

# Proposed Rules

Federal Register

Vol. 79, No. 189

Tuesday, September 30, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 30, 37, 73, and 150

[NRC–2012–0140]

RIN 3150–AJ18

### Safeguards Information—Modified Handling Categorization; Change for Materials Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

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

**DATES:** Submit comments on the proposed rule by October 30, 2014. Submit comments specific to the information collections aspects of this proposed rule by October 30, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments related to this proposed rule by any of the following methods (unless this document describes a different method

for submitting comments on a specific subject):

- Federal rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC–2012–0140. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- Email comments to: [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

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

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

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Vanessa Cox, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342; email: [Vanessa.Cox@nrc.gov](mailto:Vanessa.Cox@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Obtaining Information and Submitting Comments**

##### *A. Obtaining Information*

Please refer to Docket ID NRC–2012–0140 when contacting the NRC about the availability of information for this proposed rule. You may obtain publicly-available information related to this proposed rule by any of the following methods:

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC–2012–0140.

- NRC’s Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS,

please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- NRC’s PDR: You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### *B. Submitting Comments*

Please include Docket ID NRC–2012–0140 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

#### **II. Procedural Background**

Because the NRC considers this action non-controversial, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on January 28, 2015. However, if the NRC receives a significant adverse comment on this proposed rule by October 30, 2014, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the

comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

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

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

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

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

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

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

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

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

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

### III. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

*Type of submission, new or revision:* Revision.

*The title of the information collection:* Parts 30, 37, 73, and 150 of Title 10 of the *Code of Federal Regulations* (10 CFR), Safeguards Information—

Modified Handling Categorization Change for Materials Facilities.

*The form number if applicable:* Not applicable.

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

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

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

*The estimated number of annual respondents:* A reduction of 112 recordkeepers subject to 10 CFR part 73, Physical Protection of Plants and Materials.

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

*Abstract:* The proposed rule would decrease burden on 112 recordkeepers to mark documents containing Safeguards Information designated as SGI-M as specified in § 73.23(b), (d), and (f). These 112 licensees include panoramic and underwater irradiators that possess greater than 370 TBq of byproduct materials; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern.

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

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC

Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. The OMB clearance package and proposed rule will be available on the NRC's Web site, <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>, for 60 days after the signature date of this document.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the previously stated issues, by October 30, 2014 to the FOIA, Privacy, and Information Collections Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by email to [INFOCOLLECTS.RESOURCE@NRC.GOV](mailto:INFOCOLLECTS.RESOURCE@NRC.GOV) and to the Desk Officer, Danielle Y. Jones, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0002), Office of Management and Budget, Washington, DC 20503. You may also email comments to [Danielle\\_Y\\_Jones@omb.eop.gov](mailto:Danielle_Y_Jones@omb.eop.gov) or comment by telephone at 202-395-1741. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

### Public Protection Notification

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

### IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

### List of Subjects

#### 10 CFR Part 30

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

## 10 CFR Part 37

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

## 10 CFR Part 73

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

## 10 CFR Part 150

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

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; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30, 37, 73, 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:** Atomic Energy Act secs. 81, 82, 161, 181, 182, 183, 186, 223, 234 (42 U.S.C. 2111, 2112, 2201, 2231, 2232, 2233, 2236, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 30.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 30.34(b) also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 30.61 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

#### § 30.4 [Amended]

- 2. In § 30.4, remove the definition for “Quantities of concern.”

#### § 30.32 [Amended]

- 3. In § 30.32, remove paragraph (k).

#### § 30.34 [Amended]

- 4. In § 30.34, remove paragraph (l).

### PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

- 5. The authority citation for part 37 continues to read as follows:

**Authority:** Atomic Energy Act secs. 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234 (42 U.S.C. 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201a., 2232, 2233, 2273, 2282).

- 6. In § 37.29, revise paragraph (a)(10) to read as follows:

**§ 37.29 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.**

(a) \* \* \*

(10) Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

\* \* \* \* \*

- 7. In § 37.43, revise paragraph (d)(1) and remove paragraph (d)(9) to read as follows:

**§ 37.43 General security program requirements.**

\* \* \* \* \*

(d) *Protection of information.* (1) Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

\* \* \* \* \*

- 8. In § 37.77, revise paragraph (f) to read as follows:

**§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.**

\* \* \* \* \*

(f) *Protection of information.* State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in § 37.77(b) shall protect that information against unauthorized disclosure as specified in § 37.43(d) of this part.

### PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

- 9. The authority citation for part 73 continues to read as follows:

**Authority:** Atomic Energy Act secs. 53, 147, 161, 223, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2273, 2282, 2297(f), 2210(e)); Energy Reorganization Act sec. 201, 204 (42 U.S.C. 5841, 5844); Government Paperwork Elimination Act sec. 1704, 112

Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under Nuclear Waste Policy Act secs. 135, 141 (42 U.S.C. 10155, 10161).

Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

#### § 73.2 [Amended]

- 10. In § 73.2, remove the definition for “Quantities of concern.”

- 11. In § 73.21, revise paragraph (a)(1)(ii) to read as follows:

**§ 73.21 Protection of Safeguards Information: Performance Requirements.**

(a) \* \* \*

(1) \* \* \*

(ii) Establish, implement, and maintain an information protection system that includes the applicable measures for Safeguards Information specified in § 73.23 related to: research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

\* \* \* \* \*

- 12. In § 73.23, revise the introductory text of the section and the introductory text of paragraph (a)(2) to read as follows:

**§ 73.23 Protection of Safeguards Information-Modified Handling: Specific Requirements.**

This section contains specific requirements for the protection of Safeguards Information in the hands of any person subject to the requirements of § 73.21(a)(1)(ii) and research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance. The requirements of this section distinguish Safeguards Information requiring modified handling requirements (SGI–M) from the specific Safeguards Information handling requirements applicable to facilities and materials needing a higher level of protection, as set forth in § 73.22.

(a) \* \* \*

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

\* \* \* \* \*

#### Appendix I to Part 73—[Removed]

- 13. Remove appendix I to part 73.

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

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

**Authority:** Atomic Energy Act secs. 161, 181, 223, 234 (42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

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

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

**§ 150.15 [Amended]**

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

Dated at Rockville, Maryland, this 23rd day of September, 2014.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2014–23257 Filed 9–29–14; 8:45 am]

**BILLING CODE 7590–01–P**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Parts 730, 732, 738, 743, 748, 752, 762, 772, and 774**

[Docket No. 140613501–4501–01]

**RIN 0694–AG13**

**Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) proposes to continue updating export controls under the Export Administration Regulations (EAR) consistent with the Retrospective Regulatory Review Initiative that directs BIS and other Federal Government Agencies to streamline regulations and reduce unnecessary regulatory burdens on the public. Specifically, in this rule, BIS proposes to amend the EAR by

removing the Special Comprehensive License authorization. This rule also proposes conforming amendments.

**DATES:** Comments must be received no later than October 30, 2014.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. The identification number for this rulemaking is BIS–2014–0021.

- By email directly to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include RIN 0694–AG13 in the subject line.

- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AG13.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Andrukonis, Director, Export Management and Compliance Division, Office of Exporter Services, Bureau of Industry and Security, by telephone at (202) 482–8016 or by email at [Thomas.Andrukonis@bis.doc.gov](mailto:Thomas.Andrukonis@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Origin and Historical Advantages of the Special Comprehensive License*

The restructuring and reorganizing of the Export Administration Regulations (EAR) that were finalized in 1997 established provisions for the Special Comprehensive License (SCL) in part 752 of the EAR (61 FR 12714, March 25, 1996, as amended by 62 FR 25451, May 9, 1997).

In keeping with the purpose of those reforms, which was to “simplify, clarify and make regulations more user-friendly,” the SCL made licensing more efficient and practical by consolidating authorizations for activities (e.g., bulk exports and reexports of items as well as certain other activities) and extending periods that had been authorized under the following special licenses: Project, Distribution, Service Supply, Service Facilities, Aircraft and Vessel Repair Station Procedure, and Special Chemical Licenses. With the implementation of the SCL, those special licenses were discontinued. BIS was confident that the more flexible SCL and a pre-approved internal control program (ICP) would advance the agency’s fundamental mission of ensuring national security without unduly burdening legitimate global trade.

When introduced, SCLs presented certain advantages to exporters and consignees that could not be met by the Validated Licenses (formerly referred to

as Individual Validated Licenses), which was the other licensing option at that time. In return for committing to enhanced administrative responsibilities and compliance requirements, the SCL authorized, among other things:

- Exports and reexports of multiple shipments of all items subject to the EAR, with the exception of items prohibited by statute or regulation (*inter alia*, items controlled for missile technology and short supply reasons) and items identified as being of significant strategic and proliferation concern;

- Exports and reexports of multiple shipments of items to all destinations, except to embargoed and terrorist supporting destinations (i.e., destinations in Country Groups E:1 and E:2 in Supplement No. 1 to Part 740 of the EAR), and countries that BIS may designate on a case-by-case basis;

- Possible authorization by prior approved consignees abroad of servicing, support services, stocking spare parts, maintenance, capital expansion, scientific data acquisition support, reselling and reexporting items in the form received, and other activities, on a case-by-case basis;

- Exports and reexports of items for a period of four years; and

- Exports and reexports by an SCL holder to approved consignees and directly to the consignees’ customers, the end-users (known as drop shipping).

In a recent review of the SCL, it became apparent that the purposes served by an SCL and the advantages it provided have been overtaken by changes to the EAR, including changes that have occurred since the implementation of the President’s Export Control Reform (ECR) (See “Initial Implementation of Export Control Reform Rule” (73 FR 22660, April 16, 2013), effective October 15, 2013; “Improving Regulatory Review” (Executive Order 13563 of January 18, 2011); and BIS’s “Notice of Inquiry: Retrospective Regulatory Review Under E.O. 13563” (76 FR 47527, August, 5, 2011)).

At the direction of the President, in August, 2009, BIS in conjunction with other agencies that have export control-related jurisdiction began an interagency initiative to reform the export control system. The reform’s objective has been to help strengthen our national security and the competitiveness of key U.S. manufacturing and technology sectors while simultaneously enabling export control officials to better focus government resources on transactions that pose the most concern. Some of the