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unless specifically requested to do so by the safeguards inspector.

[50 FR 7579, Feb. 25, 1985, as amended at 52 FR 31613, Aug. 21, 1987; 54 FR 6878, Feb. 15, 1989; 55 FR 5979, Feb. 21, 1990; 58 FR 29522, May 21, 1993]

### § 74.82 Tests.

Each licensee shall perform, or permit the Commission to perform, any tests that the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of:

(a) Special nuclear material;

(b) Facilities where special nuclear material is utilized, produced, or stored; and

(c) Other equipment and devices used in connection with the production, utilization, or storage of special nuclear material.

### § 74.83 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; or

(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:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55079, Nov. 24, 1992]

### § 74.84 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 74 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 74 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 74.1, 74.2, 74.4, 74.5, 74.6, 74.7, 74.8, 74.83 and 74.84.

[57 FR 55079, Nov. 24, 1992]

# PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF SAFEGUARDS AGREEMENTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY

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AUTHORITY: Atomic Energy Act of 1954, secs. 53, 63, 103, 104, 122, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 75.4 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

SOURCE: 45 FR 50711, July 31, 1980, unless otherwise noted.

## GENERAL PROVISIONS

### § 75.1 Purpose.

The purpose of this part is to implement the requirements established by the safeguards agreements between the United States (U.S.) and the International Atomic Energy Agency (IAEA). This part contains requirements to ensure that the U.S. meets its nuclear non-proliferation obligations under the safeguards agreements. These obligations include providing information to the IAEA on the physical location of applicant, licensee, or certificate holder activities; information on source and special nuclear materials; and access to the physical location of applicant, licensee, or certificate holder activities. These obligations are similar to the obligations accepted by other countries.

[83 FR 19609, May 4, 2018]

### § 75.2 Scope.

(a) The regulations in this part apply to all persons licensed by the Nuclear Regulatory Commission (NRC) or an Agreement State; who hold a certificate of compliance, construction permit or authorization issued by the NRC; who have filed an application with the NRC to construct a facility or to receive source or special nuclear material; or who possess source or special nuclear material subject to NRC regulation under 10 CFR Chapter I.

(b) The regulations in this part do not apply to facilities or locations determined by the U.S. Government to be associated with activities or information of direct national security significance.

[83 FR 19609, May 4, 2018]

### § 75.3 Exemptions.

The NRC may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this part that it determines are authorized by law and consistent with the safeguards agreements, are not inimical to the common defense and security, and are otherwise in the public interest.

[83 FR 19609, May 4 2018]

### § 75.4 Definitions.

As used in this part:

Unless otherwise defined in this section, the terms defined in §§ 40.4, 50.2, and 70.4 of this chapter have the same meaning when used in this part.

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

*Agreement State* as designated in part 150 of this chapter means any State with which the Commission has entered into an effective agreement under subsection 274b. of the Act.

*Batch* means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and

quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

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

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

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

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

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

*Eligible Facilities List* means the list of facilities that are eligible for IAEA safeguards inspections under the US/IAEA Safeguards Agreement, which the Secretary of State or his designee last submitted for Congressional review and which was not disapproved. A copy of this list is available for inspection at the NRC Web site, *http://www.nrc.gov*, and/or at the NRC Public Document Room. In accordance with the provisions of the Safeguards Agreement, facilities of direct national security significance are excluded from the Eligible Facilities List.

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

*Facility* means:

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

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

(3) A fuel fabrication plant;

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

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

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

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

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

*IAEA material balance area* means an area established for IAEA accounting purposes, such that:

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

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

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

*Inventory change* means an increase or decrease in the quantity of nuclear material in an IAEA material balance area.

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

*Location* means any geographical point or area subject to IAEA safeguards under the Additional Protocol because it was identified either by the U.S. in its declarations, or by the IAEA resulting from a question.

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

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

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

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

*Nuclear material outside facilities* means nuclear material in the U.S. Caribbean Territories that is not in a facility, and is customarily used in amounts of one effective kilogram or less.

*Person* means:

(1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the U.S. Department of Energy (except that the Department shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to law) any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

(2) Any legal successor, representative, agent, or agency of the foregoing.

*Physical location* means a specific geographical point or area, where either nuclear material subject to Safeguards Agreements resides or an activity subject to the Safeguards Agreements occurs.

*Safeguards Agreements* means the Agreement between the United States of America and the IAEA for the Application of Safeguards in the United States (INFCIRC/288) and all protocols and subsidiary arrangements thereto, and the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366) and all protocols and subsidiary arrangements thereto.

*Small Quantities Protocol* means the Small Quantities Protocol to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366).

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

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

*Transitional Facility Attachment* means that portion of the ''Transitional Subsidiary Arrangements to the Protocol to the Safeguards Agreement'' that pertains to a particular facility that has been identified under the Initial Protocol.

*U.S. Caribbean Territories* means those territories for which, de jure or de facto, the U.S. is internationally responsible and which lie within the limits of the geographical zone established in Article 4 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Tlatelolco Treaty), which includes: Puerto Rico, the U.S. Virgin Islands, Navassa Island,

Serranilla Bank, Baja Nuevo (Petrel Island), and the Guantanamo Bay Naval Base.

*U.S.–IAEA Caribbean Territories Safeguards Agreement* means the Agreement between the United States of America and the IAEA for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America (INFCIRC/366), and all protocols and subsidiary arrangements thereto.

*U.S.–IAEA Safeguards Agreement* means the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States (INFCIRC/288), and all protocols and subsidiary arrangements thereto.

[45 FR 50711, July 13, 1980, as amended at 46 FR 58283, Dec. 1, 1981; 53 FR 31683, Aug. 19, 1988; 57 FR 18393, Apr. 30, 1992; 57 FR 33432, July 29, 1992; 63 FR 26963, May 15, 1998; 66 FR 55816, Nov. 2, 2001; 73 FR 78608, Dec. 23, 2008; 83 FR 19609, May 4, 2018]

### § 75.5 Interpretations.

Except as authorized specifically by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

EFFECTIVE DATE NOTE: At 90 FR 55633, Dec. 3, 2025, § 75.5 was amended, effective January 8, 2026.

### § 75.6 Reporting requirements for facilities, locations, and nuclear material outside facilities.

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

(b) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities, who has been given notice by the NRC in writing that it is required to report under Safeguards Agreements for its facility, nuclear material outside facilities, or location, shall make its initial and subsequent reports, including attachments, in an appropriate format defined in the instructions. The DOE/NRC forms and their instructions may be accessed at *https://www.nrc.gov/reading-rm/doc-collections/forms*. The AP–A and associated forms may be accessed at *www.AP.gov*.

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

| Item | Section | Manner of delivery |
|---|---|---|
| Initial Inventory Report | 75.32 | As specified by printed instructions for preparation of DOE/NRC Form–742C. |
| Inventory Change Reports | 75.34 | As specified by printed instructions for preparation of DOE/NRC Form–741 and Form–740M. |
| Material Status Reports | 75.35 | As specified by printed instructions for preparation of DOE/NRC Form–742, Form–742C, and Form–740M. |
| Special Reports | 75.36 | To the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to part 73 of this chapter. |
| Advance Notification of Import and Exports or of Domestic Transfers. | 75.43 | In writing to the NRC, as specified in 75.6(a), 75.44, and 75.45. |
| Facility information | 75.10(d) | As specified by printed instructions for IAEA Design Information Questionnaire forms. |
| Site information | 75.10(e) | As specified by printed instructions for preparation of DOC/NRC Form AP–A and associated forms. |

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

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

(e) Nuclear material outside facilities—Specific information regarding nuclear material outside facilities in the U.S. Caribbean Territories is to be reported as follows:

| Item | Section | Manner of delivery |
|---|---|---|
| Initial Inventory Report ..... | 75.32 | As specified by printed instructions for preparation of DOE/NRC Form–742C and DOE/NRC Form 740M. |
| Inventory Change Reports ..... | 75.34 | As specified by printed instructions for preparation of DOE/NRC Form–741 and DOE/NRC Form–740M. |
| Material Status Reports ..... | 75.35 | As specified by printed instructions for preparation of DOE/NRC Form–742, DOE/NRC Form–742C, and DOE/NRC Form–740M. |
| Special Reports ..... | 75.36 | To the NRC Headquarters Operations Center (commercial telephone number 301–816–5100). |
| Advance Notification of Import and Exports or of Domestic Transfers. | 75.43 | In writing to the NRC, as specified in 75.6(a), 75.43, 75.44, and 75.45. |
| Nuclear Material Outside Facilities Information .. | 75.12 | As specified by printed instructions for preparation of DOE/NRC Form 740M. |

[73 FR 78609, Dec. 23, 2008, as amended at 80 FR 45844, Aug. 3, 2015; 83 FR 19610, May 4, 2018, 85 FR 65664, Oct. 16, 2020]

### § 75.7 Notification of IAEA safeguards.

(a) The NRC, by written notice, will inform the applicant, licensee, or certificate holder of those facilities subject to the application of IAEA safeguards under the U.S.–IAEA Safeguards Agreement.

(b) The licensee must inform the NRC in accordance with § 75.6(c):

(1) Before the licensee begins an activity that may be subject to the U.S–IAEA Safeguards Agreement; or

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

(c) The notice provided under paragraph (a) of this section is effective until the NRC informs the licensee or certificate holder, in writing, that its facility is no longer so designated. Whenever a previously designated facility is no longer subject to the application of IAEA safeguards under the U.S.–IAEA Safeguards Agreement, the NRC will give the licensee or certificate holder prompt notice to that effect.

[83 FR 19610, May 4, 2018]

### § 75.8 IAEA inspections.

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

(1) Ad hoc inspections to verify information contained in the licensee's, applicant's, certificate holder's, or possessor's of nuclear material outside facilities facility information or initial inventory report, or to identify and verify changes in the situation that have occurred after the inventory date under § 75.32(a) or (b) at any physical location where the initial inventory report or any inspections carried out indicate that nuclear material subject to safeguards pursuant to the Safeguards Agreements may be present;

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

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

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

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

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

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

(c) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities subject to the provisions of this part shall recognize as a duly authorized representative of the IAEA any person bearing IAEA credentials for whom the NRC has provided written or electronic authorization that the IAEA representative is permitted to conduct inspection activities on specified dates. If the IAEA representative's credentials have not been confirmed by the NRC, the applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall not admit the person until the NRC has confirmed the person's credentials. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall notify the NRC promptly, by telephone, whenever an IAEA representative arrives at a facility, nuclear material outside facilities, or location without advance notification. The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall also contact the NRC, by telephone, within 1 hour with respect to the credentials of any person who claims to be an IAEA representative and shall accept written or electronic confirmation of the credentials from the NRC. Confirmation may be requested through the NRC Operations Center (commercial telephone number 301–816–5100).

(d) Each applicant, licensee, certificate holder, or possessor of nuclear material outside facilities subject to the provisions of this part shall allow the IAEA opportunity to conduct an NRC-approved inspection or complementary access of the facility, nuclear material outside facilities, or location to verify the information submitted under §§ 75.10 through 75.12 and 75.31 through 75.43. The NRC will assign an employee to accompany IAEA representative(s) at all times during the inspection or complementary access. The applicant,

licensee, certificate holder, or possessor of nuclear material outside facilities may accompany IAEA representatives who inspect or access the facility, nuclear material outside facilities, or location. The IAEA representatives should not be delayed or otherwise impeded in the exercise of their duties.

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

(1) Examine records kept under §75.21;

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Carrying out other calibrations.

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

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

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

(3) Use radiation detection and measurement devices;

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

(5) Perform nondestructive measurements and sampling;

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

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

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

(h) Each possessor of nuclear material outside facilities shall permit the IAEA, in conducting an ad hoc or special inspection for nuclear material outside facilities, to:

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

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

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

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

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

(i) Each possessor of nuclear material outside facilities shall, at the request of an IAEA inspector during an ad hoc or special inspection for nuclear material outside facilities:

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

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

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

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

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

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

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

(vi) Carrying out other calibrations.

(j) Nothing in this section requires or authorizes an applicant, licensee, certificate holder, or possessor of nuclear material outside facilities to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation, or order of the NRC.

[73 FR 78609, Dec. 23, 2008, as amended at 83 FR 19610, May 4, 2018]

### § 75.9 Information collection requirements: OMB approval.

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

(b) The approved information collection requirements contained in this Part appear in §§ 75.3, 75.6, 75.7a, 75.10, 75.11, 75.12, 75.21, 75.22, 75.23, 75.24, 75.31, 75.32, 75.33, 75.34, 75.35, 75.36, 75.43, 75.44, and 75.45.

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

(1) In § 75.10, Design Information Questionnaire forms are approved under control number 3150–0056.

(2) In §§ 75.31, 75.32, 75.33, and 75.35, DOE/NRC Form 742 is approved under control number 3150–0004.

(3) In §§ 75.33 and 75.34, DOE/NRC Form 741 is approved under control number 3150–0003.

(4) In §§ 75.34 and 75.35, DOE/NRC Form 740M is approved under OMB control number 3150–0057.

(5) In § 75.35, DOE/NRC Form 742C is approved under control number 3150–0058.

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

[49 FR 19628, May 9, 1984, as amended at 62 FR 52189, Oct. 6, 1997; 67 FR 67101, Nov. 4, 2002; 73 FR 78610, Dec. 23, 2008; 83 FR 19611, May 4, 2018; 85 FR 65664, Oct. 16, 2020]

## Information for Facilities, Locations, and Nuclear Material Outside Facilities

### § 75.10 Facilities.

(a) Each applicant, licensee, or certificate holder subject to the provisions of this Part shall submit facility information, in response to written notification from the NRC, with respect to any facility that the NRC indicates has been identified under the U.S.-IAEA

Safeguards Agreement, the Initial Protocol to the Agreement, or meets the Additional Protocol reporting criteria, and in which the applicant, licensee, or certificate holder carries out licensed activities. (The NRC request must state whether the facility has been identified under Article 39(b) of the principal text of the U.S.-IAEA Safeguards Agreement or Article 2(a) of the Initial protocol.) The applicant, licensee, or certificate holder shall submit the requested information to the NRC within the period specified in the NRC's request.

(b) Facility information includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[73 FR 78611, Dec. 23, 2008, as amended at 83 FR 19611, May 4, 2018; 85 FR 65664, Oct. 16, 2020]

### § 75.11 Locations.

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

(b) Location information includes:

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

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

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

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

(5) Imports and exports of source material for non-nuclear end uses including the physical location, quantities, chemical compositions, and use of the imported or exported material.

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

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

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

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

[73 FR 78611, Dec. 23, 2008, as amended at 83 FR 19611, May 4, 2018]

### § 75.12 Nuclear material outside facilities.

A possessor of nuclear material outside facilities shall provide to the NRC the possessor's name and mailing address, physical location of the nuclear material, use of nuclear material, and nuclear material accounting and control procedures, including organizational responsibilities for accountancy and control. This information must be provided annually with the material

status report in accordance with §§ 75.6(e) and 75.35(c).

[83 FR 19611, May 4, 2018]

### § 75.13 Communication of information to the International Atomic Energy Agency (IAEA).

(a) Except as otherwise provided in this section, the NRC will furnish to the IAEA all information submitted under §§ 75.10, 75.11, 75.12, and 75.31 through 75.43.

(b)(1) An applicant, licensee, certificate holder, or possessor of nuclear material outside facilities may request that information of particular sensitivity, that it customarily holds in confidence, not be transmitted physically to the IAEA. An applicant, licensee, certificate holder, or possessor of nuclear material outside facilities who makes this request shall, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request.

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

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

(4) If a request is granted, the NRC will determine a physical location where the information will remain readily available for examination by the IAEA and will so inform the applicant, licensee, certificate holder, or possessor of nuclear material outside facilities.

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

(d) Where consistent with the Safeguards Agreements, the NRC may at its own initiative, or at the request of a licensee, determine that any information submitted under §§ 75.10, 75.11, and 75.12 shall not be physically transmitted to, or made available for examination by, the IAEA.

[83 FR 19611, May 4, 2018]

## MATERIAL ACCOUNTING AND CONTROL

### § 75.15 Facility attachments.

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

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

(1) IAEA material balance areas;

(2) Types of modifications for which information is required, under § 75.10, to be submitted in advance;

(3) Procedures, as referred to in § 75.21;

(4) The extent to which isotopic composition must be included in batch data (under § 75.22) and advance notification (§ 75.45);

(5) Items to be reported in the concise notes accompanying inventory change reports, as referred to in § 75.34;

(6) Loss limits and changes in containment, as referred to in § 75.36 (pertaining to special reports);

(7) Actions required to be taken under § 75.8(f) at the request of an IAEA inspector;

(8) Procedures to be used for documentation of requests under § 75.46 (pertaining to expenses); and

(9) Other appropriate matters.

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

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

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

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

[73 FR 78612, Dec. 23, 2008, as amended at 83 FR 19612, May 4, 2018]

### § 75.21 General requirements.

(a) Each licensee or certificate holder who has been given notice by the NRC in writing that its facility has been identified under the U.S.–IAEA Safeguards Agreement shall establish, maintain, and follow written material accounting and control procedures.

(b) Each possessor of nuclear material outside facilities in the U.S. Caribbean Territories shall establish, maintain, and follow written material accounting and control procedures.

(c) The material accounting and control procedures required by paragraph (a) of this section shall include, as appropriate:

(1) A measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;

(2) The evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;

(3) Procedures for identifying, reviewing and evaluating differences in shipper/receiver measurements;

(4) Procedures, including frequency, for taking a physical inventory;

(5) Procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses; and

(6) A system of accounting and operating records.

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

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

(e) The requirements of this section are in addition to any other requirements of this chapter, relating to material accounting and control, that may apply to the licensee.

[45 FR 50711, July 31, 1980, as amended at 53 FR 19263, May 27, 1988; 67 FR 78149, Dec. 23, 2002; 73 FR 78613, Dec. 23, 2008; 83 FR 19612, May 4, 2018]

### § 75.22 Accounting records.

(a) The accounting records required by § 75.21 shall include, for each IAEA material balance area:

(1) All inventory changes, so as to permit a determination of the book inventory at any time;

(2) All measurement results that are used for determination of nuclear material quantities; and

(3) All adjustments and corrections that have been made with respect to inventory changes, book inventories and physical inventories.

(b) The records shall show, for each batch of nuclear material: material identification, batch data and source data. The *batch data* means a separate listing of the total weight of each element of nuclear material (including, as specified in the license conditions, isotopic composition for special nuclear material) with plutonium and enriched uranium measured in grams and natural or depleted uranium and thorium measured in kilograms. The *source data* are the data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data.

(c) For each inventory change, the records shall show the date of the inventory change and, when appropriate, (1) the originating IAEA material balance area or the shipper, and (2) the receiving IAEA material balance area or the recipient.

### § 75.23 Operating records.

The operating records required by § 75.21 shall include, as appropriate, for each IAEA material balance area:

(a) Those operating data which are used to establish changes in the quantities and composition of nuclear material;

(b) The data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures employed to control the quality of measurements, and the derived estimates of random and systematic error;

(c) A description of the sequence of the actions taken in preparing for, and in taking, a physical inventory, to ensure that it is correct and complete; and

(d) A description of the actions taken to ascertain the magnitude and cause of any accidental or unmeasured loss that might occur.

### § 75.24 Retention of records.

(a) The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall retain as a record any request made pursuant to §§ 75.13(b)(1), 75.13(b)(4), and 75.21 and documents related to that request, which are either prepared or received by that entity, until the NRC terminates the license or certificate, or until the entity no longer possesses nuclear material, whichever occurs later. When records required by these sections are superseded, these records must be retained for 3 years after each change is made.

(b) The applicant, licensee, certificate holder, or possessor of nuclear material outside facilities shall retain the records referred to in §§ 75.22 and 75.23 for at least 5 years.

[83 FR 19612, May 4, 2018]

## IAEA Nuclear Material Exemptions and Terminations

Source: 83 FR 19612, May 4, 2018, unless otherwise noted.

### § 75.26 Exemption from IAEA safeguards.

(a) The U.S. Government may request from the IAEA an exemption from IAEA safeguards with respect to nuclear material of the following types:

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

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

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

(b) Nuclear material exempted under paragraph (a) of this section must not exceed the quantity limits specified in the Safeguards Agreements.

(c) The NRC shall provide a prompt notification of an exemption issued by the IAEA to the applicable licensee, certificate holder, or nuclear material outside facilities.

### § 75.27 Requirements for facilities, locations, and nuclear material outside facilities after issuance of IAEA exemptions.

(a) *Licensees of facilities.* After the NRC has notified a licensee of a facility under § 75.26(c) that the IAEA has approved the exemption requested

under §75.26(a) of this part, the licensee:

(1) Shall submit reports to the NRC pursuant to §§75.6(c) and 75.31(a); and

(2) Shall not export any nuclear material identified under §75.26 until the NRC notifies the licensee that IAEA safeguards under the U.S.–IAEA Safeguards Agreement have been re-applied.

(b) *Licensees of locations.* A licensee of a location shall provide annual updates pursuant to §75.11(c) following notification from the NRC that the IAEA has approved the exemption requested under §75.26.

(c) *Possessors of nuclear material outside facilities.* After the NRC has notified a possessor of nuclear material outside facilities under §75.6(c) that the IAEA has approved the exemption requested under §75.26(a), a possessor of nuclear material outside facilities:

(1) Shall submit reports to the NRC pursuant to §§75.6(e) and 75.31(b); and

(2) Shall not export out of the U.S. Caribbean Territories any nuclear material identified under §75.26 until the NRC notifies the possessor that IAEA safeguards under the U.S.–IAEA Caribbean Territories Safeguards Agreement have been re-applied.

(d) *Prohibition against commingling of nuclear material in storage.* Licensees of facilities, licensees of locations, and possessors of nuclear material outside facilities shall not store nuclear material exempted under §75.26 together with nuclear material subject to Safeguards Agreements.

(e) Nuclear material exempted from IAEA safeguards under §75.26 is not subject to inspections by the IAEA.

### §75.28 Termination from IAEA safeguards.

(a) Upon request of the U.S. Government, the IAEA may terminate IAEA safeguards on nuclear material that has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable.

(b) The NRC will notify the affected licensees, certificate holders, and nuclear material outside facilities of the IAEA's termination of IAEA safeguards.

### §75.29 Requirements for facilities, locations, and nuclear material outside facilities after termination from IAEA safeguards.

(a) *Licensees of facilities.* A licensee of a facility shall submit an Inventory Change Report pursuant to §§75.6(c) and 75.31(a) following notification from the NRC that IAEA safeguards have been terminated as described in §75.28.

(b) *Licensees of locations.* A licensee of a location shall provide annual updates pursuant to §75.11(c) following notification from the NRC that IAEA safeguards have been terminated as described in §75.28.

(c) *Possessors of nuclear material outside facilities.* A possessor of nuclear material outside facilities shall submit an Inventory Change Report pursuant to §§75.6(e) and 75.31(b) following notification from the NRC that IAEA safeguards have been terminated as described in §75.28.

(d) Nuclear material that has had IAEA safeguards terminated as described in §75.28 is not subject to inspections by the IAEA.

## REPORTS

### §75.31 General requirements.

(a) Each licensee or certificate holder who has been given notice by the NRC under §75.7 that its facility has been identified under the U.S.–IAEA Safeguards Agreement shall make, in an appropriate computer-readable format, an initial inventory report, and thereafter shall make accounting reports, with respect to the facility and, in addition, licensees or certificate holders who have been given notice, under §75.7 that their facilities are subject to the application of IAEA safeguards, shall make the special reports described in §75.36. These reports must be based on the records kept under §75.21. At the request of the NRC, the licensee or certificate holder shall amplify or clarify any report with respect to any matter relevant to implementation of the U.S.–IAEA Safeguards Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within 20 days of the date of the request or other time as may be specified by the NRC.

(b) Each possessor of nuclear material outside facilities (possessor) subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement shall make, in an appropriate computer-readable format, an initial inventory report in accordance with § 75.32 of this report. Thereafter, that possessor shall make accounting reports as described in §§ 75.33 through 75.35 and special reports as described in § 75.36. These reports must be based on the records kept under § 75.21(b). At the request of the NRC, the possessor shall amplify or clarify any report with respect to any matter relevant to implementation of the U.S.–IAEA Caribbean Territories Safeguards Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within 20 days of the date of the request or other time as may be specified by the NRC.

[83 FR 19613, May 4, 2018]

### § 75.32 Initial inventory report.

(a) *Licensees of facilities.* The initial inventory report must show the quantities of nuclear material at a facility. The quantities reported in the initial inventory report must be accurate as of the last day of the calendar month in which the NRC gives notice to the licensee or certificate holder that an initial inventory report is required (the ''inventory date'' on DOE/NRC Form 742C).

(b) *Possessors of nuclear material outside facilities.* The initial inventory report must show the quantities of nuclear material outside facilities. The quantities reported in the initial inventory report must be accurate as of the last day of the calendar month in which the possessor of nuclear material outside facilities becomes subject to the requirements of this part (the ''inventory date'' on DOE/NRC Form 742C).

(c) *Initial inventory report.* The information in the initial inventory report may be based upon the accounting records. The initial inventory report must be submitted to the NRC on DOE/NRC Form 742C in accordance with the instructions in NUREG/BR–0007 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Copies of the instructions for completing DOE/NRC Form 742C and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports*.

(d) *Report forms.* DOE/NRC Form 742C must be accompanied by DOE/NRC Form 740M if any batch of source material reported in DOE/NRC Form 742C is equal to or less than 0.4 kg.

(e) *Report submission.* The initial inventory report must be submitted to the NRC no later than 20 days after the inventory date.

[83 FR 19613, May 4, 2018]

### § 75.33 Accounting reports.

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

(i) Inventory Change Reports (Nuclear Material Transaction Report); and

(ii) Material status reports showing the material balance based on a physical inventory of nuclear material actually present.

(2) These prescribed computer-readable forms replace the following forms which have been submitted in paper form:

(i) The DOE/NRC Form 741; and

(ii) The DOE/NRC Form 742.

(b) The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

[45 FR 50711, July 31, 1980, as amended at 49 FR 19629, May 9, 1984; 59 FR 35622, July 13, 1994; 73 FR 78613, Dec. 23, 2008; 83 FR 19613, May 4, 2018]

### § 75.34 Inventory change reports.

(a) Each licensee of a facility, certificate holder, or possessor of nuclear material outside facilities who transfers nuclear material subject to IAEA safeguards shall submit an Inventory Change Report (Nuclear Material Transaction Report) to the NRC no later than the close of business the next working day after each transfer, in accordance with the instructions in NUREG/BR–0006 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Each licensee of a facility, certificate holder, or possessor

of nuclear material outside facilities who receives nuclear material subject to IAEA safeguards shall submit an Inventory Change Report to the NRC. Inventory Change Reports for receipts must be submitted within 10 days after the material is received, in accordance with the instructions in NUREG/BR–0006 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.'' Copies of the instructions for completing DOE/NRC Form 741 and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports*.

(b) An Inventory Change Report (Nuclear Material Transaction Report) must specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate:

(1) The originating IAEA material balance area or the shipper; and

(2) The receiving IAEA material balance area or the recipient.

(3) Each person who receives any nuclear material from a foreign source shall complete both the supplier's and receiver's portion of DOE/NRC Form 741.

(4) Each person in the U.S. Caribbean Territories who receives nuclear material from the U.S. outside the U.S. Caribbean Territories shall complete both the supplier's and receiver's portion of DOE/NRC Form 741.

(c) An Inventory Change Report must be accompanied by DOE/NRC Form 740M whenever it is necessary to:

(1) Explain the inventory changes set forth in the operating records required by § 75.23; or

(2) Describe, to the extent specified in the license conditions, the anticipated operational program for the facility, including, but not limited to, the schedule for taking physical inventory.

(d) Copies of the instructions for completing DOE/NRC Form 741 and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports*.

[83 FR 19613, May 4, 2018]

### § 75.35 Material status reports.

(a) Each licensee of a facility, certificate holder, or possessor of nuclear material outside facilities with nuclear materials subject to IAEA safeguards shall submit a material status report for each physical inventory taken in accordance with the material accounting and control procedures required by § 75.21. The material status report must include a DOE/NRC Form 742 and a DOE/NRC Form 742C, which lists all batches separately and specifies material identification and batch data for each batch. The reports described in this section must be prepared and submitted in accordance with instructions in NUREG/BR–0006, NUREG/BR–0007, and NMMSS Report D–24.

(b) Unless otherwise specified in the license conditions, material status reports shall be submitted to the NRC as soon as possible, but in any event no later than 30 days after the start of the physical inventory.

(c) Possessors of nuclear material outside facilities must submit a material status report to the NRC every 12 calendar months, for a reporting period that commences on May 1st and concludes on April 30th of the next calendar year. The annual inventory report must be dated April 30th.

(d) A material status report must be accompanied by DOE/NRC Form 740M whenever it is necessary to:

(1) Describe the anticipated operational program;

(2) Provide additional explanation and clarification at the country, facility material balance area, report, or entry level;

(3) Provide additional explanation not accommodated in any of the data elements of DOE/NRC Form 742 or DOE/NRC Form 742C; or

(4) Report actual inventory values equal to or less than 0.4 kg of source material.

(e) Copies of the instructions for completing DOE/NRC Form 742, DOE/NRC Form 742C, and DOE/NRC Form 740M may be obtained from the following websites: *http://www.nrc.gov/*

*reading-rm/doc-collections/nuregs/brochures* and *https://nnsa.energy.gov/aboutus/ourprograms/nuclearsecurity/nmmsshome/nmmssinfo/nmmssreports.*

[83 FR 19614, May 4, 2018]

### § 75.36 Special reports.

(a) This section applies to licensees, certificate holders, and possessors of nuclear material outside facilities who:

(1) Have been given notice under § 75.7(a) that their facilities are subject to the application of IAEA safeguards, or

(2) Are subject to the U.S.–IAEA Caribbean Territories Safeguards Agreement.

(b) Each entity subject to this section shall immediately make a special report to the NRC, by telephone, if:

(1) There is a loss of nuclear material:

(i) In excess of specified limits, as stated in license conditions, for those entities described in paragraph (a)(1) of this section, or

(ii) In any amount, for those entities described in paragraph (a)(2) of this section,

(2) There are unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible, or

(3) Reporting is required under a license condition.

[83 FR 19614, May 4, 2018]

ADVANCED NOTIFICATION AND EXPENSES

### § 75.43 Circumstances requiring advance notification.

(a) Each person subject to the Safeguards Agreements shall give advance written notification to the NRC regarding the international and domestic transfers specified in this section.

(b) *Exports.* Notification shall be given of any proposed shipment of nuclear material for peaceful purposes under an export license issued pursuant to part 110 of this chapter, in an amount exceeding one effective kilogram, directly or indirectly to any non-nuclear-weapon state (as referred to in Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons, 21 U.S.T. 483). If the licensee anticipates that it will make two or more shipments for peaceful purposes, within any period of 90 days, directly or indirectly to destinations in the same non-nuclear-weapon state, notification shall be given of each shipment if the aggregate quantity of nuclear material to be transferred exceeds one effective kilogram.[2]

(c) *Imports.* (1) Notification shall be given (to the fullest extent possible on the basis of available information) with respect to nuclear material which immediately prior to export is subject to safeguards, under an agreement with the IAEA, in the country from which the material, directly or indirectly, is being exported. Such notification is only required, however, if the quantities of nuclear material are as specified in paragraph (c)(2) of this section.

(2) Notification shall be given with respect to any proposed import of nuclear material described in paragraph (c)(1) of this section in an amount exceeding one effective kilogram. If the licensee anticipates that it will receive two or more shipments of such nuclear material, within any 90-day period from points of origin in the same country, notification shall be given with respect to each shipment if the aggregate quantity of such nuclear material to be received exceeds one effective kilogram.

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

[45 FR 50711, July 31, 1980, as amended at 73 FR 78613, Dec. 23, 2008; 83 FR 19614, May 4, 2018]

### § 75.44 Timing of advance notification.

(a) Except as provided in paragraph (b) of this section, notification to the

[2] All foreign countries, with the exception of the People's Republic of China, France, the Soviet Union, and the United Kingdom, are non-nuclear-weapon states. Treaty on the Non-Proliferation of Nuclear Weapons, Article IX(3).

Commission, when required by § 75.43, must be given:

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

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

(b) For a particular receipt or shipment of nuclear material, the Commission will approve a shorter notice period than that specified by paragraph (a) of this section, for good cause, if it determines that observing the specified notification period would result in delay in shipment or unpackaging.

(c) The licensee shall inform the Commission, by phone, as soon as possible, with respect to any delay in the receipt (or unpackaging) or the shipment (or preparation for shipment) of nuclear material for which advance notification is required. New dates should be provided, if known.

[45 FR 50711, July 31, 1980, as amended at 73 FR 78614, Dec. 23, 2008]

### § 75.45 Content of advance notification.

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

(b) The notifications required with respect to export and import shipments shall also include

(1) If available, a general description of containers (including, in the case of exports, features that would permit sealing);

(2) Destination of export as authorized under an export license issued pursuant to part 110 of this chapter, or origin of import (by country and, if known, place);

(3) Means of transport; and

(4) Expected date and place of arrival in the destination country (for exports) or in the United States (for imports).

[45 FR 50711, July 31, 1980, as amended at 73 FR 78614, Dec. 23, 2008]

### § 75.46 Expenses.

(a) Under the Safeguards Agreements, the IAEA undertakes to reimburse any person subject to this part for extraordinary expenses incurred as a result of its specific request provided that the IAEA has agreed in advance to do so. The Safeguards Agreements also provide that the IAEA will reimburse that person for the cost of making additional measurements or taking samples at the specific request of an IAEA inspector.

(b) The NRC will inform persons subject to this part, by license condition or by other means (e.g., written communication), of those items of extraordinary expense that the IAEA has agreed in advance to reimburse.

(c) The NRC will inform persons subject to this part, by license condition or by other means (e.g., written communication), of the procedures to be used to document:

(1) An IAEA inspector's request for making additional measurements or taking additional samples; and

(2) An IAEA request for a particular action by the licensee that will give rise to reimbursable extraordinary expense.

(d) The NRC will take appropriate action to assist persons subject to this part regarding the reimbursement of any expense that, under the Safeguards Agreements, is to be borne by the IAEA.

[45 FR 50711, July 31, 1980, as amended at 73 FR 78614, Dec. 23, 2008; 83 FR 19614, May 4, 2018]

## ENFORCEMENT

### § 75.51 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; or

(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:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

(c) The Commission may issue orders to secure compliance with the provisions of this part or to prohibit any violation of such provisions as may be proper to protect the common defense and security. Enforcement actions, including proceedings instituted with respect to Agreement State licensees, will be conducted in accordance with the procedures set forth in part 2, subpart B of this chapter. Only NRC licensees, however, are subject to license modification, suspension, or revocation as a result of enforcement action.

[57 FR 55079, Nov. 24, 1992]

### § 75.53 Criminal penalties.

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

(b) The regulations in Part 75 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§75.1, 75.2, 75.3, 75.4, 75.5, 75.7, 75.9, 75.12, 75.13, 75.15, 75.26, 75.27, 75.28, 75.29, 75.46, 75.51, and 75.53.

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

[73 FR 78614, Dec. 23, 2008, as amended at 83 FR 19614, May 4, 2018]

# PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

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