

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 40, 70, and 76

RIN 3150-AF56

USEC Privatization Act: Certification and Licensing of Uranium Enrichment Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations concerning the certification and licensing of uranium enrichment facilities to conform to changes made to the Atomic Energy Act of 1954, as amended (the Act), by the USEC Privatization Act legislation. Although the principal effect of this legislation is to direct the Board of Directors of the United States Enrichment Corporation (USEC) to sell the assets of the USEC to a private sector entity, this legislation also amended the Act with respect to NRC certification of gaseous diffusion plants leased by USEC and the licensing of atomic vapor laser isotope separation (AVLIS) technology. USEC is responsible for the operation of the two gaseous diffusion plants and the development of the AVLIS technology.

The legislation requires that AVLIS uranium enrichment facilities be licensed subject to the provisions of the Act pertaining to source material and special nuclear material rather than under the provisions pertaining to a production facility; provides for the issuance of civil penalties to USEC or its successor for failure to comply with regulatory requirements governing the operation of gaseous diffusion plants; prohibits issuance of a license/certificate to the Corporation or its successor if it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, or its issuance would be inimical to the common defense and security of the United States or to the maintenance of a reliable and economical domestic source of enrichment services; and eliminates the annual requirement that the Commission certify that USEC or its successor is in compliance with NRC regulations. The Commission may determine how frequently USEC or its successor must submit a recertification application to the NRC, provided that the NRC recertify USEC's or its successor's compliance with its regulations not less frequently than every five years. The proposed changes to the regulations bring 10 CFR parts 2,

40, 70, and 76 into conformance with the USEC Privatization Act.

DATES: Comments on the proposed rule must be received on or before March 14, 1997.

ADDRESSES: Mail written comments to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. ATTN: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For information on submitting comments electronically, see the discussion under Electric Assess in the Supplementary Information Section.

Copies of comments received may be examined or copied for a fee, at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. C.W. Nilsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6209.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in this issue of the Federal Register.

Procedural Background

The NRC considers this action noncontroversial and routine because it implements specific statutory requirements (Public Law 104-134). Therefore, we are publishing this proposed rule concurrently as a direct final rule in this issue of the Federal Register. The direct final rule will become effective on April 14, 1997.

However, if the NRC receives significant adverse comments by March 14, 1997, the NRC will withdraw the direct final rule and address the significant adverse comments received in response to the revisions. Any significant adverse comments will be addressed in a subsequent final rule on this proposal. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The Bulletin Board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background

documents on the rulemaking are also available, as practical, for downloading and viewing on the Bulletin Board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555-0001, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 40

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

10 CFR Part 70

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

10 CFR Part 76

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

For the reasons set forth 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 Commission is adopting the following amendments to 10 CFR parts 2, 40, 70, and 76.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42

U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161b, I, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349, as amended (42 U.S.C. 2201 (b), (l), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K 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). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b *et seq.*).

2. In § 2.200, paragraph (a) is revised to read as follows:

§ 2.200 Scope of subpart.

(a) This subpart prescribes the procedures in cases initiated by the staff, or upon a request by any person, to impose requirements by order, or to modify, suspend, or revoke a license, or to take other action as may be proper, against any person subject to the jurisdiction of the Commission. However, with regard to the holder of a part 76 certificate of compliance or compliance plan, except for civil penalty procedures in this subpart, the applicable procedures are set forth in § 76.70 of this chapter.

* * * * *

3. In § 2.205, paragraphs (a), (d), (g) and (h) are revised to read as follows:

§ 2.205 Civil penalties.

(a) Before instituting any proceeding to impose a civil penalty under section 234 of the Act, the Executive Director for Operations or the Executive Director's designee, as appropriate, shall serve a written notice of violation upon the person charged. This notice may be included in a notice issued pursuant to § 2.201 or § 76.70(d) of this chapter. The notice of violation shall specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged, and shall identify

specifically the particular provision or provisions of the law, rule, regulation, license, permit, Part 76 certificate of compliance or compliance plan, or cease and desist order involved in the alleged violation and must state the amount of each proposed penalty. The notice of violation shall also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation shall advise the person charged that upon failure to pay a civil penalty subsequently determined by the Commission, if any, unless compromised, remitted, or mitigated, be collected by civil action, pursuant to section 234c of the Act.

* * * * *

(d) If the person charged with violation files an answer to the notice of violation, the Executive Director for Operations or the Executive Director's designee, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within twenty (20) days of the date of the order or other time specified in the order, request a hearing.

* * * * *

(g) The Executive Director for Operations or the Executive Director's designee, as appropriate, may compromise any civil penalty, subject to the provisions of § 2.203.

(h) If the civil penalty is not compromised, or is not remitted by the Executive Director for Operations or the Executive Director's designee, as appropriate, the presiding officer, or the Commission, and if payment is not made within ten (10) days following either the service of the order described in paragraph (c) or (f) of this section, or the expiration of the time for requesting a hearing described in paragraph (d) of this section, the Executive Director for Operations or the Executive Director's designee, as appropriate, may refer the matter to the Attorney General for collection.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

4. The authority citation for Part 40 is revised 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).

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

5. In § 40.4, the term "Corporation" is added in alphabetical order to read as follows:

§ 40.4 Definitions.

* * * * *

Corporation means the United States Enrichment Corporation (USEC), or its successor, a Corporation that is authorized by statute to lease the gaseous diffusion enrichment plants in Paducah, Kentucky, and Piketon, Ohio, from the Department of Energy, or any person authorized to operate one or both of the gaseous diffusion plants, or other facilities, pursuant to a plan for the privatization of USEC that is approved by the President.

* * * * *

6. A new § 40.38 is added to read as follows:

§ 40.38 Ineligibility of certain applicants.

A license may not be issued to the Corporation if the Commission determines that:

(a) The Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(b) The issuance of such a license would be inimical to—

(1) The common defense and security of the United States; or

(2) The maintenance of a reliable and economical domestic source of enrichment services.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7. The authority citation for part 70 is revised to read as follows:

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

Sections 70.1 and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

8. In § 70.1, a new paragraph (e) is added to read as follows:

§ 70.1 Purpose.

* * * * *

(e) As provided in the Atomic Energy Act of 1954, as amended, the regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to uranium enrichment facilities.

9. In § 70.4, the term "Corporation" is added in alphabetical order to read as follows:

§ 70.4 Definitions.

* * * * *

Corporation means the United States Enrichment Corporation (USEC), or its successor, a Corporation that is authorized by statute to lease the gaseous diffusion enrichment plants in Paducah, Kentucky, and Piketon, Ohio, from the Department of Energy, or any person authorized to operate one or both of the gaseous diffusion plants, or other facilities, pursuant to a plan for the privatization of USEC that is approved by the President.

* * * * *

10. A new § 70.40 is added to read as follows:

§ 70.40 Ineligibility of certain applicants.

A license may not be issued to the Corporation if the Commission determines that:

(a) The Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(b) The issuance of such a license would be inimical to—

(1) The common defense and security of the United States; or

(2) The maintenance of a reliable and economical domestic source of enrichment services.

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

11. The authority citation for part 76 is revised to read as follows:

Authority: Secs. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106

Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321-349, (42 U.S.C. 2201, 2297b-11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846); sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243(a)).

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

12. In § 76.4, the term "Corporation" is revised to read as follows and the term "Uranium enrichment plant" is removed:

§ 76.4 Definitions.

* * * * *

Corporation means the United States Enrichment Corporation (USEC), or its successor, a Corporation that is authorized by statute to lease the gaseous diffusion enrichment plants in Paducah, Kentucky, and Piketon, Ohio, from the Department of Energy, or any person authorized to operate one or both of the gaseous diffusion plants, or other facilities, pursuant to a plan for the privatization of USEC that is approved by the President.

* * * * *

13. In § 76.10, paragraph (b) is revised to read as follows:

§ 76.10 Deliberate misconduct.

* * * * *

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

* * * * *

14. In § 76.21, paragraph (b) is revised to read as follows:

§ 76.21 Certificate required.

* * * * *

(b) For the purposes of §§ 30.41, 40.51, and 70.42 of this chapter, the Corporation shall be authorized to receive, and licensees shall be authorized to transfer to the Corporation, byproduct material, source material, or special nuclear material to the extent permitted under the certificate of compliance issued, and/or the compliance plan approved, pursuant to this part.

15. A new § 76.22 is added to read as follows:

§ 76.22 Ineligibility of certain applicants.

A certificate of compliance may not be issued to the Corporation if the Commission determines that:

(a) The Corporation is owned, controlled, or dominated by an alien, a

foreign corporation, or a foreign government; or

(b) The issuance of such a certificate of compliance would be inimical to—

(1) The common defense and security of the United States; or

(2) The maintenance of a reliable and economical domestic source of enrichment services.

16. Section 76.31 is revised to read as follows:

§ 76.31 Periodic application requirement.

The Corporation shall periodically apply to the Commission for a certificate of compliance, in accordance with § 76.36, on or before April 15 of the year specified in an existing certificate of compliance as determined by the Commission, but not less frequently than every 5 years.

17. In § 76.35, paragraph (n) is revised to read as follows:

§ 76.35 Contents of initial application.

* * * * *

(n) A description of the funding program to be established to ensure that funds will be set aside and available for those aspects of the ultimate disposal of waste and depleted uranium, decontamination and decommissioning, relating to the gaseous diffusion plants leased to the Corporation by the Department of Energy, which are the financial responsibility of the Corporation. The Corporation shall establish financial surety arrangements to ensure that sufficient funds will be available for the ultimate disposal of waste and depleted uranium, and decontamination and decommissioning activities which are the financial responsibility of the Corporation. The funding mechanism, such as prepayment, surety, insurance, or external sinking fund, must ensure availability of funds for any activities which are required to be completed both before or after the return of the gaseous diffusion facilities to the Department of Energy in accordance with the lease between the Department and the Corporation. The funding program must contain a basis for cost estimates used to establish funding levels and must contain means of adjusting cost estimates and associated funding levels over the duration of the lease. The funding program need not address funding for those aspects of decontamination and decommissioning of the gaseous diffusion plants assigned to the Department of Energy under the Atomic Energy Act of 1954, as amended. The Corporation should address the adequacy of the financing mechanism selected in its periodic application for certification.

18. In § 76.36, the section heading and paragraph (a) are revised to read as follows:

§ 76.36 Renewals.

(a) After issuance by the Commission of the initial certificate of compliance and/or an approved compliance plan, the Corporation shall file periodic applications for renewal, as required by § 76.31.

* * * * *

19. Section 76.43 is revised to read as follows:

§ 76.43 Date for decision.

The Director will render a decision on an application within 6 months of the receipt of the application unless the Director alters the date for decision and publishes notice of the new date in the Federal Register.

20. In § 76.45, paragraph (a) is revised to read as follows:

§ 76.45 Application for amendment of certificate.

(a) *Contents of amendment application.* In addition to the application for certification submitted pursuant to § 76.31, the Corporation may at any time apply for amendment of the certificate to cover proposed new or modified activities. The amendment application should contain sufficient information for the Director to make findings of compliance or acceptability for the proposed activities as required for the original certificate.

* * * * *

21. Section 76.55 is revised to read as follows:

§ 76.55 Timely renewal.

In any case in which the Corporation has timely filed a sufficient application for a certificate of compliance, the existing certificate of compliance or approved compliance plan does not expire until the application for a certificate of compliance has been finally determined by the NRC. For purposes of this rule, a sufficient application is one that addresses all elements of § 76.36.

22. In § 76.60, paragraphs (c)(1) and (d)(1) are removed and reserved and paragraph (i) is revised to read as follows:

§ 76.60 Regulatory requirements which apply.

* * * * *

(i) The Corporation shall comply with the applicable provisions of 10 CFR part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data," as specified in subpart E to this part.

23. In § 76.66, paragraph (c) is revised to read as follows:

§ 76.66 Expiration and termination of certificates.

* * * * *

(c) If the Corporation does not submit a renewal application under § 76.36, the Corporation shall, on or before the expiration date specified in the existing certificate, terminate operation of the gaseous diffusion plants.

24. In § 76.68, paragraph (b) is revised to read as follows:

§ 76.68 Plant changes.

* * * * *

(b) To ensure that the approved application remains current with respect to the actual site description and that the plant's programs, plans, policies, and operations are in place, the Corporation shall submit revised pages to the approved application and safety analysis report, marked and dated to indicate each change. The Corporation shall evaluate any as-found conditions that do not agree with the plant's programs, plans, policies, and operations in accordance with paragraph (a) of this section. These revisions must be submitted before April 15 of each calendar year, or at a shorter interval as may be specified in the certificate. If a renewal application for a certificate is filed in accordance with § 76.36 of this part, the revisions shall be incorporated into the application.

* * * * *

25. In § 76.72, paragraph (d) is revised to read as follows:

§ 76.72 Miscellaneous procedural matters.

* * * * *

(d) The procedures set forth in 10 CFR 2.205, and in 10 CFR part 2, subpart G, will be applied in connection with NRC action to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, or Section 206 of the Energy Reorganization Act of 1974 and the implementing regulations in 10 CFR part 21 (Reporting of Defects and Noncompliance), as authorized by Section 1312(e) of the Atomic Energy Act of 1954, as amended;

* * * * *

26. In § 76.76, paragraph (a)(2) is revised to read as follows:

§ 76.76 Backfitting.

(a) * * *

(2) Except as provided in paragraph (a)(4) of this section, the Commission shall require a systematic and documented analysis pursuant to

paragraph (b) of this section for backfits which it seeks to impose.

* * * * *

27. Section 76.111 is revised to read as follows:

§ 76.111 Physical security, material control and accounting, and protection of certain information.

Nuclear Regulatory Commission regulations that will be used for certification of the Corporation² for physical security and material control and accounting are contained in title 10 of the Code of Federal Regulations as described in this subpart. The regulations referenced in this subpart contain requirements for physical security and material control and accounting for formula quantities of strategic special nuclear material (Category I), special nuclear material of moderate strategic significance (Category II), and special nuclear material of low strategic significance (Category III), and for protection of Restricted Data, National Security Information, Safeguards Information,

² For the purpose of this subpart, the terms "licensee" or "license" used in parts 70, 73, and 74 of this chapter, mean, respectively, the Corporation, or the certificate of compliance or approved compliance plan.

and information designated by the U.S. Department of Energy as Unclassified Controlled Nuclear Information.

28. In § 76.113, paragraph (c) is revised to read as follows:

§ 76.113 Formula quantities of strategic special nuclear material—Category I.

* * * * *

(c) The requirements for the protection of Safeguards Information pertaining to formula quantity of strategic special nuclear material (Category I) are contained in § 73.21 of this chapter. Information designated by the U.S. Department of Energy as Unclassified Controlled Nuclear Information must be protected at a level equivalent to that accorded Safeguards Information.

* * * * *

29. Section 76.131 is revised to read as follows:

§ 76.131 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of:

- (1) The Atomic Energy Act of 1954, as amended;
- (2) Title II of the Energy Reorganization Act of 1974, as amended;
- (3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under Section 234 of the Atomic Energy Act of 1954, as amended, or under Section 1312(e) of the Atomic Energy Act of 1954, as amended, and Section 206 of the Energy Reorganization Act of 1974, as amended, for violations of:

- (1) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701 of the Atomic Energy Act of 1954, as amended;
- (2) Section 206 of the Energy Reorganization Act;
- (3) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1) of this section;
- (4) Any term, condition, or limitation of any certificate of compliance or approved compliance plan issued under the sections specified in paragraph (b)(1) of this section.

Dated at Rockville, Maryland, this 6th day of February, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97-3466 Filed 2-11-97; 8:45 am]

BILLING CODE 7590-01-P