

# Proposed Rules

Federal Register

Vol. 72, No. 24

Tuesday, February 6, 2007

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 40, 72, 74, and 150

RIN: 3150-AH85

#### Regulatory Improvements to the Nuclear Materials Management and Safeguards System

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations related to licensee reporting requirements for source material and special nuclear material (SNM) to the Nuclear Materials Management and Safeguards System (NMMSS). The proposed amendments would lower the threshold of the quantities of SNM and certain source materials that require the submission of material status reports to the NMMSS. Also, the proposed amendments would make some modifications to the types of and timing of submittals of transaction reports to the NMMSS. The amendments would also require licensees to reconcile any material inventory discrepancies that NRC identifies in the NMMSS database. The proposed amendments would reduce some regulatory burden by reducing the current reporting requirements related to the export of certain source material and SNM. However, the annual reporting requirements would be new requirements for licensees who possess 350 grams or less, of SNM. These amendments are needed to improve the accuracy of the material inventory information maintained in the NMMSS.

**DATES:** Submit comments on the rule by April 23, 2007. Submit comments specific to the information collections aspects of this rule by March 8, 2007. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number RIN 3150-AH85 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

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

*E-mail comments to:* SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

*Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone (301) 415-1966).

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

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public

documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

#### FOR FURTHER INFORMATION CONTACT:

Neelam Bhalla, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6843, e-mail, [nxb@nrc.gov](mailto:nxb@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion
  - A. Special Nuclear Material Transfer Reports
  - B. Special Nuclear Material Status Reports
  - C. Source Material Transfer Reports
  - D. Source Material Status Reports
  - E. Reconciliation of Submitted Inventories
  - F. Reporting Identification Symbol and Holding Accounts
  - G. Reduction in Reporting Requirements for Export of Material Shipments
  - H. Who Would This Action Affect?
  - I. How Would the Information be Reported?
- III. Summary of Proposed Amendments by Section
- IV. Criminal Penalties
- V. Agreement State Compatibility
- VI. Plain Language
- VII. Voluntary Consensus Standards
- VIII. Environmental Impact: Categorical Exclusion
- IX. Paperwork Reduction Act Statement
- X. Public Protection Notification
- XI. Regulatory Analysis
- XII. Regulatory Flexibility Certification
- XIII. Backfit Analysis

#### I. Background

The NMMSS is the national database used in the United States by NRC licensees, the Agreement State licensees, and Department of Energy (DOE) contractors to report the possession of certain special nuclear material (SNM) and source material. The NMMSS was created as a result of comprehensive accounting procedures developed by the Atomic Energy Commission in response to the passage of the Atomic Energy Act of 1954 and began processing of facility submittals in 1965. The DOE is responsible for maintaining the NMMSS database. The NMMSS database supports NRC

domestically in the review of licensee material control and accounting programs, and internationally as the U.S. Government database for collecting and reporting information required by international treaties. The NRC reporting requirements related to the NMMSS are primarily contained in 10 CFR Parts 40, 72, 74, 75, 76, and 150.

The NMMSS database uses licensee submittals to serve two important functions: (1) meeting international reporting obligations, and (2) assisting in the oversight of licensee material control and accounting (MC&A) programs required by 10 CFR Parts 40, 72, 74, 75, 76, and 150.

With regard to international commitments, the United States has committed to a national accountancy and control system for nuclear materials through treaties with nuclear trading partners and the International Atomic Energy Agency (IAEA). The NMMSS is part of the overall program to help satisfy these international commitments by constituting the national database used by NRC and the Agreement State licensees, and DOE contractors to report the possession of certain quantities SNM and source material. The information submitted to the NMMSS is then reported externally by the United States in order to satisfy these treaty requirements. The NMMSS also maintains accounting data on U.S. peaceful use exports and imports of nuclear materials that have occurred since 1965.

With respect to NRC's oversight of the MC&A at licensed facilities, the NMMSS is the national database that serves as the central collection and processing point for inventory, shipment, and receipt information required to be reported by commercial and Federal Government facilities. Applicable NRC reporting requirements are specified in 10 CFR Parts 40, 72, 74, 75, 150. As a result of these reporting requirements, the NMMSS can provide the NRC staff with a projection of quantities of reportable materials located, shipped, or received at a particular licensee site.

In October 2001, the DOE Office of the Inspector General (OIG) issued a report based on an audit of the NMMSS for DOE-owned nuclear materials.<sup>1</sup> One of the findings of that report was that DOE could not fully account for DOE-owned nuclear materials loaned or leased to licensees. A similar audit conducted by NRC's OIG, also raised concerns over the accuracy of material inventories in

the NMMSS.<sup>2</sup> In the report, the NRC OIG recommended that the scope of licensee reporting should be expanded to include a requirement that smaller licensees (those possessing less than 350 grams of SNM), submit inventory information to the NMMSS annually.

As a result of its audit, NRC took immediate steps to verify and reconcile inventories in the NMMSS database by issuing a bulletin, NRC Bulletin 2003-04: "Rebaselining of Data in the Nuclear Materials Management and Safeguards System." The bulletin was sent to all NRC and Agreement State licensees then holding NMMSS accounts and requested them to provide inventory information to the NMMSS. The NRC staff also conducted site visits to review selected licensees' submitted information in comparison to actual physical inventories. The review concluded that licensees did not submit or update inventories to the NMMSS for several years (or decades) because they possessed or transferred materials that did not meet minimum reporting thresholds. These efforts also helped identify accounts with zero balances. The rebaselining efforts resulted in decreasing the number of active accounts and supported a further review and reconciliation of material inventories in the remaining accounts.

At the end of these efforts, NRC determined that enhanced reporting of inventory information by those licensees not presently required to do so would provide greater assurance about the accuracy of licensee inventory information maintained in the database. NRC believes that licensee inventories must be submitted regularly and reconciled in comparison to values projected by the NMMSS database to maintain the usefulness of the database for international and domestic regulatory needs.

## II. Discussion

The NRC staff has had extensive interactions with the NMMSS operator and industry representatives since the issuance of NRC Bulletin 2003-04. On the basis of these efforts and an evaluation of the current regulations related to the NMMSS reporting, the NRC staff concluded that many of the discrepancies in NMMSS information resulted because: (1) Many licensees (those that possess less than 350 grams of SNM) infrequently ship and/or receive reportable materials, and (2) Many licensees do not meet the current

regulatory threshold for annual reporting of SNM or source material and lose institutional awareness of the NMMSS over time. As a result, for many licensees there are no requirements to periodically confirm the accuracy of values projected by the NMMSS.

This conclusion led NRC to embark on an effort to amend its regulations to enhance the accuracy of the NMMSS database. The proposed amendments would lower the threshold of quantities of special nuclear materials and certain source materials requiring the submission of both status and transaction reports to the NMMSS. Another amendment to keep the NMMSS data more current, would be to modify reporting requirements in § 40.64 to require licensees involved in enrichment services, downblending material initially enriched in U<sup>235</sup> isotope 10 percent or more, or mixed-oxide (MOX) fuel fabrication of uranium, to report the transfer, receipt, inventory adjustment, inventory, and material balance information for source material. These changes to NMMSS reporting requirements would improve the accuracy of material balance (inputs/outputs) information. Currently, licensees are only required to report source material subject to international treaty requirements. However, source material reporting is an important part of the material balance equation because these materials are used as an input material in the downblending of uranium, MOX fuel fabrication, and uranium enrichment cycle. This type of facility reporting would facilitate the evaluation of the prior and ending source material balances of licensees that engage in activities that change the SNM values of materials.

The NRC staff considered other possible consequences posed by inaccurate NMMSS information associated with these holders of small quantities of SNM. Gram quantities of SNM held by many small quantity licensees do not appear to pose a significant challenge to the promotion of security from an MC&A perspective. However, if periodic reporting and evaluation of small licensee balances are not required, it could reduce public confidence in the primary tool used by the NRC in the oversight of small licensee MC&A activities since NRC would not have assurance that projected material balances are representative of the quantities of materials at these sites. Further, this will allow for more accuracy in the NMMSS database.

The following sections summarize the significant proposed changes to the regulations and the NRC's basis for those proposed changes.

<sup>1</sup> This report entitled, "Accounting for Government Owned Nuclear Materials Provided to Non-Department Domestic Facilities" (October 26, 2001), is available at <http://www.ig.doe.gov/pdf/ig-0529.pdf>.

<sup>2</sup> This report entitled, "Audit of NRC's Regulatory Oversight of Special Nuclear Materials" (OIG-03-A-15, May 23, 2003), is available at <http://www.nrc.gov/reading-rm/doc-collections/insp-gen/2003/03-a-15.pdf>.

### A. Special Nuclear Material Transaction Reports

Currently, licensees are required by 10 CFR 74.15(a) to report to the NMMSS whenever they transfer or receive one gram or more of SNM. The proposed revision would add a requirement that licensees must also report to the NMMSS whenever it makes an on-site adjustment to the SNM inventory involving a quantity of one gram or more SNM. The inventory adjustments may be due to decay, or normal operational losses. Domestic MC&A safeguards would be enhanced by this change because the NRC inspection staff would be aware of possible inventory anomalies sooner and NMMSS generated inventories would more accurately reflect actual facility inventory values between reconciliation periods. Thus, required reporting of these adjustments as they are generated would improve the accuracy of the NMMSS database.

Additionally, 10 CFR 72.78 and 74.15 require submission of material transaction reports for the transfer and receipt of SNM but do not specify the time frames in which the reports must be made. However, the reporting time frames are specified in NUREG/BR-0006, "Instructions for the preparation and Distribution of Material Transaction Reports." In contrast, for source material transactions under § 40.64(a), nuclear material transaction reports are required to be submitted by the close of business, the next working day for the transfer of source material and within ten business days of receipt, for the receipt of source material. Therefore, for consistency with those provisions, §§ 72.78 and 74.15 would be amended to require each licensee who transfers SNM to submit a nuclear material transaction report no later than the close of business the next working day, and each licensee who receives the material to submit a nuclear material transaction report within ten days after the material is received. Consistent with this change, Part 150 would be amended to require licensees who transfer SNM to submit a nuclear material transaction report to NMMSS no later than the close of business the next working day. Currently, § 150.16(a) requires licensees only submit the SNM transaction report "promptly" after the SNM transfer takes place. By changing "promptly" to "no later than the close of business the next working day" the regulation would be unambiguous.

A revision would also be made to the titles of §§ 72.78, 74.15 and 150.16. Currently, §§ 72.78 and 74.15 are entitled "Nuclear material transfer reports," and § 150.16 is entitled

"Submission to Commission of nuclear material transfer reports." The amended titles of §§ 72.78 and 74.15 would be "Nuclear material transaction reports." § 150.16 would be entitled "Submission to Commission of nuclear material transaction reports." The amended titles would correctly reflect the requirements contained in these sections for both receipt and transfer of nuclear material, and would be consistent with the name of the submission report.

### B. Special Nuclear Material Status Reports

Currently, licensees are required by § 74.13(a) to report annual SNM inventories to the NMMSS only if they are authorized to possess more than 350 grams of SNM. The proposed amendment would lower the reporting threshold to one gram or more, requiring a licensee who possesses or who had possessed in the previous reporting period, one gram or more of SNM to report an annual inventory to the NMMSS. By lowering the reporting threshold, NRC would improve its knowledge of the location and presence of SNM possessed by licensees. The staff considered changing the current 350 gram threshold to a number of values that were less than 350 grams but more than one gram. This approach was rejected because this would still result in a number of licensees that would not have to report inventory regularly and ultimately cause a variation of the same problem, that NRC would not have adequate input regarding inventories held by these licensees. The staff also considered lowering the inventory/material balance threshold to less than one gram of SNM. This method was not pursued because it would "mis-align" NRC regulations with DOE and international entities with whom the U.S. has treaty agreements in place. Also, the licensee community would have potentially an additional burden to develop new (less than one gram) measurement techniques. Finally, the staff established the new threshold at one gram of SNM because: (1) International entities (those with which we have treaties) recognize one gram as the basic measuring unit for SNM; (2) one gram is a threshold value accepted by DOE and would meet their reporting expectations for licensees possessing government-owned material; (3) a one gram threshold would address the NRC OIG concern about ensuring we have interaction with and reporting from small quantity licensees; and (4) the one gram threshold for inventory/material balance reporting would align with the present one gram requirement for

licensees reporting shipments and receipts (transactions) of SNM.

The submission of material balance reports under the current rule is linked to the performance and conduct of annual physical inventories and related reports required by §§ 74.19(c), 74.31(c)(5), 74.33(c)(4), or 74.43(c)(6), in March and September for those subject to § 74.51. Those provisions are linked for the convenience of licensees, since both reports contain the same minimum threshold requirements of more than 350 grams. However, the activities associated with performing, documenting, and maintaining records associated with a physical inventory, as required by 10 CFR 74.19(c), are different and more encompassing than those associated with preparing and submitting a material status report required in 10 CFR 74.13. Because the staff does not plan to revise § 74.19(c) as part of this rulemaking, it would therefore no longer be possible to link the reporting requirements of the two rules since a physical inventory under 74.19(c) is only implicated if a licensee is authorized to possess greater than 350 grams of SNM.

Thus, § 74.13 would be revised to continue to permit licensees authorized to possess greater than 350 grams of SNM to submit material status reports along with their physical inventory reports as required by §§ 74.19(c), 74.31(c)(5), 74.33(c)(4), or 74.43(c)(6), and, in March and September of each year, for those subject to § 74.51. However, for those licensees who are authorized to possess 350 grams or less of SNM, the proposed rule would require the submission of material balance reports no later than March 31 of each year. The NRC finds that this schedule would eliminate any reporting problems related to inconsistencies in reporting quantities that would persist between §§ 74.13 and 74.19, but maintains the intended flexibility and efficiency of the current rule.

### C. Source Material Transaction Reports

Currently, § 40.64(a) requires submission of a Nuclear Material Transaction Report whenever a licensee transfers, receives, or adjusts the inventory of foreign obligated source material by one kilogram or more. Foreign obligated materials are those nuclear materials that are subject to tracking by international treaties. Also, reports are required for the import and export of one kilogram or more of any source material, regardless of obligation. However, the current requirements do not require reporting when material is utilized. The proposed revision would amend the rule to require reporting

when a licensee utilizes one kilogram or more of source material in enrichment services, downblend material initially enriched in the U<sup>235</sup> isotope to 10 percent or more, or mixed-oxide fuel fabrication, regardless of obligation. The NRC staff believes that source material reporting is an important part of the material balance equation because these materials are used as an input material in the downblending of uranium, mixed-oxide (MOX) fuel fabrication, and uranium enrichment cycle. This amendment to NMMSS reporting would facilitate the evaluation of the prior and ending balances of licensees that engage in activities that change the SNM values of their inventories and thus improve the accuracy of the NMMSS data.

#### *D. Source Material Status Reports*

Currently, § 40.64(b) requires annual source material inventory reports of foreign obligated source material for licensees authorized to possess more than 1000 kilograms of source material. The proposed revision would lower this value to one kilogram or more of foreign obligated source material. A lowered reporting threshold would provide the NRC with better knowledge of the location and presence of foreign obligated source material possessed by the licensees. The proposed revision would also require the licensees to report annual source material inventory when a licensee utilizes one kilogram or more of any source material in enrichment services, downblend material initially enriched in the U<sup>235</sup> isotope to 10 percent or more, or mixed-oxide fuel fabrication, regardless of the obligation. Based on a review of the rebaselining efforts, the NRC staff has concluded that many licensees did not submit or update inventories to the NMMSS for several years, because they possessed or transferred materials that did not meet the minimum reporting thresholds. By lowering the reporting threshold from 1000 kilograms to 1 kilogram of foreign material, the staff believes the information maintained in the NMMSS database would be more current and reliable.

#### *E. Reconciliation of Submitted Inventories*

Facilities that presently report inventory and material balance information also voluntarily participate in a periodic reconciliation process with the NMMSS to address any differences between NMMSS generated inventory values and the facility reported inventory values. Although, the reconciliation process is not explicitly required by regulations, it is an integral part of routine NMMSS operations. To

address this issue, the proposed amendments to §§ 40.64(b), 72.76(a), 74.13(a), 150.17(a) and 150.17(b) would require licensees to reconcile any inventory discrepancies identified by NRC in the NMMSS database within 30 days of being notified of a discrepancy by NRC. In the proposed amendments to §§ 40.4, 72.3, 74.4 and 150.3, a new definition, "reconciliation," would be added to describe the process by which licensees' reports are evaluated and compared by NRC to the projected material balances by the NMMSS. The NMMSS projected balances are the NMMSS calculated material balances based on the transfer, receipt, or other adjustments reported to the NMMSS by the licensees during the previous reporting period. The process is considered complete when a licensee resolves any differences between the reported inventory and the inventory projected by the NMMSS database. This requirement would help in maintaining the accuracy of information in the NMMSS database.

#### *F. Reporting Identification Symbol (RIS) and Holding Accounts*

NRC currently assigns a reporting account number called Reporting Identification Symbol (RIS) to each licensee to submit information to the NMMSS. The proposed revisions to §§ 40.64(b) and 74.13(a) would require licensees to report inventory of source material and SNM, respectively, not only for their primary RIS account but also source and SNM inventories in associated holding accounts. Holding accounts were established by some licensees to identify the material that the licensee was not actively using. Currently, licensees are not required to acknowledge shipments and receipts, or report inventory information pertaining to the holding accounts to the NMMSS. MC&A safeguards would be enhanced by this change because of the increased accuracy and availability of inventory information to the NRC staff.

#### *G. Reduction in Reporting Requirements for Export of Material Shipments*

Currently, licensees who export reportable quantities of SNM or source material file both the shipper's and receiver's information on two separate forms when exporting nuclear material, as described in NUREG/BR-0006. Based on the NRC inspector observations, the current additional requirement to report a foreign facility description of the same transactions has not been useful in assuring the accuracy of domestic MC&A information and is not necessary to meet international reporting requirements. Consequently, this

requirement can be eliminated to reduce burden without adverse effects on safety or security. This change would be reflected in the revised NUREG/BR-0006 and in the proposed amendments to §§ 40.64, 74.15 and 150.16.

In the proposed amendment, licensees would be required to file only the shipper's information form unless a significant shipper/receiver difference, or, a theft or diversion is identified. In this context "significant" refers to a difference, for SNM, that requires resolution as described in §§ 74.31, 74.43, or 74.59, as applicable. For source material, the quantities delineated in § 40.64(c)(1) involving a theft or unlawful diversion would be the threshold quantity for additional reporting. This proposed change to the reporting requirement would reduce the licensees reporting burdens when shipping nuclear materials without significantly impacting the quality of the information reported to the database.

#### *H. Who Would This Action Affect?*

Currently, licensees possessing more than 350 grams of SNM report inventory and material balance information annually to the NMMSS. The lowering of the threshold to one gram of SNM and one kilogram of source material subject to treaty obligations would affect approximately 200 additional NRC and Agreement State licensees who presently possess between one and 350 grams of SNM.

New requirements associated with source material reporting would also apply to licensees that perform uranium enrichment services, downblend material initially enriched in the U<sup>235</sup> isotope to 10 percent or more, and mixed-oxide fuel fabrication. However, the actual impact on these licensees would be minimal because much of the source material used for these types of processes has associated treaty obligations and is subject to the current reporting requirements.

Finally, the reduction in reporting requirements associated with export of SNM and source material would impact approximately 17 NRC and Agreement State licensees that export such materials. This change to the current reporting requirements as specified in NUREG/BR-0006 would result in a reduction of about 1,700 reports per year, from the current number of 3400 reports per year to the NMMSS without impacting the quality of information in the NMMSS database.

### *I. How Would the Information Be Reported?*

Licensees may continue to submit foreign obligated source material information pursuant to proposed § 40.64(b) as a statement and may submit the statement with other reports that the licensee is required to submit, such as the SNM material balance report. However, source material and SNM transaction reports must be submitted by filing Nuclear Material Transaction Reports forms in computer-readable format as specified in NRC NUREG/BR-0006. Additional source and SNM inventory and material balance reports must be submitted in computer-readable format as specified in the NRC NUREG/BR-0007. Specific details about the forms and format for these reports are contained in the NRC NUREG/BR-0006 and 0007.

Additionally, reporting software is available to the licensees free of charge from the NMMSS contractor.

### **III. Summary of Proposed Amendments by Section**

#### *Section 40.4 Definitions*

Section 40.4 would be amended to add a definition of "reconciliation." Reconciliation would be defined to mean the process by which licensee inventory submittals are compared to values projected by the NMMSS, and that the process is considered complete when the licensee resolves any differences between the two values, including foreign obligated materials.

#### *Section 40.64 Reports*

Section 40.64(a) would be amended to (1) require licensees who utilize one kilogram or more of source material, regardless of obligation, in enrichment services, downblending uranium that has an initial enrichment of the U<sup>235</sup> isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to complete and submit a Nuclear Material Transaction Report; and (2) to require licensees who export source material to complete only the licensee portion of the transaction report unless there is an indication of loss, theft, or diversion of the source material, in which case both the licensee's and the foreign facility's information on the form would have to be reported.

Section 40.64(b) would be amended to (1) lower reporting thresholds for possession and reporting of inventory of foreign obligated source material to one kilogram; (2) require each licensee who possesses one kilogram or more of uranium or thorium source material in the operation of enrichment services, downblending uranium that has an

initial enrichment of the U<sup>235</sup> isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to complete and submit, in computer-readable format, Material Balance and Physical Inventory Listing Reports concerning all source material (both foreign obligated and non-obligated) that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost in the previous reporting period; (3) resolve any inventory discrepancies identified by the NRC within 30 calendar days of submission of the information; (4) require inventory reporting not only in the (RIS) account but include material held in all associated holding accounts; and (5) correct the NRC address to obtain the reporting instructions.

#### *Section 72.3 Definitions*

Section 72.3 would be amended to add a definition of "reconciliation." Reconciliation would be defined to mean the process by which licensee submittals are compared to projected values developed by the NMMSS, and that the process is considered complete when the licensee resolves any differences between the two values, including foreign obligated materials.

#### *Section 72.72 Material Balance Inventory and Records Requirements for Stored Materials*

Section 72.72(a) would be amended to (1) correct the reference for SNM to § 74.13(a) (the current reference to § 74.13(a)(1) is incorrect because there is no paragraph (a)(1) in § 74.13); and (2) would require licensees to keep records showing the receipt, inventory, disposal, acquisition, and transfer of source material in quantities as specified in § 40.64.

#### *Section 72.76 Material Status Reports*

Section 72.76(a) would be amended (1) to require reports on source material as specified in § 40.64; (2) require licensees to resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of submission of the information; and (3) correct the NRC address to obtain the reporting instructions.

#### *Section 72.78 Nuclear Material Transfer Reports*

The section heading would be revised to read, "Nuclear Material Transaction Reports." The amendment is consistent with the name of the report (transaction report) and describes requirements for both receipt and transfer of nuclear materials.

Section 72.78(a) would be amended (1) to add a reporting requirement when a licensee adjusts the inventory of SNM as specified by § 74.15 or source material as specified by § 40.64; and (2) to correct the NRC address or obtaining the reporting instructions.

#### *Section 74.2 Scope*

Section 74.2(a) would be amended to lower the applicability of general reporting and record keeping requirements of subpart B of Part 74 to each person who possesses one gram or more of SNM.

#### *Section 74.4 Definitions*

Section 74.4 would be amended to add a definition of "reconciliation." Reconciliation would be defined to mean the process by which licensee submittals are compared to projected values developed by NMMSS, and that the process is considered complete when the licensee resolves any differences between the two values, including foreign obligated materials.

#### *Section 74.13 Material Status Reports*

Section 74.13(a) would be amended to (1) lower reporting thresholds from authorization to possess more than 350 grams of SNM to possession of one gram or more of SNM, or possession of one gram or more of SNM in the inventory reporting period; (2) require inventory reporting to include not only the primary Reporting Identification Symbol (RIS) account but SNM in any associated holding accounts; (3) to require licensees to resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by the NRC; (4) to require licensee submission of material balance reports no later than March 31 of each year for reports not covered under §§ 74.19, 74.31(c)(5), 74.33(c)(4), 74.43(c)(6), or 74.51; and (5) to correct the NRC address to obtain the reporting instructions.

#### *Section 74.15 Nuclear Material Transfer Reports*

The section heading would be revised to read, "Nuclear Material Transaction Reports." The amendment is consistent with the name of the report (transaction report) and describes requirements for both receipt and transfer of nuclear materials.

Section 74.15(a) would be amended to (1) add a reporting requirement when the inventory of SNM is adjusted in a quantity of one gram or more; (2) specify that each licensee who transfers SNM to submit a Nuclear Material Transaction Report no later than the close of

business the next working day, and each licensee who receives the material to submit a Nuclear Material Transaction Report within ten (10) days after the material is received; and (3) make a revision to correct the NRC address to obtain the reporting instructions.

The current paragraph (c) would be redesignated as a new paragraph (d). A new paragraph (c) would be added to § 74.15 to require licensees who export one gram or more of SNM to complete only the supplier's portion of the form unless a significant shipper-receiver difference as described in §§ 74.31, 74.43, or 74.59 is identified.

#### *Section 150.3 Definitions*

Section 150.3 would be amended to add a definition of "reconciliation." Reconciliation would be defined to mean the process by which licensee submittals are compared to projected values developed by the NMMSS and that the process is considered complete when the licensee resolves any differences between the two values, including foreign obligated materials.

#### *Section 150.8 Information Collection Requirements: OMB Approval*

In Section 150.8 paragraph (c)(1) would be revised, paragraph (c)(2) would be redesignated as a new paragraph (c)(3), and a new paragraph (c)(2) would be added to describe that in § 150.17, DOE/NRC Form 742 and its computer-readable format are approved under control number 3150-0004, and DOE/NRC Form 742C and its computer-readable format are approved under control number 3150-0058.

#### *Section 150.16 Submission to Commission of Nuclear Material Transfer Reports*

The section heading would be revised to read, "Submission to the Commission of nuclear material transaction reports." The amendment is consistent with the name of the report (transaction report) and describes requirements for both receipt and transfer of nuclear materials.

Section 150.16(a) would be revised to add a new paragraph (a)(1) that would generally retain the requirements of current paragraph (a), but would be amended to (1) require reporting when the inventory of SNM is adjusted in a quantity of one gram or more; (2) specify that for transfer of SNM, the information be submitted no later than the close of next business day; (3) would require completion of only the licensee's portion of the form for exporting SNM unless a significant shipper-receiver difference as described in §§ 74.31, 74.43, or 74.59 is identified; and (4),

correct the NRC address to obtain the reporting instructions.

The new paragraph (a)(2) in § 150.16 would describe the material transaction reporting requirements for the source material. Currently, source material transaction reporting requirements are described in § 150.17(a), under the heading "Submission to Commission of source material reports." Moving these requirements to § 150.16, would help licensees locate the material transaction reporting requirements for both SNM and source material in § 150.16.

The new § 150.16(a)(2) would also (1) require a licensee who utilizes any uranium or thorium source material, regardless of obligation, in a quantity of one kilogram or more, in enrichment services, downblending uranium that has an initial enrichment of the U<sup>235</sup> isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to submit source material transaction reports; (2) require licensees to file only the licensee's portion of the form when exporting one kilogram or more of source material, unless there is an indication of theft or diversion as described in § 40.64(c) of this chapter, in which case both the receiver's and shipper's portion of the form must be completed; (3) require the shipper's portion of the form to be completed for imports; and (4) correct the NRC address to obtain the reporting instructions.

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

The section heading would be revised to read, "Submission to Commission of nuclear material status reports." This amendment would help licensees locate the reporting requirements for material status reports for both source material and SNM. This format is similar to the reporting formats for source and SNM status reporting in 10 CFR Parts 40, 72, and 74.

Section 150.17(a) would be amended to require each licensee who is in possession of, or had possessed in the previous reporting period, SNM in a quantity of one gram or more, to annually complete and submit in computer-readable format Material Balance and Inventory Reports concerning special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost. It would also require licensees to resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by NRC.

Section 150.17 (b) would be amended to (1) lower the annual inventory reporting threshold from the current

1000 kilogram of foreign obligated source material to one kilogram; (2) add a reporting requirement that a licensee who utilizes one kilogram or more of any source material in enrichment services, downblend material initially enriched in the U<sup>235</sup> isotope to 10 percent or more, or mixed-oxide fuel fabrication would be required to submit material balance and physical inventory listing reports concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost; (3) require licensees to resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by NRC; and (4) correct the NRC address to obtain the reporting instructions.

#### **IV. Criminal Penalties**

For the purpose of Section 223 of the Atomic Energy Act (AEA), the Commission is proposing to amend 10 CFR Parts 40, 72, 74, and 150 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

#### **V. 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 proposed rule would be designated Compatibility Category "NRC." The Compatibility Categories for the sections amended in this proposed rule would be the same as the sections in the current rule. The revisions to §§ 40.64, 72.72(a), 72.76, 72.78, 74.4, 74.13, 74.15, 150.16 and 150.17 are designated as Category "NRC," because these are areas of exclusive NRC regulatory authority. The following new sections, §§ 40.4, 72.3 and 150.3, are also designated Compatibility Category "NRC." Compatibility Category "NRC" are the NRC program elements that address areas of regulation that cannot be relinquished to Agreement States under the Atomic Energy Act or 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.

## VI. Plain Language

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

## VII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would modify current reporting requirements for source material and special nuclear material to the Nuclear Materials Management and Safeguards System (NMMSS). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

## VIII. Environmental Impact: Categorical Exclusion

NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1) for the proposed changes to Part 150 and as described in 10 CFR 51.22(c)(3)(iii) for the changes to Parts 40, 72, and 74. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

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

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

*The title of the information collection:* 10 CFR Parts 40, 72, 74, and 150, "Regulatory Improvements to Nuclear Materials Management and Safeguards System," Proposed Rule.

*The form number if applicable:* DOE/NRC Form 741 "Nuclear Material Transaction Report," DOE/NRC Form 742, "Material Balance Report," and DOE/NRC Form 742C, "Physical Inventory Listing."

*How often the collection is required:* Annually, or when a transaction is made.

*Who will be required or asked to report:* Licensees who possess one gram or more of special nuclear material, one kilogram or more of foreign obligated source material and licensees who possess one kilogram or more of source material used in uranium enrichment, downblending of uranium enriched to 10 percent or more in U-235 and mixed-oxide fuel fabrication activities.

*An estimate of the number of annual responses:* 33,065 (currently 33,860 total responses for Forms 741, 742 and 742C per year. Proposed rule would decrease the responses to 33,065 per year because of a reduction in the information collection for export of special nuclear material and source material). The reduction was achieved by:

*NRC Form 741:* -1195 responses.

*NRC Form 742:* +200 responses.

*NRC Form 742C:* +200 responses.

*The estimated number of annual respondents:* 380. Currently, 180 licensees report information on Forms 741, 742 and 742C. Two hundred additional respondents for each of the Forms 742 and 742C are expected in the proposed rule as follows:

*NRC Form 741:* 180 respondents.

*NRC Form 742:* 380 respondents.

*NRC Form 742C:* 380 respondents.

*An estimate of the total number of hours needed annually to complete the requirement or request:* A reduction of 695 hours (*NRC Form 741:* -1495 hours at 1.25 hours/response; *NRC Form 742,* +400 hours at 2hours/response; *NRC Form 742C,* +400 hours at 2hours/response).

*Abstract:* NRC is proposing to amend its regulations related to current reporting requirements for source material and special nuclear material to the NMMSS. The proposed amendments would require that all licensees possessing one gram or more of special nuclear material (SNM) or one kilogram or more of source material with foreign treaty obligations to report and reconcile material balance and inventory information at least annually. Additionally, inventory adjustments would have to be reported. The proposed amendments would also reduce the current reporting requirements associated with the export of source material or SNM to require in most cases, only shipper information be reported. The rule would require licensees who engage in certain activities (i.e., enrichment, downblending, mixed-oxide fuel fabrication) to report information on all source materials used for those

activities. These information collections are mandatory.

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 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 rule are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html> for 60 days after the signature date of this notice and are also available at the rule forum site, <http://ruleforum.llnl.gov>.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by March 8, 2007 to the Records and FOIA/Privacy Services Branch (T-5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail to [INFOCOLLECTS@NRC.GOV](mailto:INFOCOLLECTS@NRC.GOV) and to the Desk Officer, Margaret A. Malanoski, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0020, 3150-0003, 3150-0132, 3150-0123, 3150-0032, 3150-0004, and 3150-0058), Office of Management and Budget, Washington, DC 20503. 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. You may also e-mail comments to [Margaret\\_A\\_Malanoski@omb.eop.gov](mailto:Margaret_A_Malanoski@omb.eop.gov) or comment by telephone at (202) 395-3321.

## X. 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.

## XI. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed

regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading of this document. The analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the regulatory analysis are available from Neelam Bhalla, telephone (301) 415-6843, e-mail, [nxb@nrc.gov](mailto:nxb@nrc.gov) of the Office of Federal and State Materials and Environmental Management Programs.

## XII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would affect about 180 licensees who are currently required to file reports and approximately 200 additional NRC and Agreement State licensees. Affected licensees include enrichment facilities, fuel fabricators, laboratories, reactors, universities, colleges, medical clinics, and hospitals, some of which may qualify as small business entities as defined by 10 CFR 2.810. The proposed rule would result in annual savings for the 17 licensees subject to current reporting requirements because there would be a reduction in the number of transaction forms submitted for certain export transactions. However, for the licensees possessing 350 grams or less of SNM, there would be an additional cost from the proposed regulations. The annual time required by these licensees to complete each inventory and material balance report is estimated at two hours. No research or compilation is necessary because all information is transcribed from in-house records kept for other purposes. The total annual burden to perform the proposed reporting and reconciliation for these 200 licensees would be 400 hours. Based on the draft regulatory analysis conducted for this action, the annual costs of the proposed amendments for affected licensees are estimated to be \$34,800 total or on average about \$174 per affected licensee. NRC believes that the selected alternative reflected in the proposed amendment is the least burdensome, most flexible alternative that would accomplish the NRC's regulatory objective.

## XIII. Backfit Analysis

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

### List of Subjects

#### 10 CFR Part 40

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

#### 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 74

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

#### 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. 553; the NRC is proposing to adopt the following amendments to 10 CFR parts 40, 72, 74, and 150.

## PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. 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).

2. In § 40.4, a new definition, Reconciliation, is added in alphabetical order to read as follows:

### § 40.4 Definitions.

\* \* \* \* \*

Reconciliation means the process of evaluating and comparing licensee reports required under this part to the projected material balances generated by the Nuclear Materials Management and Safeguards System. This process is considered complete when the licensee resolves any differences between the reported and projected balances, including those listed for foreign obligated materials.

\* \* \* \* \*

3. In § 40.64, paragraphs (a) and (b) are revised to read as follows:

### § 40.64 Reports.

(a) Except as specified in paragraphs (d) and (e) of this section, each specific licensee who: transfers, receives, or adjusts the inventory in any manner, of uranium or thorium source material with foreign obligations by one kilogram or more; or who imports or exports one kilogram or more of uranium or thorium source material; or who uses one kilogram or more of any uranium or thorium source material in enrichment services, downblending uranium that has an initial enrichment of the U<sup>235</sup> isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, shall complete a Nuclear Material Transaction Report in computer-readable format as specified in the instructions in NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." Each licensee who exports one kilogram or more of uranium or thorium source material shall complete in the format listed above the licensee's portion of the Nuclear Material Transaction Report unless there is indication of loss, theft, or diversion as discussed under paragraph (d) of this section, in which case both the licensee's and the foreign facility's

information must be reported. Licensees who import one kilogram or more of uranium or thorium source material shall complete the supplier's and the licensee's portion of the Nuclear Material Transaction Report. Copies of the instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcsc@nrc.gov](mailto:RidsNmssFcsc@nrc.gov). Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format as specified in the instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741 previously submitted in paper form.

(b) Except as specified in paragraphs (d) and (e) of this section, each licensee who:

(1) Possesses, or had possessed in the previous reporting period, at any one time and location, one kilogram or more of uranium or thorium source material with foreign obligations as defined in this part, shall document holdings as of September 30 of each year and submit to the Commission within 30 days, a statement of its source material inventory with foreign obligations as defined in this part. Alternatively, this information may be submitted with the licensee's material status reports on special nuclear material filed under parts 72 or 74 of this chapter, as a statement of its source material inventory with foreign obligations as defined in this part. This statement must be submitted to the address specified in the reporting instructions in NUREG/BR-0007, and include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee.

(2) Possesses, or had possessed in the previous reporting period, one kilogram or more of uranium or thorium source material pursuant to the operation of enrichment services, downblending uranium that has an initial enrichment of the U<sup>235</sup> isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels shall complete and submit, in computer-readable format, Material Balance and Physical Inventory Listing Reports concerning all source material that the licensee has received,

produced, possessed, transferred, consumed, disposed of, or lost. Reports must be submitted for each Reporting Identification Symbol (RIS) account including all holding accounts. Each licensee shall prepare and submit these reports as specified in the instructions in NUREG/BR-0007 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." These reports must document holdings as of September 30 of each year and must be submitted to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under parts 72 or 74 of this chapter. Copies of the reporting instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcsc@nrc.gov](mailto:RidsNmssFcsc@nrc.gov). Each licensee required to report material balance, inventory, and/or foreign obligation information, as detailed in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by the NRC.

\* \* \* \* \*

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

4. 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, 2224 (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).

5. In § 72.3, a new definition, Reconciliation, is added in alphabetical order to read as follows:

#### **§ 72.3 Definitions.**

\* \* \* \* \*

Reconciliation means the process of evaluating and comparing licensee reports required under this part to the projected material balances generated by the Nuclear Materials Management and Safeguards System. This process is considered complete when the licensee resolves any differences between the reported and projected balances, including those listed for foreign obligated materials.

\* \* \* \* \*

6. In § 72.72, paragraph (a) is revised to read as follows:

#### **§ 72.72 Material balance, inventory, and record requirements for stored materials.**

(a) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, and transfer of all special nuclear material with quantities as specified in § 74.13(a) and for source material as specified in § 40.64 of this chapter. The records must include as a minimum the name of shipper of the material to the ISFSI or MRS, the estimated quantity of radioactive material per item (including special nuclear material in spent fuel and reactor-related GTCC waste), item identification and seal number, storage location, onsite movements of each fuel assembly or storage canister, and ultimate disposal. These records for spent fuel and reactor-related GTCC waste at an ISFSI or for spent fuel, high-level radioactive waste, and reactor-related GTCC waste at an MRS must be retained for as long as the material is stored and for a period of 5 years after the material is disposed of or transferred out of the ISFSI or MRS.

\* \* \* \* \*

7. In § 72.76, paragraph (a) is revised to read as follows:

#### **§ 72.76 Material status reports.**

(a) Except as provided in paragraph (b) of this section, each licensee shall complete in computer-readable format and submit to the Commission a Material Balance Report and a Physical

Inventory Listing Report as specified in the instructions in NUREG/BR-0007 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees." Copies of these instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcoss@nrc.gov](mailto:RidsNmssFcoss@nrc.gov). These reports, as specified by §§ 74.13 or 40.64 of this chapter, provide information concerning the special nuclear material and or source material possessed, received, transferred, disposed of, or lost by the licensee. Each report must be submitted within 60 days of the beginning of the physical inventory required by § 72.72(b) of this chapter. The Commission may, when good cause is shown, permit a licensee to submit Material Balance Reports and Physical Inventory Listing Reports at other times. Each licensee required to report material balance and inventory information as described in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by NRC. The Commission's copy of this report must be submitted to the address specified in the instructions. These prescribed, computer-readable forms replace the DOE/NRC Forms 742 and 742C previously submitted in paper form.

\* \* \* \* \*

8. In § 72.78 the section heading and paragraph (a) are revised to read as follows:

**§ 72.78 Nuclear material transaction reports.**

(a) Except as provided in paragraph (b) of this section, whenever the licensee transfers or receives or adjusts the inventory in any manner, of special nuclear material as specified by § 74.15 and or source material as specified by § 40.64 of this chapter, the licensee shall complete in computer-readable format a Nuclear Material Transaction Report as specified in the instructions in NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." Copies of these instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcoss@nrc.gov](mailto:RidsNmssFcoss@nrc.gov). Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format as specified in the instructions no later than the close of business the next working day. Each licensee who

receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. Each ISFSI licensee who receives spent fuel from a foreign source shall complete both the supplier's and the receiver's portion of the Nuclear Material Transaction Report, verify the identity of the spent fuel, and indicate the results on the receiver's portion of the form. These prescribed computer-readable forms replace the DOE/NRC Form 741 which have been previously submitted in paper form.

\* \* \* \* \*

**PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL**

9. The authority citation for Part 74 continues to read as follows:

**Authority:** Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282, 2297f); 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).

10. In § 74.2, paragraph (a) is revised to read as follows:

**§ 74.2 Scope.**

(a) The general reporting and recordkeeping requirements of subpart B of this part apply to each person licensed under this chapter who possesses special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium; or who transfers or receives a quantity of special nuclear material of one gram or more of contained uranium-235, uranium-233, or plutonium. The general reporting and recordkeeping requirements of subpart B of this part do not apply to licensees whose MC&A reporting and recordkeeping requirements are covered by §§ 72.72, 72.76, and 72.78 of this chapter.

\* \* \* \* \*

11. In § 74.4, a new definition, Reconciliation, is added in alphabetical order to read as follows:

**§ 74.4 Definitions.**

\* \* \* \* \*

Reconciliation means the process of evaluating and comparing licensee reports required under this part to the projected material balances generated by the Nuclear Materials Management and Safeguards System. This process is considered complete when the licensee

resolves any differences between the reported and projected balances, including those listed for foreign obligated materials.

\* \* \* \* \*

12. In § 74.13, paragraph (a) is revised to read as follows:

**§ 74.13 Material status reports.**

(a) Each licensee, including nuclear reactor licensees as defined in §§ 50.21 and 50.22 of this chapter, possessing, or who had possessed in the previous reporting period, at any one time and location special nuclear material in a quantity totaling one gram or more of contained uranium-235, uranium-233, or plutonium shall complete and submit, in computer-readable format Material Balance Reports concerning special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost. This prescribed computer-readable report replaces the DOE/NRC form 742 which has been previously submitted in paper form. The Physical Inventory Listing Report must be submitted with each Material Balance Report. This prescribed computer-readable report replaces the DOE/NRC Form 742C which has been previously submitted in paper form. Reports must be submitted for each Reporting Identification Symbol (RIS) account including all holding accounts. Each licensee shall prepare and submit the reports described in this paragraph as specified in the instructions in 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, or by e-mail to [RidsNmssFcoss@nrc.gov](mailto:RidsNmssFcoss@nrc.gov). Each licensee subject to the requirements of § 74.51 shall compile a report as of March 31 and September 30 of each year and file it within 30 days after the end of the period covered by the report. Licensees subject to the requirements of §§ 74.19(c), 74.31(c)(5), 74.33(c)(4), or 74.43(c)(6) shall submit a report within 60 calendar days of the beginning of the physical inventory. All other licensees shall submit a report no later than March 31 of each year. The Commission may permit a licensee to submit the reports at other times for good cause. Each licensee required to report material balance, and inventory information, as detailed in this part, shall resolve any discrepancies identified during the report review and reconciliation process

within 30 calendar days of notification of a discrepancy identified by NRC.

\* \* \* \* \*

13. In § 74.15 the section heading and paragraph (a) are revised, paragraph (c) is redesignated as a new paragraph (d), and a new paragraph (c) is added to read as follows:

**§ 74.15 Nuclear material transaction reports.**

(a) Each licensee who transfers, receives, or adjusts the inventory in any manner of special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium shall complete in computer-readable format a Nuclear Material Transaction Report. This shall be done as specified in the instructions in NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." Copies of these instructions NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees" may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to *RidsNmssFcsc@nrc.gov*. Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format as specified in the instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. This prescribed computer-readable format replaces the DOE/NRC Form 741 which has been previously submitted in paper form.

\* \* \* \* \*

(c) Each licensee who ships special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium to foreign recipient shall complete in computer-readable format the supplier's portion of the Nuclear Material Transaction Report. The licensee shall complete the receiver's portion of the Nuclear Material Transaction Report only if a significant shipper-receiver difference as described in §§ 74.31, 74.43, or 74.59 of this part, as applicable, is identified.

\* \* \* \* \*

**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:** 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).

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).

15. In § 150.3, a new definition, Reconciliation, is added in alphabetical order to read as follows:

**§ 150.3 Definitions.**

\* \* \* \* \*

Reconciliation means the process of evaluating and comparing licensee reports required under this part to the projected material balances generated by the Nuclear Materials Management and Safeguards System. This process is considered complete when the licensee resolves any differences between the reported and projected balances, including those listed for foreign obligated materials.

\* \* \* \* \*

16. In § 150.8, paragraph (c)(1) is revised, paragraph (c)(2) is redesignated as a new paragraph (c)(3), and a new paragraph (c)(2) is added to read as follows:

**§ 150.8 Information collection requirements: OMB approval.**

\* \* \* \* \*

(c) \* \* \*

(1) In § 150.16, DOE/NRC FORM 741 and its computer-readable format are approved under control number 3150-0003.

(2) In § 150.17, DOE/NRC Form 742 and its computer-readable format are approved under control number 3150-0004, and DOE/NRC Form 742C and its computer-readable format are approved under control number 3150-0058.

\* \* \* \* \*

17. In § 150.16, the section heading and paragraph (a) are revised to read as follows:

**§ 150.16 Submission to Commission of nuclear material transaction reports.**

(a)(1) Each person who transfers, receives, or adjusts the inventory in any manner of special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium under an Agreement State license shall complete and submit in computer-readable format Nuclear Material Transaction Reports as specified in the instructions in NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." Each licensee who receives special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source, or who ships special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium to a foreign source, shall submit the licensee portion of this information as specified in the instructions in this part. The applicable foreign facility portion of the form must be completed and submitted for imports. The foreign facility portion of the form must be completed for exports only if a significant shipper-receiver difference as described in §§ 74.31, 74.43, or 74.59, of this part, as applicable, is identified. Each person who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format as specified in the instructions no later than the close of business the next working day. Each person who receives special nuclear material shall submit in the computer-readable format as specified in the instructions within ten (10) days after the special nuclear material is received. Copies of these instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to *RidsNmssFcsc@nrc.gov*. These prescribed computer-readable formats replace the DOE/NRC Form 741s which have been previously submitted in paper form.

(2) Except as specified in §§ 150.17(d) and 150.17a, each person who, under an Agreement State specific license: transfers, receives, or adjusts the inventory in any manner, of uranium or thorium source material with foreign obligations by one kilogram or more; imports or exports one kilogram or more of uranium or thorium source material; or uses one kilogram or more of any uranium or thorium source material in enrichment services, downblending uranium that has an initial enrichment of the U235 isotope of 10 percent or more, or in the fabrication of mixed-

oxide fuels, shall complete and submit in computer-readable format Nuclear Material Transaction Reports as specified in the instructions in NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." Each person who, under an Agreement State specific license exports one kilogram or more of uranium or thorium source material shall complete in the format listed above the licensee's portion of the Nuclear Material Transaction Report unless there is indication of loss, theft, or diversion as discussed in § 40.64(c)(1) of this chapter is identified, in which case both the licensee's and the foreign facility's information shall be reported. For imports, the shipper's portion of the form must also be completed. Copies of the instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcsc@nrc.gov](mailto:RidsNmssFcsc@nrc.gov). Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer-readable format as specified in the instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741 which have been previously submitted in paper form.

\* \* \* \* \*

18. In § 150.17, the section heading and paragraphs (a) and (b) are revised to read as follows:

**§ 150.17 Submission to Commission of nuclear material status reports.**

(a) Except as specified in paragraph (d) of this section and § 150.17a, each person possessing, or who had possessed in the previous reporting period, at any one time and location, under an Agreement State license, special nuclear material in a quantity totaling one gram or more of contained uranium-235, uranium-233, or plutonium, shall complete and submit, in computer-readable format Material Balance Reports concerning special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost. This prescribed computer-readable report replaces the DOE/NRC Form 742 which has been previously submitted in paper form. The Physical Inventory

Listing Report must be submitted with each Material Balance Report. This prescribed computer-readable report replaces the DOE/NRC Form 742C which has been previously submitted in paper form. Each licensee shall prepare and submit the reports described in this paragraph as specified in the instructions in 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, or by e-mail to [RidsNmssFcsc@nrc.gov](mailto:RidsNmssFcsc@nrc.gov). Each person subject to this requirement shall submit a report no later than March 31 of each year. The Commission may, when good cause is shown, permit a licensee to submit Material Balance Reports and Physical Inventory Listing Reports at other times. Each licensee required to report material balance, and inventory information, as described in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by NRC.

(b) Except as specified in paragraph (d) of this section and § 150.17a, each person possessing, or who had possessed in the previous reporting period, at any one time and location, under an Agreement State license:

(1) One kilogram or more of uranium or thorium source material with foreign obligations, shall document holdings as of September 30 of each year and submit to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under parts 72 or 74 of this chapter.

(2) One kilogram or more of uranium or thorium source material in the operation of enrichment services, downblending uranium that has an initial enrichment of the U235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels shall complete and submit, in computer-readable format, Material Balance and Physical Inventory Listing Reports concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost. Reports must be submitted for each Reporting Identification Symbol (RIS) account including all holding accounts. Each licensee shall prepare and submit these reports as specified in the instructions in NUREG/BR-0007 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees." These reports

must document holdings as of September 30 of each year and be submitted to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under parts 72 or 74 of this chapter. Copies of the reporting instructions may be obtained by writing the to U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail to [RidsNmssFcsc@nrc.gov](mailto:RidsNmssFcsc@nrc.gov). Each licensee required to report material balance, and inventory information, as described in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of the notification of a discrepancy identified by the NRC.

\* \* \* \* \*

Dated at Rockville, Maryland, this 30th day of January 2007.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. E7-1867 Filed 2-5-07; 8:45 am]

BILLING CODE 7590-01-P

---

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-26775; Directorate Identifier 2007-CE-01-AD]

RIN 2120-AA64

#### Airworthiness Directives; Air Tractor, Inc. Model AT-602 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Air Tractor, Inc. (Air Tractor) Model AT-602 airplanes. This proposed AD would require you to install access holes to do repetitive detailed visual inspections for cracks in the horizontal stabilizer brace tube assembly, and if any cracks are found as a result of a visual inspection, to replace the horizontal stabilizer brace tube assembly with a new design horizontal stabilizer brace tube assembly. The installation of the new design horizontal stabilizer brace tube assembly is terminating action for the repetitive inspection requirement. This proposed