protocol. Section 75.3(b) is amended to reflect the intent of the Safeguards Agreement and the Additional Protocol more accurately.

Section 75.4 Definitions

Section 75.4 is amended to include definitions that relate to the incorporation of the Additional Protocol

into the 10 CFR Part 75 regulations. Definitions that have been added include the Additional Protocol, Complementary access, Eligible Facilities List, Environmental sampling, Facility, Initial protocol, Location, Managed access, Nuclear fuel cycle-related manufacturing and construction, Nuclear fuel cycle-related research and development, Safeguards Agreement, and Subsidiary Arrangement. Other definitions that are amended to clarify their intent are Containment, Effective kilogram, Facility Attachment, Inventory change, and Transitional Facility Attachment. The definition of "United States Eligibility Lists" is deleted because it has been replaced by the definition of "Eligible Facilities List." The definition of "Identification under the Agreement" is deleted because it is defined in § 75.11(a). The definition of "Ore processing" is also deleted. Previously, ore processing was excluded from Part 75, but it is now included in the Scope in § 75.2. The definition of "Installation" is deleted because it has been replaced by the term "Facility".

Section 75.6 Facility and Location Reporting

The heading of § 75.6 is amended. Paragraph (a) is revised to include the general address for all communications and reports (unless otherwise specified). New Paragraph (b) requires that all necessary reports to the NRC under the Safeguards Agreement are to be in an appropriate computer-readable format. New paragraphs (c) and (d) specifically identify the information that must be submitted for facilities and locations under the Safeguards Agreement and Additional Protocol.

Section 75.7 Notification of IAEA Safeguards

Section 75.7 discusses notifications of activities subject to the Safeguards Agreement and Additional Protocol.

Section 75.8 IAEA Inspections

The original § 75.8, Facility attachments is re-designated as § 75.15. The new § 75.8 is redesignated from § 75.42. In addition, the new § 75.8 is amended to include IAEA inspections for both facilities and locations. Paragraph (c) contains the requirements that were previously found in § 75.41. The codified text is amended to include both the facilities and locations under the Safeguards Agreement and Additional Protocol. These requirements were moved based on the logic of discussing notification of IAEA safeguards near the beginning of Part 75.

Paragraph (d) is amended to list the types of access by IAEA inspectors and the places to which they will have access. The section also includes the addition of "Complementary Access" in paragraph (d)(5) to verify the completeness and accuracy of reported information. Paragraph (d)(6) is added to allow IAEA access to additional licensee locations on which the U.S. did not submit reports to the IAEA under the Safeguards Agreement. Paragraph (e) is re-designated from § 75.42(d), and a new paragraph (e)(6) is added to state that the licensee shall permit the IAEA to perform other measures requested by the IAEA and approved by the NRC and other Federal agencies.

Paragraph (f) is re-designated from § 75.42(e). Paragraphs (e) and (f) are amended to distinguish them from complementary access. Paragraph (g) is added and states the type of activities that may be performed by IAEA in the performance of "Complementary Access" inspections at locations. These activities may include visual inspections, environmental sampling, use of radiation detection and measurement devices, applying tamper-indicating devices, performing sampling and nondestructive measurements, examining records, and other measures agreed upon by IAEA Board of Governors and following consultations between the IAEA and the U.S.

For the purpose of the Additional Protocol, the U.S. as a nuclear weapon State, manages access as specified by procedures that may include the:

- (a) Removal of sensitive papers from office spaces; (b) shrouding of sensitive displays, stores and equipment;
- (c) Shrouding of sensitive pieces of equipment, such as computers or electronic systems;
- (d) Logging off computer systems and turning off data indicating devices;
- (e) Restriction of safeguards instrumentation or environmental sampling to the purpose of the access; and
- (f) In exceptional cases, giving only individual inspectors access to certain parts of the inspection location.

Section 75.9 Information Collection Requirements: OMB Approval

This section is amended to include OMB approvals for the new forms developed to implement the Additional Protocol. The section is also amended to include OMB approvals for the new reporting burden under Part 75.

The heading of § 75.9, "Installation Information," is amended to read, "Facility and Location Information."

Section 75.10 Facility Information

This new section is added to include additional facility information requirements in new § 75.10(b)(5). This includes a map of the site and information on the size of the buildings and the nature of the activities conducted in the building. Paragraph (d) states the forms that must be prepared for each facility. Paragraph (d)(7) has been re-designated from § 75.14(a)(1) to require information on the facility's organizational responsibilities for material accounting and control. Paragraph (e) specifies how site information must be submitted. Paragraph (f) has been redesignated from § 75.11(e) and amended to use the term "facility." Paragraph (g) has been redesignated from § 75.14(a)(2). Paragraph (h) requires information on the need to manage IAEA access to the facility.

Section 75.11 Location Information

Section 75.11 is amended to include the information requirements for locations. Specific information on locations includes:

- (1) For nuclear fuel cycle related research and development, a general description, the location, and scale of operations;
- (2) For nuclear fuel-cycle related manufacturing and construction, a description of the scale of operations;
- (3) For uranium and thorium mine and concentration plants, the location, operational status, estimated annual production and capacity;
- (4) For impure source material, possession information;
- (5) For imports and exports of source material for non-nuclear end uses, the locations, quantities, chemical compositions, and use of the imported or exported materials;
- (6) For IAEA-exempted and terminated nuclear material, the quantities, uses, and locations of the nuclear material; and
- (7) For imports and exports of non-nuclear material and equipment, the location, quantity, and description of the equipment and materials.

This section also lists the forms that must be prepared for each location and the timing of annual reports, and requires licensees to provide information on the need to manage IAEA access to the location.

Section 75.12 Reporting Information to IAEA

Section 75.12 is amended to clarify the purpose of the section by changing the heading to "Reporting information to IAEA." Other changes to the section

include adding references to § 75.10 and § 75.11 and using the terms “facility” and “Safeguards Agreement.”

Section 75.13 Verification

This section is deleted. The requirements from § 75.13 have been merged into § 75.8.

Section 75.14 Supplemental Information

This section is deleted. The requirements from § 75.14 have been merged into new § 75.10.

Section 75.15 Facility Attachments

This section is redesignated from § 75.8. The section is moved to have the facility attachment information follow the sections discussing submittal of facility information, on which it is based. Also, § 75.15 is amended to reference new § 75.10 and to use the terms “facility” and “Safeguards Agreement.” Paragraph (f) is added to clarify that locations reporting under the Additional Protocol, unless located in a facility selected under Article 39(b) of the main text of the Safeguards Agreement, do not have facility attachments or transitional Facility attachments. The heading of § 75.15, “Material Accounting and Control,” is amended to read, “Material Accounting and Control for Facilities.”

Section 75.21 General Requirements

Section 75.21 is amended to reference new § 75.10 and to use the terms “facility” and “Safeguards Agreement.”

Section 75.31 General Requirements

Section 75.31 is amended to reference § 75.7 and to use the terms “facility” and “Safeguards Agreement.”

Section 75.32 Initial Inventory Report

Section 75.32 is amended to use the term “facility.” The term “computer-readable” has been removed because § 75.6(b) and § 75.31 require all reports to be in appropriate computer-readable format.

Section 75.33 Accounting Reports

Section 75.33 is amended to remove the term “computer-readable” because § 75.6(b) and § 75.31 require all reports to be in appropriate computer-readable format.

Section 75.34 Inventory Change Reports

Section 75.34 is amended to use the term “facility.” The term “computer-readable” has been removed because § 75.6(b) and § 75.31 require all reports to be in appropriate computer-readable format.

Section 75.35 Accounting Reports

Section 75.35 is amended to remove the term “computer-readable” because § 75.6(b) and § 75.31 require all reports to be in appropriate computer-readable format.

Section 75.36 Special Reports

This section is amended to reference § 75.7(b) and use the term “facility.”

Section 75.37 Disclosure of Reports to IAEA

This section is removed because the requirements from this section were redundant with the requirements in § 75.12.

Section 75.41 Designation

This section is removed because the requirements have been moved to § 75.8 which is a more logical location for this section.

Section 75.42 Inspections

This section is removed because the requirements have been moved to § 75.8 which is a more logical location for this section. A new heading is added after § 75.36 and before § 75.43 to read, “ADVANCED NOTIFICATION AND EXPENSES.”

Section 75.43 Circumstances Requiring Advance Notification

This section is amended to reference § 75.7 and use the terms “facility” and “Eligible Facilities List.”

Section 75.44 Timing of Advance Notification

Section 75.44 is amended to use the term “facility.”

Section 75.45 Content of Advance Notification

Section 75.45 is amended to use the term “facility.”

Section 75.46 Expenses

Section 75.46 is amended to reference § 75.7 and use the term “Safeguards Agreement.”

Section 75.53 Criminal Penalties

Section 75.53 is amended to reference the revised sections of Part 75.

Section 76.35 Contents of Application

Paragraph (l) is amended to include applicants for a certificate and recipients of a certificate to submit information described in new § 75.10. The section also permits verification of information by the IAEA and requires applicants for a certificate, and recipients of a certificate to take other actions as necessary to implement the Safeguards Agreement as described in Part 75.

Section 95.36 Access by Representatives of the International Atomic Energy Agency or by Participants in Other International Agreements

Section 95.36(a) is amended to reference § 75.8. Sections 95.36(b)(1) and (b)(2) are amended to reference § 75.8.

Section 110.11 Export of IAEA Safeguards Samples

This section is amended to reference § 75.8.

Section 110.54 Reporting Requirements

This section is added to address the reporting requirement for exports of nuclear facilities and equipment, nuclear grade graphite for nuclear end use, and deuterium as required by the Additional Protocol.

Section 150.8 Information Collection Requirements: OMB Approval

Paragraph 150.8(c)(3) is added to include the OMB approval control number for DOC/NRC Forms AP-1, AP-A, and associated forms.

Section 150.17a Compliance With Requirements of US/IAEA Safeguards Agreement

Section 150.17a is amended to use the terms “facility,” “location,” and “Eligible Facilities List” and references to revised sections of Part 75. The section is also amended to require Agreement State licensees (and applicants) that possess source or special nuclear material to meet the requirements of Part 75. Section 150.17a(c) is removed because it is no longer accurate with respect to the current US/IAEA Safeguards Agreement. Section 150.17a(d) is redesignated as § 150.17a(c). Also, the reference to source material in amounts greater than one effective kilogram is deleted because licensees in addition to those possessing source and special nuclear material may be required to report information under the Additional Protocol.

Notice and Comment Waiver

Because the substance of the amendments made by this rule involves a foreign affairs function of the U.S., the notice and comment provisions of the Administrative Procedure Act do not apply [5 U.S.C. 553(a)(1)]. These regulations codify explicit obligations established by treaty or statute which the NRC has no discretion or authority to modify, thus rendering public comment unnecessary.

Criminal Penalties

For the purpose of section 223 of the Atomic Energy Act of 1954, as amended (AEA), the Commission is issuing the final rule to amend 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 72, 75, 76, 95, 110, and 150 under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule will be subject to criminal enforcement.

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.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is modifying its regulations to implement the *Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* (Additional Protocol). There are no voluntary consensus standards available or applicable to implement the Additional Protocol. Additionally, this action does not constitute the establishment of a standard that establishes generally applicable requirements.

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)(1) and (c)(3); therefore, neither an environmental impact statement nor

an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule imposes new or amended information collection requirements contained in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 72, 75, 76, 95, 110, and 150, that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by OMB, approval numbers 3150-0017, 3150-0020, 3150-0011, 3150-0127; 3150-0135; 3150-0199; 3150-0009; 3150-0132; 3150-0055; 3150-0047; 3150-0036; 3150-0032, and 0694-0135.

The burden to the public for these information collections is estimated to average 10 hours per response. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The burden for the information collections in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 72, 75, 76, 95, 110, and 150 are covered by the information collection requirements in 10 CFR Part 75 (3150-0055). Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Records and FOIA/Privacy Services Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail to INFCOLLECTS.resource@nrc.gov; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0055), Office of Management and Budget, Washington, DC 20503 or by Internet electronic mail to NathanJ.Frey@omb.eop.gov.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information for an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this regulation. The information reported is necessary to satisfy U.S. Government obligations with IAEA under the *Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* (Safeguards Agreement) and the *Protocol Additional to the Agreement Between the United States of America and the International Atomic*

Energy Agency for the Application of Safeguards in the United States of America (Additional Protocol).

Backfit Analysis

The NRC has determined that the backfit rule (§ 50.109, § 70.76, § 72.62, or § 76.76) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Specific licenses, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 63

Criminal penalties, High-level waste, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material accounting and control, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 76

Certification, Criminal penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Special nuclear material, Uranium enrichment by gaseous diffusion.

10 CFR Part 95

Classified information, Criminal penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 150

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

■ 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; 5 U.S.C. 552 and 553; and the Energy Policy Act of 2005; Pub. L. 109–58, 119 Stat. 594 (2005); the NRC is adopting the following amendments to 10 CFR parts 30, 40, 50, 60, 61, 63, 70, 72, 75, 76, 95, 110, and 150.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–81D (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. In § 30.8, paragraph (c)(3) is added to read as follows:

§ 30.8 Information collection requirements: OMB approval.

* * * * *

(c) * * *

(3) In § 30.34, DOC/NRC Forms AP–1, AP–A, and associated forms are approved under control number 0694–0135.

■ 3. In 30.34, new paragraph (k) is added to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(k) As required by the Additional Protocol, each specific licensee authorized to possess and use byproduct material shall file with the Commission location information described in § 75.11 of this chapter on DOC/NRC Forms AP–1 and associated forms. The licensee shall also permit verification of this information by the International Atomic Energy Agency (IAEA) and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 4. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842,

5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243), Sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 5. In § 40.8, the introductory text to paragraph (c) and paragraphs (c)(2), (c)(3), and (c)(4) are revised, and paragraph (c)(5) is added to read as follows:

§ 40.8 Information collection requirements: OMB approval.

* * * * *

(c) This Part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

* * * * *

(2) In § 40.31, DOC/NRC Forms AP–1, AP–A, and associated forms are approved under control numbers 0694–0135.

(3) In § 40.31, Forms N–71 and associated forms are approved under control number 3150–0056.

(4) In § 40.42, NRC Form 314 is approved under control number 3150–0028.

(5) In § 40.64, DOE/NRC Form 741 is approved under control number 3150–0003.

■ 6. In § 40.31, paragraph (g) is revised to read as follows:

§ 40.31 Application for specific licenses.

* * * * *

(g) An applicant for a license to possess and use source material, or the recipient of such a license shall report information to the Commission as follows:

(1) In response to a written request by the Commission, a uranium or thorium processing plant, and any other applicant for a license to possess and use source material, shall submit facility information described in § 75.10 of this chapter on Form N–71 and associated forms and site information on DOC/NRC Form AP–A, and associated forms;

(2) As required by the Additional Protocol, a uranium or thorium processing plant, and any other applicant for a license to possess and use source material, shall submit location information described in

§ 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; shall permit verification of this information by the International Atomic Energy Agency (IAEA); and shall take other actions as may be necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter; or

(3) As required by the Additional Protocol, an ore processing plant or a facility using or storing ore concentrates or other impure source materials shall submit the information described in § 75.11 of this chapter, as appropriate, on DOC/NRC Form AP-1 and associated forms; shall permit verification of this information by the International Atomic Energy Agency (IAEA); and shall take other actions as may be necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 7. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951, (42 U.S.C. 5841). Section 50.10 also issued under Secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 8. In § 50.8, paragraphs (b) and (c)(2) are revised, and paragraph (c)(3) is added to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this Part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.68, 50.71, 50.72, 50.73, 50.74, 50.75, 50.78, 50.80, 50.82, 50.83, 50.90, 50.91, and 50.120 and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S to this Part.

(c) * * *

(2) In § 50.78, Form N-71 and associated forms are approved under control number 3150-0056.

(3) In § 50.78, DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control numbers 0694-0135.

■ 9. Section 50.78 is revised to read as follows:

§ 50.78 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a construction permit or license and each recipient of a construction permit or a license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71, and associated forms and site information on DOC/NRC Form AP-A and associated forms;

(b) As required by the Additional Protocol, shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; and

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

■ 10. The authority citation for 10 CFR part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97-425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851), sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 60.9 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

■ 11. In § 60.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 60.8 Information collection requirements: Approval.

* * * * *

(b) The approved information collection requirements contained in this Part appear in §§ 60.47, 60.62, 60.63, 60.65.

(c) In § 60.47, Form N-71 and associated forms are approved under control number 3150-0056, and DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control number 0694-0135.

■ 12-13. A new undesignated center heading is added after § 60.46 and new § 60.47 is added to read as follows:

US/IAEA Safeguards Agreement

§ 60.47 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a construction authorization or license and each recipient of a construction authorization or a license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms, and site information on DOC/NRC Form AP-A and associated forms;

(b) As required by the Additional Protocol, applicants and licensees specified in paragraph (a) of this section shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms;

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

■ 14. The authority citation for 10 CFR part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, and 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, and 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 61.9 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

■ 15. In § 61.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 61.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this Part appear in §§ 61.3, 61.6, 61.9, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.22, 61.24, 61.26, 61.27, 61.28, 61.30, 61.31, 61.32, 61.53, 61.55, 61.57, 61.58, 61.61, 61.62, 61.63, 61.72, and 61.80.

(c) In § 61.32, Form N-71 and associated forms are approved under control number 3150-0056, and DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control numbers 0694-0135.

■ 16-17. A new undesignated center heading is added after § 61.31 and new § 61.32 is added to read as follows:

US/IAEA Safeguards Agreement

§ 61.32 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a license and each recipient of a license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms and site information on DOC/NRC Form AP-A, and associated forms;

(b) As required by the Additional Protocol, applicants and licensees specified in paragraph (a) of this section shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; and

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

PART 63—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

■ 18. The authority citation for part 63 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97-425, 96 Stat. 2213g, 2238, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 19. In § 63.8, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 63.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this Part appear in §§ 63.47, 63.62, 63.63, and 63.65.

(c) In § 63.47, Form N-71 and associated forms are approved under control number 3150-0056, and DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control numbers 0694-0135.

■ 20-21. A new undesignated center heading is added after § 63.46 and new § 63.47 is added to read as follows:

US/IAEA Safeguards Agreement

§ 63.47 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a construction authorization or license and each recipient of a construction authorization or a license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms and site information on DOC/NRC Form AP-A and associated forms;

(b) As required by the Additional Protocol, applicants and licensees specified in paragraph (a) of this section shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms;

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 22. The authority citation for 10 CFR part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243), sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec.

122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

■ 23. In § 70.8, paragraph (c)(1) is revised and (c)(3) is added to read as follows:

§ 70.8 Information collection requirements: OMB approval.

* * * * *

(c) * * *

(1) In § 70.21(g), Form N-71 and associated forms are approved under control number 3150-0056.

* * * * *

(3) In § 70.21(g), DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control number 0694-0135.

■ 24. In § 70.21, paragraph (g) is revised to read as follows:

§ 70.21 Filing.

* * * * *

(g)(1) In response to a written request by the Commission, each applicant for a construction authorization or license and each recipient of a construction authorization or a license to possess and use special nuclear material shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms and site information on DOC/NRC Form AP-A and associated forms;

(2) As required by the Additional Protocol, applicants and licensees specified in paragraph (a) of this section shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; and

(3) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 25. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as

amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109-58, 119 Stat. 806-10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 26. In § 72.9, paragraph (c) is added to read as follows:

§ 72.9 Information collection requirements: OMB approval.

* * * * *

(c) In § 72.79, Form N-71 and associated forms are approved under control number 3150-0056, and DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control number 0694-0135.

■ 27. Section 72.79 is added to read as follows:

§ 72.79 Facility information and verification.

(a) In response to a written request by the Commission, each applicant for a certificate of compliance or license and each recipient of a certificate of compliance or specific or general license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms and site information on DOC/NRC Form AP-A and associated forms;

(b) Shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; and

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

■ 28. The authority citation for part 75 is amended to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 75.4 also issued under secs. 135, 141, Public Law 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

■ 29. Section 75.1 is revised to read as follows:

§ 75.1 Purpose.

The purpose of this part is to implement the requirements established by treaties between the United States and the International Atomic Energy Agency (IAEA). These treaties include the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (Safeguards Agreement) and the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (Additional Protocol). This part contains requirements to ensure that the United States meets its nuclear non-proliferation obligations under these US/IAEA Safeguards treaties. These obligations include providing information to the IAEA on the place of applicant, licensee, or certificate holder activities; information on source and special nuclear materials; and access to the place of applicant, licensee, or certificate holder activities. These obligations are similar to the obligations accepted by other countries.

■ 30. Section 75.2 is revised to read as follows:

§ 75.2 Scope.

(a) All persons licensed by the Nuclear Regulatory Commission or an Agreement State, or who hold a certificate of compliance, or construction permit or authorization issued by the Nuclear Regulatory Commission are subject to the requirements of this part. These requirements also apply to all persons who have filed an application with the NRC to construct a facility or to receive source or special nuclear material. Locations determined by the U.S. Government to be associated with activities or information of direct national security significance to the

United States are excluded from these requirements. Specifically, these requirements pertain to the following locations and activities of licensees and certificate holders:

(1) A facility, as defined in § 75.4, and the site of the facility;

(2) A location performing nuclear fuel cycle-related research and development, as defined in § 75.4;

(3) A location manufacturing, assembling, or constructing nuclear fuel cycle-related equipment or materials as defined in § 75.4;

(4) A location of a uranium or thorium mine or concentration plant (e.g., in-situ leach mines and activities involving ore processing);

(5) A location importing or possessing "impure" source material [i.e., source material not in the form of purified chemical products (e.g., UF₆, U metal, UO₂)];

(6) A location possessing source or special nuclear material on which IAEA safeguards have been exempted or terminated;

(7) A location receiving imports of material or equipment that is subject to export controls; and

(8) The activity of exporting source materials for non-nuclear purposes or exporting of non-nuclear material or equipment that is subject to export controls.

(b) Facilities referred to in § 75.2(a)(1) are also subject to the reporting requirements of § 75.6(b) and (c), IAEA inspections in § 75.8, Facility information in § 75.10, and the Material Accounting and Control requirements in §§ 75.21 through 75.45.

(c) Locations referred to in § 75.2(a)(2) through 75.2(a)(7) are also subject to the reporting requirements of § 75.6(b) and (d), and IAEA inspections in § 75.8, and location information in § 75.11.

■ 31. Section 75.3 is revised to read as follows:

§ 75.3 Exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this Part that it determines are authorized by law and consistent with the Safeguards Agreement or the Additional Protocol, are not inimical to the common defense and security, and are otherwise in the public interest.

(b) Without limiting the generality of paragraph (a) of this section, the U.S. Government may request from the IAEA an exemption with respect to nuclear material of the following types:

(1) Source and special nuclear material in gram quantities or less as a sensing component in instruments;

(2) Nuclear material used in non-nuclear activities; and

(3) Plutonium with an isotopic concentration of plutonium-238 exceeding 80 percent.

■ 32. In § 75.4:

■ a. The paragraph designations are removed;

■ b. The definitions of *Identification under the Agreement, Installation, Ore processing, and United States Eligibility List* are removed;

■ c. The definitions of *Additional Protocol; Complementary access; Eligible Facilities List; Environmental sampling; Facility; Initial Protocol; Location; Managed access; Nuclear fuel-cycle related manufacturing and construction; Nuclear fuel-cycle related research and development; Safeguards Agreement; and Subsidiary arrangement* are added in alphabetical order; and

■ d. The definitions of *Containment, Effective kilogram, Facility attachment, Inventory change, Surveillance, and Transitional facility attachment* are revised.

The additions and revisions read as follows:

§ 75.4 Definitions.

* * * * *

Additional Protocol means the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, concluded between the United States and the IAEA in Vienna, Austria, on June 12, 1998, that follows the provisions of INFCIRC/540.

* * * * *

Complementary Access means access provided to IAEA inspectors in accordance with the provisions of the Additional Protocol.

Containment (with respect to IAEA safeguards) means containers, devices, or structures that are used to prevent undetected access to or movement of nuclear material.

Effective Kilogram means a unit used in safeguarding nuclear material. The quantity is:

(1) For special nuclear material: The amount specified in § 70.4 of this chapter.

(2) For source material: The amount specified in § 40.4 of this chapter.

Eligible Facilities List means the list of facilities that are eligible for IAEA safeguards inspections under the US/IAEA Safeguards Agreement, which the Secretary of State or his designee last submitted for Congressional review and which was not disapproved. A copy of this list is available for inspection at the NRC Web site, <http://www.nrc.gov>, and/

or at the NRC Public Document Room. In accordance with the provisions of the Safeguards Agreement, facilities of direct national security significance are excluded from the Eligible Facilities List.

Environmental Sampling (with respect to IAEA Safeguards) means the collection of environmental samples (e.g., air, water, vegetation, soil, or smears from surfaces) at a location specified by the IAEA for the purpose of assisting the IAEA to draw a conclusion about the absence of undeclared nuclear material or nuclear activities.

Facility means:

(1) A production facility or utilization facility as defined in § 50.2 of this chapter;

(2) A plant that converts nuclear material from one chemical form to another (e.g., Uranium hexafluoride plant);

(3) A fuel fabrication plant;

(4) An enrichment plant or isotope separation plant for the separation of isotopes of uranium or to increase the abundance of ²³⁵U.

(5) An installation designed to store nuclear material, such as an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) as defined in § 72.3 of this chapter; or

(6) Any plant or location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to Parts 40, 50, 60, 61, 63, 70, 72, 76, or 150 of this chapter or an Agreement State license.

Facility Attachment means a document negotiated between the U.S. and the IAEA that establishes safeguards commitments for a particular facility.

IAEA means the International Atomic Energy Agency or its duly authorized representatives.

IAEA Material Balance Area means an area established for IAEA material accounting purposes, so that:

(1) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(2) The physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures.

Initial Protocol means the protocol to the *Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* that was concluded with the IAEA and provides the IAEA the right to select a facility for material accounting reporting only without the right to conduct inspections.

Inventory Change means an increase or decrease in the quantity of source or

special nuclear material in an IAEA material balance area.

Key Measurement Point means a location where source or special nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points include, but are not limited to, the inputs and outputs (including measured discards) and storages in IAEA material balance areas.

Location means any geographical point or area identified by the United States in its declarations, or by the IAEA resulting from a question, under the Additional Protocol.

Managed Access means procedures to protect sensitive or classified information or, to meet safety or physical protection requirements, while allowing the IAEA to accomplish the purpose of a complementary access request.

Nuclear Fuel Cycle-Related Manufacturing and Construction means those activities related to the manufacture or construction of any of the following: Components for separating the isotopes of uranium or enriching uranium in the isotope 235, zirconium tubes, heavy water or deuterium, nuclear-grade graphite, irradiated fuel casks and canisters, reactor control rods, criticality safe tanks and vessels, irradiated fuel element chopping machines, and hot cells.

Nuclear Fuel Cycle-Related Research and Development means those activities specifically related to any process or system development aspect of any of the following: Conversion of nuclear material; enrichment of nuclear material; nuclear fuel fabrication; reactors; critical facilities; reprocessing of nuclear fuel; and processing of intermediate or high-level waste containing plutonium, high-enriched uranium, or uranium-233.

Nuclear Material means any source material or any special nuclear material.

Safeguards Agreement means the Agreement Between the United States and the IAEA for the Application of Safeguards in the United States, and all protocols and subsidiary arrangements to the agreement.

Subsidiary Arrangement means a document, negotiated between the U.S. and the IAEA, that formally defines the technical and administrative procedures to implement the measures contained in the Safeguards Agreement.

Surveillance (with respect to IAEA Safeguards) means instrumental or human observation aimed at detecting the movement of nuclear material.

Transitional Facility Attachment means that portion of the "Transitional

Subsidiary Arrangements to the Protocol to the Safeguards Agreement” that pertains to a particular facility that has been identified under the Initial Protocol.

■ 33. Section 75.6 is revised to read as follows:

§ 75.6 Facility and location reporting.

(a) Except where otherwise specified, all communications concerning the regulations in this Part shall be addressed to the U.S. Nuclear

Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555–0001. Written communications may be delivered in person to the Nuclear Regulatory Commission at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738 between 7:30 a.m. and 4:15 p.m. eastern time. If a submittal deadline falls on a Saturday, Sunday, or a Federal holiday, the next Federal working day becomes the official due date.

(b) Each applicant, licensee, or certificate holder who has been given notice by the Commission in writing that its facility or location is required to report under the Safeguards Agreement shall make its initial and subsequent reports, including attachments, in an appropriate format defined in the instructions.

(c) Facilities—Specific information regarding facilities is to be reported as follows:

Item	Section	Manner of delivery
Initial Inventory Report	75.32	As specified by printed instructions for preparation of DOE/NRC Form-742.
Inventory Change Reports	75.34	As specified by printed instructions for preparation of DOE/NRC Form-741 and Form-740M.
Material Status Reports	75.35	As specified by printed instructions for preparation of DOE/NRC Form-742, Form-742C, and Form-740M.
Special Reports	75.36	To the NRC Headquarters Operations Center.
Facility information	75.10(d)	As specified by printed instructions for Form N–71 and associated forms.
Site information	75.10(e)	As specified by printed instructions for preparation of DOC/NRC Form AP–A and associated forms.

(d) Locations—Specific information regarding locations is to be reported as follows:

Item	Section	Manner of delivery
Fuel cycle-related research and development information.	75.11(c)(1)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
Fuel cycle-related manufacturing and construction information.	75.11(c)(2)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
Mines and concentration plant information	75.11(c)(3)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
Impure source material possession information	75.11(c)(4)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
Imports and exports of source material for non-nuclear end uses.	75.11(c)(5)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
IAEA safeguards-exempted and terminated nuclear material information.	75.11(c)(6)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.
Imports and exports of non-nuclear material and equipment.	75.11(c)(7)	As specified by printed instructions for preparation of DOC/NRC Form AP–1 and associated forms.

■ 34. Section 75.7 is revised to read as follows:

§ 75.7 Notification of IAEA safeguards.

(a) The licensee must inform the NRC: (1) Before the licensee begins an activity that may be subject to the Safeguards Agreement; or

(2) Within 30 days of beginning an activity subject to the Additional Protocol.

(b) The Commission, by written notice, will inform the applicant, licensee, or certificate holder of those facilities subject to the application of IAEA safeguards.

(c) Such notice is effective until the Commission informs the licensee or certificate holder, in writing, that its facility or location is no longer so designated. Whenever a previously designated facility or location is no

longer subject to the application of IAEA safeguards, the Commission will give the licensee or certificate holder prompt notice to that effect.

■ 35. Section 75.8 is revised to read as follows:

§ 75.8 IAEA inspections.

(a) As provided in the Safeguards Agreement and Additional Protocol, inspections may be ad hoc, routine, special, or a complementary access (or a combination of the foregoing). The objectives of the IAEA inspectors in the performance of inspections are as follows:

(1) Ad hoc inspections to verify information contained in the licensee’s, applicant’s, or certificate holder’s facility information or initial inventory report, or to identify and verify changes in the situation which have occurred

after the initial inventory reporting date at any location where the initial inventory report or any inspections carried out indicate that nuclear material subject to safeguards under the Safeguards Agreement may be present;

(2) Ad hoc inspections to identify and, if possible, verify the quantity and composition of the nuclear material referred to in notifications specified under § 75.43(b) (pertaining to exports) or § 75.43(c) (pertaining to imports) at any place where nuclear material may be located;

(3) Routine inspections are conducted as specified by the facility attachments referred to in § 75.15 to verify nuclear material and as-built facility design at the strategic points and the records maintained under this part;

(4) Special inspections may be conducted at any of the places specified above and any additional places where the Commission (in coordination with other Federal agencies), in response to an IAEA request, finds access to be necessary;

(5) Complementary access may be conducted at a location, using measures permitted under the Additional Protocol and as specified by managed access procedures, for the IAEA inspectors to verify the completeness and accuracy of the information provided on DOC/NRC Form AP-1 or AP-A and associated forms; and

(6) Complementary access must be provided at any additional locations where the Commission (in coordination with other Federal agencies), in response to an IAEA request, finds access to be necessary.

(b) The NRC will notify the applicant, licensee, or certificate holder of each such inspection or complementary access in writing as soon as possible after receiving the IAEA's notice from the U.S. Department of State. The applicant, licensee, or certificate holder should consult with the Commission immediately if the inspection or complementary access would unduly interfere with its activities or if its key personnel cannot be available.

(c) Each applicant, licensee, or certificate holder subject to the provisions of this part shall recognize as a duly authorized representative of the IAEA any person bearing IAEA credentials for whom the NRC has provided written or electronic authorization that the IAEA representative is permitted to conduct inspection activities on specified dates. If the IAEA representative's credentials have not been confirmed by the NRC, the applicant, licensee, or certificate holder shall not admit the person until the NRC has confirmed the person's credentials. The applicant, licensee, or certificate holder shall notify the Commission promptly, by telephone, whenever an IAEA representative arrives at a facility or location without advance notification. The applicant, licensee, or certificate holder shall also contact the Commission, by telephone, within one hour with respect to the credentials of any person who claims to be an IAEA representative and shall accept written or electronic confirmation of the credentials from the NRC. Confirmation may be requested through the NRC Operations Center (commercial telephone number 301-816-5100).

(d) Each applicant, licensee, or certificate holder subject to the provisions of this part shall allow the

IAEA opportunity to conduct an NRC-approved inspection or complementary access of the facility or location to verify the information submitted under §§ 75.10, 75.11, and 75.31 through 75.43. The NRC will assign an employee to accompany IAEA representative(s) at all times during the inspection or complementary access. The applicant, licensee, or certificate holder may accompany IAEA representatives who inspect or access the facility or location. The IAEA representatives should not be delayed or otherwise impeded in the exercise of their duties.

(e) Each applicant, licensee, or certificate holder shall permit the IAEA, in conducting an ad hoc, routine, or special inspection at a facility, to:

(1) Examine records kept under § 75.21;

(2) Observe that the measurements of nuclear material at key measurement points for material balance accounting are representative;

(3) Verify the function and calibration of instruments and other measurement control equipment;

(4) Observe that samples at key measurement points for material balance accounting are taken in accordance with procedures that produce representative samples, observe the treatment and analysis of the samples, and obtain duplicates of these samples;

(5) Arrange to use the IAEA's own equipment for independent measurement and surveillance; and

(6) Perform other measures requested by the IAEA and approved by the NRC.

(f) Each applicant, licensee, or certificate holder shall, at the request of an IAEA inspector during an ad hoc, routine, or special inspection at a facility:

(1) Ship material accountancy samples taken for the IAEA's use, in accordance with applicable packaging and export licensing regulations, by the method of carriage and to the address specified by the inspector; and

(2) Take other actions contemplated by the Safeguards Agreement, and included in the safeguards approach approved by the United States and the IAEA, including but not limited to the following examples:

(i) Enabling the IAEA to arrange to install its equipment for measurement and surveillance;

(ii) Enabling the IAEA to apply its seals and other identifying and tamper-indicating devices to containers;

(iii) Making additional measurements and taking additional samples for the IAEA's use;

(iv) Analyzing the IAEA's standard analytical samples;

(v) Using appropriate standards in calibrating instruments and other equipment; and

(vi) Carrying out other calibrations.

(g) Each applicant, licensee, or certificate holder shall permit the IAEA, in conducting complementary access at a location, under the provisions of the Additional Protocol and subsidiary arrangements, to:

(1) Perform visual observations and record observations as photographs;

(2) Conduct environmental sampling, when authorized by the U.S. Government;

(3) Use radiation detection and measurement devices;

(4) Apply seals and other identifying and tamper-indicating devices;

(5) Perform nondestructive measurements and sampling;

(6) Examine records relevant to quantities, origin, and disposition of materials to confirm the accuracy of the information provided under § 75.11;

(7) Examine safeguards-relevant production and shipping records; and

(8) Other objective measures that have been demonstrated to be technically feasible and the use of which has been agreed upon by the IAEA Board of Governors and following consultations between the IAEA and U.S. Government.

(h) Nothing in this section requires or authorizes an applicant, licensee, or certificate holder to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation, or order of the Commission.

■ 36. In § 75.9, paragraphs (a) and (b), the introductory text to paragraph (c) and paragraph (c)(1) are revised, and paragraph (c)(6) is added to read as follows:

§ 75.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission, or another U.S. Government agency, has submitted the information collection requirements contained in this Part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this Part under control number 3150-0055.

(b) The approved information collection requirements contained in this Part appear in §§ 75.6, 75.7a, 75.10, 75.11, 75.21, 75.22, 75.23, 75.24, 75.31,

75.32, 75.33, 75.34, 75.35, 75.36, 75.43, 75.44, and 75.45.

(c) This Part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 75.10, Form N-71 and associated forms are approved under control number 3150-0056.

* * * * *

(6) In §§ 75.10 and 75.11, DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control number 0694-0135.

■ 37-38. The undesignated center heading "Installation Information" after § 75.9 is revised and new § 75.10 is added to read as follows:

Facility and Location Information

§ 75.10 Facility information.

(a) Each applicant, licensee, or certificate holder subject to the provisions of this Part shall submit facility information, in response to written notification from the Commission, with respect to any facility that the Commission indicates has been identified under the Safeguards Agreement, the Initial Protocol to the Agreement, or meets the Additional Protocol reporting criteria, and in which the applicant, licensee, or certificate holder carries out licensed activities. (The Commission request must state whether the facility has been identified under Article 39(b) of the principal text of the Safeguards Agreement or Article 2(a) of the Initial protocol.) The applicant, licensee, or certificate holder shall submit the requested information to the Commission within the period specified in the Commission's request.

(b) Facility information includes:

(1) The identification of the facility, stating its general character, purpose, nominal capacity (thermal power level, in the case of power reactors), and geographic location, and the name and address to be used for routine purposes;

(2) A description of the general arrangement of the facility with reference, to the extent feasible, to the form, location and flow of nuclear material, and to the general layout of important items of equipment which use, produce, or process nuclear material;

(3) A description of features of the facility relating to material accounting, containment, and surveillance;

(4) A description of the existing and proposed procedures at the facility for nuclear material accounting and control,

with special reference to material balance areas established by the licensee, measurement of flow, and procedures for physical inventory taking (As part of this description, the applicant, licensee, or certificate holder may identify a process step involving information that it deems to be commercially sensitive and for which it proposes that a special material balance area be established so as to restrict IAEA access to this information); and

(5) A map of the site and information on the size of the buildings and on the general nature of the activities conducted in each building.

(c) Each licensee or certificate holder shall thereafter submit to the Commission information with respect to any modification at the facility affecting the information referred to in paragraph (a) of this section. The following information must be submitted:

(1) Regarding a modification of a type described in the license or certificate conditions: At least 180 days before the modification is scheduled to be started, except that in an emergency or other unforeseen situation a shorter period may be approved by the Commission.

(2) Regarding any other modification relevant to the application of the provisions of the Safeguards Agreement: At the time the first inventory change report is submitted after the modification is completed.

(d) The information specified in paragraphs (b) and (c) of this section, except for the information specified in paragraph (b)(5) of this section, must be prepared on IAEA approved Design Information Questionnaire forms (Form N-71 and associated forms or other forms supplied by the Commission). The information must be sufficiently detailed to enable knowledgeable determinations to be made in the development of Facility Attachments or amendments thereto, including:

(1) Identification of the features of facilities and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(2) Determination of IAEA material balance areas to be used for IAEA accounting purposes and selection of those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material;

(3) Establishment of the nominal timing and procedures for taking of physical inventories of nuclear material for IAEA accounting purposes;

(4) Establishment of the records and reports requirements and records evaluation procedures;

(5) Establishment of requirements and procedures for verification of the quantity and location of nuclear material;

(6) Selection of appropriate combinations of containment and surveillance methods and techniques at the strategic points at which they are to be applied; and

(7) Information on organizational responsibility for material accounting and control.

(e) Information specified in paragraph (b)(5) of this section must be submitted as specified by instructions for DOC/NRC Form AP-A and associated forms and shall contain a site map drawn to scale as an attachment.

(f) The applicant's, licensee's, or certificate holder's security rules for physical protection that will impact the IAEA inspectors at the facility must be included in the facility information only when and to the extent specifically requested by the Commission.

(g) Health and safety rules that are to be observed by the IAEA inspectors at the facility must be included in the facility information.

(h) Information must be provided on the need to manage IAEA access to the facility to protect health and safety or to protect classified, proprietary, or other sensitive information, and on other protective measures that should be implemented should an IAEA access be requested.

■ 39. Section 75.11 is revised to read as follows:

§ 75.11 Location information.

(a) As required by the Additional Protocol, each applicant, licensee, or certificate holder shall submit location information to the Commission as specified in the instructions for DOC/NRC Form AP-1 and associated forms.

(b) Location information includes:

(1) Nuclear fuel cycle-related research and development information including a general description of the activity and information specifying the location of the activity.

(2) Nuclear fuel cycle-related manufacturing or construction information including a description of the scale of operations for the activity.

(3) Uranium and thorium mine and concentration plant information including information on the location, operational status, and the estimated annual production capacity and current annual production of the activity.

(4) Impure source material possession information including the quantities, the chemical composition, and the use or intended use of the material (e.g., nuclear or non-nuclear use).

(5) Imports and exports of source material for non-nuclear end uses

including the location, quantities, chemical compositions, and use of the imported or exported material.

(6) IAEA-exempted and -terminated nuclear material information including information regarding the quantities, uses, and location of the nuclear material.

(7) Imports and exports of non-nuclear material and equipment including the location, quantity and description of the materials and equipment.

(c) Information specified in paragraphs (b)(1) through (b)(7) of this section must be supplied as specified in the instructions for DOC/NRC Form AP-1 and associated forms. The information provided on DOC/NRC Form AP-1 and associated forms must be submitted annually. If the information has not changed, a "No change" report must be provided. NRC should also be notified when the activity is no longer performed. The annual report must be submitted by January 31 of each succeeding year after the initial report. The initial report must be submitted no later than 30 calendar days following the date of publication of this rule.

(d) Information must be provided on the need to manage IAEA access to the location to protect health and safety or to protect classified, proprietary, or other sensitive information, and on other protective measures that should be implemented should an IAEA access be requested.

■ 40. In § 75.12, paragraphs (a), (b), and (d) are revised to read as follows:

§ 75.12 Reporting information to IAEA.

(a) Except as otherwise provided in this section, the Commission will furnish to the IAEA all information submitted under §§ 75.10, 75.11, and 75.31 through 75.43.

(b)(1) An applicant, licensee, or certificate holder may request that information of particular sensitivity, that it customarily holds in confidence, not be transmitted physically to the IAEA. An applicant, licensee, or certificate holder who makes this request shall, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request. The applicant, licensee, or certificate holder shall retain a copy of the request and all documents related to the request as a record until the Commission terminates the license or certificate for each facility or location involved with the request, or until the Commission notifies the applicant, licensee, or certificate holder that the applicant, licensee, or certificate holder is no longer under the

Safeguards Agreement. Superseded material must be retained for 3 years after each change is made.

(2) In considering such a request, it is the policy of the Commission to achieve an effective balance between legitimate concerns of licensees, applicants, or certificate holders, including protection of the competitive position of the owner of the information, and the undertaking of the United States to cooperate with the IAEA to facilitate the implementation of the safeguards provided for in the Safeguards Agreement and Additional Protocol. The Commission will take into account the obligation of the IAEA to take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of the Safeguards Agreement and Additional Protocol.

(3) A request made under § 2.390 of this chapter will not be treated as a request under this section unless the application makes specific reference to this section, nor shall a determination to withhold information from public disclosure necessarily require a determination that such information not be transmitted physically to the IAEA.

(4) If a request is granted, the Commission will determine a location where the information will remain readily available for examination by the IAEA and will so inform the applicant, licensee, or certificate holder. The applicant, licensee, or certificate holder shall retain this information as a record until the Commission terminates the license or certificate for the facility involved with the request or until the Commission notifies the applicant, licensee, or certificate holder that the applicant, licensee, or certificate holder is no longer under the Safeguards Agreement. Superseded material must be retained for 3 years after each change is made.

* * * * *

(d) Where consistent with the Safeguards Agreement, the Commission may at its own initiative, or at the request of a licensee, determine that any information submitted under §§ 75.10, and 75.11 shall not be physically transmitted to, or made available for examination by, the IAEA.

§ 75.13 [Removed]

■ 41. Section 75.13 is removed.

§ 75.14 [Removed]

■ 42. Section 75.14 is removed.

■ 43–44. The undesignated center heading "Material Accounting And Control" following § 75.14 is revised and new § 75.15 is added to read as follows:

Material Accounting and Control for Facilities

§ 75.15 Facility attachments.

(a) The Facility Attachment or Transitional Facility Attachment will document the determinations referred to in § 75.10 and will contain other appropriate provisions.

(b) The Commission will issue license or certificate amendments, as necessary, to implement the Safeguards Agreement and the Facility Attachment (as amended from time to time). The license or certificate amendments through reference to the Facility Attachment or Transitional Facility Attachment, or otherwise, will specify:

- (1) IAEA material balance areas;
- (2) Types of modifications for which information is required, under § 75.10, to be submitted in advance;
- (3) Procedures, as referred to in § 75.21;
- (4) The extent to which isotopic composition must be included in batch data (under § 75.22) and advance notification (§ 75.45);
- (5) Items to be reported in the concise notes accompanying inventory change reports, as referred to in § 75.34;
- (6) Loss limits and changes in containment, as referred to in § 75.36 (pertaining to special reports);
- (7) Actions required to be taken under § 75.8(f) at the request of an IAEA inspector;
- (8) Procedures to be used for documentation of requests under § 75.46 (pertaining to expenses); and
- (9) Other appropriate matters.

(c) The Commission will also issue license or certificate amendments, as necessary, for implementing the Initial Protocol to the Safeguards Agreement and the Transitional Facility Attachment (as amended from time to time).

(d) License or certificate amendments will be made under the Commission's rules of practice (part 2 of this chapter). Specifically, if the licensee or certificate holder does not agree to an amendment, an order modifying the license would be issued under § 2.204 of this chapter.

(e) Subject to constraints imposed by the Safeguards Agreement, the Commission will afford the applicant, licensee, or certificate holder a reasonable opportunity to participate in the development of the Facility Attachment or Transitional Facility Attachment applicable to the facility, and any amendments thereto, and to review and comment upon any instrument before it has been agreed to by the United States. The Commission will provide to the applicant, licensee, or certificate holder a copy of any such

instrument that has been completed under the Safeguards Agreement.

(f) Locations reporting under the Additional Protocol, unless located in a facility selected under Article 39(b) of the main text of the Safeguards Agreement, do not have Facility Attachments or Transitional Facility Attachments.

■ 45. In § 75.21, paragraphs (a) and (c) are revised to read as follows:

§ 75.21 General requirements.

(a) Each licensee or certificate holder who has been given notice by the Commission in writing that its facility has been identified under the Safeguards Agreement shall establish, maintain, and follow written material accounting and control procedures. The licensee or certificate holder shall retain as a record current material accounting and control procedures until the Commission terminates the license or certificate for the facility involved with the request or until the Commission notifies the licensee or certificate holder that the licensee or certificate holder is no longer under the Safeguards Agreement. Superseded material must be retained for 3 years after each change is made.

* * * * *

(c)(1) The procedures must, unless otherwise specified in license or certificate conditions, conform to the facility information submitted by the licensee under § 75.10.

(2) Until facility information has been submitted by the applicant, licensee, or certificate holder, the procedures must be sufficient to document changes in the quantity of nuclear material in or at its facility. Observance of the procedures described in §§ 40.61 or 74.15 of this chapter (or the corresponding provisions of the regulations of an Agreement State) by any applicant, licensee, or certificate holder subject thereto constitutes compliance with this paragraph.

* * * * *

■ 46. Section 75.31 is revised to read as follows:

§ 75.31 General requirements.

Each licensee or certificate holder who has been given notice by the Commission in writing that its facility has been identified under the Safeguards Agreement shall make, in an appropriate computer-readable format, an initial inventory report, and thereafter shall make accounting reports, with respect to the facility and, in addition, licensees or certificate holders who have been given notice, under § 75.7 that their facilities are subject to the application of IAEA

safeguards, shall make the special reports described in § 75.36. These reports must be based on the records kept under § 75.21. At the request of the Commission, the licensee or certificate holder shall amplify or clarify any report with respect to any matter relevant to implementation of the Safeguards Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within 20 days or other time as may be specified by the Commission.

■ 47. In § 75.32, paragraph (b) is revised to read as follows:

§ 75.32 Initial inventory report.

* * * * *

(b) The initial inventory report, to be submitted to the Commission as specified by the instructions (NUREG/BR-0007 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees"), must show the quantities of nuclear material contained in or at a facility as of the initial inventory reporting date. The information in the initial inventory report may be based upon the licensee's or certificate holder's book record.

* * * * *

■ 47. In § 75.33, paragraph (a)(1) is revised to read as follows:

§ 75.33 Accounting reports.

(a)(1) The accounting reports for each IAEA material balance area must consist of:

- (i) Nuclear Material Transaction Reports (Inventory Change Reports); and
- (ii) Material status reports showing the material balance based on a physical inventory of nuclear material actually present.

* * * * *

■ 48. In § 75.34, the introductory text of paragraph (b) and paragraph (b)(2) are revised to read as follows:

§ 75.34 Inventory change reports.

* * * * *

(b) Nuclear Material Transactions Reports (Inventory Change Reports), when appropriate, must be accompanied by Concise Notes, completed as specified in the instructions (NUREG/BR-0006 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. This Concise Note is used in:

* * * * *

(2) Describing, to the extent specified in the license conditions, the

anticipated operational program for the facility, including particularly, but not exclusively, the schedule for taking physical inventory.

■ 47. In § 75.35, paragraph (a) is revised to read as follows:

§ 75.35 Material status reports.

(a) A material status report must be submitted for each physical inventory which is taken as part of the material accounting and control procedures required by § 75.21. The material status report must include a material balance report and a physical inventory report which lists all batches separately and specifies material identification and batch data for each batch. When appropriate, the material status report must be accompanied by a Concise Note. The reports described in this section must be prepared and submitted in accordance with instructions (NUREG/BR-0006, NUREG/BR-0007, and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001.

* * * * *

■ 49. In § 75.36, paragraph (a) is revised to read as follows:

§ 75.36 Special reports.

(a) This section applies only to licensees or certificate holders who have been given notice under § 75.7(b) that their facilities are subject to the application of IAEA safeguards.

* * * * *

§ 75.37 [Removed]

■ 50. Section 75.37 is removed.

§ 75.41 [Removed]

■ 51. Section 75.41 is removed.

§ 75.42 [Removed]

■ 52. Section 75.42 is removed.

■ 53. A new undesignated center heading is added after § 75.36 to read as follows:

Advanced Notification and Expenses

■ 54. In § 75.43, paragraphs (a) and (d) are revised to read as follows:

§ 75.43 Circumstances requiring advance notification.

(a) Each applicant, licensee, or certificate holder who has been given notice under § 75.7 shall give advance written notification to the Commission regarding the international and domestic transfers specified in this section.

* * * * *

(d) *Domestic Transfers*. Notification must be given regarding any shipments of nuclear material (other than small quantities in the form of samples containing less than 0.01 effective kilogram per sample) to a non-eligible destination. As used in this paragraph, a *non-eligible destination* means any destination in the United States other than a facility on the Eligible Facilities List.

■ 55. In § 75.44, paragraph (a) is revised to read as follows:

§ 75.44 Timing of advance notification.

(a) Except as provided in paragraph (b) of this section, notification to the Commission, when required by § 75.43, must be given:

(1) In the case of exports and domestic transfers, at least 20 days in advance of the preparation of the nuclear material for shipment from the facility.

(2) In the case of imports, at least 12 days in advance of the unpacking of nuclear material at the facility.

* * * * *

■ 56. In § 75.45, paragraph (a) is revised to read as follows:

§ 75.45 Content of advance notification.

(a) The notifications required by § 75.43 must include the element weight of nuclear material being received or shipped, the chemical composition and physical form, the isotopic composition (to the extent specified by license conditions), the estimated date and place at the reporting facility where the nuclear material is to be unpackaged or prepared for shipment (and where the quantity and composition can be verified), the applicable IAEA material balance area at the reporting facility, the approximate number of items to be received or shipped, and the probable dates of receipt or shipment. The notification must indicate that the information is being supplied under § 75.43.

* * * * *

■ 57. In § 75.46, paragraphs (a) and (d) are revised to read as follows:

§ 75.46 Expenses.

(a) Under the Safeguards Agreement, the IAEA undertakes to reimburse an applicant, licensee, or certificate holder who has been given notice under § 75.7 for extraordinary expenses incurred as a result of its specific request: *Provided*, That the IAEA has agreed in advance to do so. The Safeguards Agreement also contemplates that, in any case, the IAEA will reimburse an applicant, licensee, or certificate holder for the cost of making additional measurements or taking

samples at the specific request of an IAEA inspector.

* * * * *

(d) The Commission will take appropriate action to assist the applicant, licensee, or certificate holder regarding the reimbursement of any expense which, under the Safeguards Agreement, is to be borne by the IAEA.

■ 58. Section 75.53, is revised to read as follows:

§ 75.53 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, or conspiracy to violate, any regulation issued under sections 161b., 161i., or 161o. of the Act. For purposes of criminal sanctions under section 223, all the regulations in Part 75 are issued under one or more of sections 161b., 161i., or 161o., except as provided in paragraphs (b) and (c) of this section.

(b) The regulations in Part 75 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 75.1, 75.2, 75.3, 75.4, 75.5, 75.7, 75.9, 75.12, 75.15, 75.46, 75.51, and 75.53.

(c) Any provision in Part 75 that implements the “Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America,” known as the “Additional Protocol,” signed by the United States on June 12, 1998, is not issued under sections 161b., 161i., or 161o, for the purposes of criminal sanctions under section 223.

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

■ 59. The authority citation for part 76 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106 Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321–349 (42 U.S.C. 2201, 2297b–11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(a)); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 76.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 76.22 is also issued under sec. 193(f), as amended, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(f)). Section 76.35(j) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

■ 60. In § 76.35, paragraph (l) is revised to read as follows:

§ 76.35 Contents of application.

* * * * *

(l)(1) In response to a written request by the Commission, each applicant for a certificate and each recipient of a certificate shall submit facility information, as described in § 75.10 of this chapter, on Form N–71 and associated forms and site information on DOC/NRC Form AP–A and associated forms;

(2) As required by the Additional Protocol, shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP–1 and associated forms; and

(3) Shall permit verification thereof by the International Atomic Energy Agency (IAEA); and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

* * * * *

PART 95—FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

■ 61. The authority citation for part 95 continues to read as follows:

Authority: Secs. 145, 161, 193, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); E.O. 10865, as amended, 3 CFR 1959–1963 Comp., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333, as amended by E.O. 13292, 3 CFR, 2004 Comp., p. 196; E.O. 12968, 3 CFR, 1995 Comp., p. 391.

■ 62. In § 95.36, paragraphs (a) and (b) are revised to read as follows:

§ 95.36 Access by representatives of the International Atomic Energy Agency or by participants in other international agreements.

(a) Based upon written disclosure authorization from the NRC Office of Nuclear Material Safety and Safeguards that an individual is an authorized representative of the International Atomic Energy Agency (IAEA) or other international organization and that the individual is authorized to make visits under an established agreement with the United States Government, an applicant, licensee, certificate holder, or other person subject to this part shall permit the individual (upon presentation of the credentials specified in § 75.8(c) of this chapter and any other credentials identified in the disclosure authorization) to have access to matter classified as National Security Information that is relevant to the conduct of a visit or inspection. A

disclosure authorization under this section does not authorize a licensee, certificate holder, or other person subject to this part to provide access to Restricted Data.

(b) For purposes of this section, classified National Security Information is relevant to the conduct of a visit or inspection if—

(1) In the case of a visit, this information is needed to verify information according to § 75.8 of this chapter; or

(2) In the case of an inspection, an inspector is entitled to have access to the information under § 75.8 of this chapter.

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 63. The authority citation for part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005; Pub. L. 109–58, 119 Stat. 594 (2005).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 *et seq.*).

■ 64. Section 110.11 is revised to read as follows:

§ 110.11 Export of IAEA safeguards samples.

A person is exempt from the requirements for a license to export special nuclear material set forth in sections 53 and 54d. of the Atomic Energy Act and from the regulations in this Part to the extent that the person exports special nuclear material in IAEA safeguards samples, if the samples are exported under § 75.8 of this chapter, or a comparable Department of Energy order, and are in quantities not

exceeding a combined total of 100 grams of contained plutonium, U–233, and U–235 per facility per year. This exemption does not relieve any person from complying with Parts 71 or 73 of this chapter or any Commission order under section 201(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)).

■ 65. Section 110.54 is added to read as follows:

§ 110.54 Reporting requirements.

(a) Reports of exports of nuclear facilities and equipment, nuclear grade graphite for nuclear end use, and deuterium shipped during the previous quarter must be submitted by licensees making exports under the general license or specific license of this part by January 15, April 15, July 15, and October 15 of each year on DOC/NRC Forms AP–A or AP–1, and associated forms. The reports must contain information on all nuclear facilities, equipment, and non-nuclear materials (nuclear grade graphite for nuclear end use and deuterium) listed in Annex II of the Additional Protocol.

(b) These required reports must be sent via facsimile to (202) 482–1731, e-mailed to *aprp@ap.gov*, or hand delivered or submitted by courier to Bureau of Industry and Security, in hard copy, to the following address: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Attn: AP Reports, 14th Street and Pennsylvania Avenue, NW., Room 4515, Washington, DC 20230. Telephone: (202) 482–1001.

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

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

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

■ 67. In § 150.8, paragraph (c)(3) is added to read as follows:

§ 150.8 Information collection requirements: OMB approval.

* * * * *

(c) * * *

(3) In § 150.17a, Form N–71 and associated forms are approved under OMB control number 3150–0056 and DOC/NRC Forms AP–1 or AP–A and associated forms are approved under OMB control number 0694–0135.

■ 68. Section 150.17a is revised to read as follows:

§ 150.17a Compliance with requirements of US/IAEA Safeguards Agreement.

(a) For purposes of this section, the terms *facility*, *location*, and *Eligible Facilities List* have the meanings set forth in § 75.4 of this chapter.

(b) Each person who, under an Agreement State license, is authorized to possess byproduct, source, or special nuclear material is subject to the provisions of Part 75 of this chapter and shall comply with its applicable provisions. However, regarding these persons, the Commission will issue orders under section 274m of the Act instead of making license amendments; and, to the extent Part 75 of this chapter refers to license amendments and license conditions, these references shall be deemed, for purposes of this paragraph, to refer to orders under section 274m of the Act.

(c)(1) In response to a written request by the Commission, each applicant for an Agreement State license or certificate, and each recipient of an Agreement State license or certificate shall submit facility information, as described in § 75.10 of this chapter, on Form N–71 and associated forms, and site information on DOC/NRC Form AP–A and associated forms;

(2) As required by the Additional Protocol, shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP–1 and associated forms; and

(3) Shall permit verification thereof by the International Atomic Energy Agency (IAEA); and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

(d) In response to a written request by the Commission, each applicant for an Agreement State license or certificate, and each recipient of an Agreement State license or certificate shall submit facility information, as described in § 75.10 of this chapter, on Form N–71 and associated forms, and site information on DOC/NRC Form AP–A and associated forms; shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP–1 or AP–A and associated

forms; shall permit verification thereof by the International Atomic Energy Agency (IAEA); and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

Dated at Rockville, Maryland, this 8th day of December 2008.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Executive Director for Operations.

[FR Doc. E8-30054 Filed 12-19-08; 11:15 am]

BILLING CODE 7590-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. 1341]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The staff commentary is amended to increase the asset-size exemption threshold for depository institutions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The adjustment from \$37 million to \$39 million reflects the increase of that index by 4.49% percent during the twelve-month period ending in November 2008. Thus, depository institutions with assets of \$39 million or less as of December 31, 2008, are exempt from collecting data in 2009.

DATES: Effective January 1, 2009.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Counsel, Division of Consumer and Community Affairs, at (202) 452-3667; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION: The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must report those data to their federal supervisory agencies and make the data available to the public. The Board's Regulation C (12 CFR part 203) implements HMDA.

Prior to 1997, HMDA exempted depository institutions with assets totaling \$10 million or less, as of the

preceding year-end. Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (codified at 12 U.S.C. 2808(b)) amended HMDA to expand the exemption for small depository institutions. The statutory amendment increased the asset-size exemption threshold by requiring a one-time adjustment of the \$10 million figure based on the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW) for 1996 exceeded the CPIW for 1975, and provided for annual adjustments thereafter based on the annual percentage increase in the CPIW. The one-time adjustment increased the exemption threshold to \$28 million for 1997 data collection.

Section 203.2(e)(1)(i) of Regulation C provides that the Board will adjust the threshold based on the year-to-year change in the average of the CPIW, not seasonally adjusted, for each twelve-month period ending in November, rounded to the nearest million. Pursuant to this section, the Board has adjusted the threshold annually, as appropriate.

For 2008, the threshold was \$37 million. During the twelve-month period ending in November 2008, the CPIW increased by 4.49% percent; as a result, the exemption threshold is raised to \$39 million. Thus, depository institutions with assets of \$39 million or less as of December 31, 2008, are exempt from collecting data in 2009. An institution's exemption from collecting data in 2009 does not affect its responsibility to report data it was required to collect in 2008.

Final Rule

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary. 5 U.S.C. 553(b)(B). The amendment in this notice is technical. Comment 2(e)-2 to § 203.2 of the regulation is amended to implement the increase in the exemption threshold. This amendment merely applies the formula established by Regulation C for determining adjustments to the exemption threshold. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is adopted in final form.

List of Subjects in 12 CFR Part 203

Banks, Banking, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801-2810.

■ 2. In Supplement I to part 203, under *Section 203.2 Definitions, 2(e) Financial Institution*, paragraph 2(e)-2 is revised to read as follows:

Supplement I to Part 203—Staff Commentary

* * * * *
Section 203.2 Definitions
2(e) Financial Institution.

* * * * *
2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2009, the asset-size exemption threshold is \$39 million. Depository institutions with assets at or below \$39 million as of December 31, 2008 are exempt from collecting data for 2009.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 17, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8-30361 Filed 12-22-08; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R-1334]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to revise the rate for earnings on required reserve balances and excess balances of eligible institutions and to provide that the rates may be revised by the Board from time to time.

DATES: The amendments to Regulation D are effective on December 23, 2008. The applicability date for the revised rates for earnings on required reserve balances and excess balances is December 18, 2008.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Counsel (202/452-3565), or Dena L. Milligan, Staff