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AUTHORITY: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

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SOURCE: 38 FR 35430, Dec. 28, 1973, unless otherwise noted.

GENERAL PROVISIONS

§ 73.1 Purpose and scope.

(a) *Purpose.* This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used. The following design basis threats, where referenced in ensuing sections of this part, shall be used to design safeguards systems to protect against acts of radiological sabotage and to prevent the theft of special nuclear material. Licensees subject to the provisions of § 72.182, § 72.212, § 73.20, § 73.50, and § 73.60 are exempt from § 73.1(a)(1)(i)(E) and § 73.1(a)(1)(iii).

(1) *Radiological sabotage.* (i) A determined violent external assault, attack by stealth, or deceptive actions, of several persons with the following attributes, assistance and equipment:

(A) Well-trained (including military training and skills) and dedicated individuals,

(B) inside assistance which may include a knowledgeable individual who attempts to participate in a passive role (e.g., provide information), an active role (e.g., facilitate entrance and exit, disable alarms and communications, participate in violent attack), or both,

(C) suitable weapons, up to and including hand-held automatic weapons,

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equipped with silencers and having effective long range accuracy,

(D) hand-carried equipment, including incapacitating agents and explosives for use as tools of entry or for otherwise destroying reactor, facility, transporter, or container integrity or features of the safeguards system, and

(E) a four-wheel drive land vehicle used for transporting personnel and their hand-carried equipment to the proximity of vital areas, and

(ii) An internal threat of an insider, including an employee (in any position), and

(iii) A four-wheel drive land vehicle bomb.

(2) *Theft or diversion of formula quantities of strategic special nuclear material.*

(i) A determined, violent, external assault, attack by stealth, or deceptive actions by a small group with the following attributes, assistance, and equipment:

(A) Well-trained (including military training and skills) and dedicated individuals;

(B) Inside assistance that may include a knowledgeable individual who attempts to participate in a passive role (e.g., provide information), an active role (e.g., facilitate entrance and exit, disable alarms and communications, participate in violent attack), or both;

(C) Suitable weapons, up to and including hand-held automatic weapons, equipped with silencers and having effective long-range accuracy;

(D) Hand-carried equipment, including incapacitating agents and explosives for use as tools of entry or for otherwise destroying reactor, facility, transporter, or container integrity or features of the safe-guards system;

(E) Land vehicles used for transporting personnel and their hand-carried equipment; and

(F) the ability to operate as two or more teams.

(ii) An individual, including an employee (in any position), and

(iii) A conspiracy between individuals in any position who may have:

(A) Access to and detailed knowledge of nuclear power plants or the facilities referred to in § 73.20(a), or

(B) items that could facilitate theft of special nuclear material (e.g., small

tools, substitute material, false documents, etc.), or both.

(b) *Scope.* (1) This part prescribes requirements for:

(i) The physical protection of production and utilization facilities licensed pursuant to part 50 of this chapter,

(ii) The physical protection of plants in which activities licensed pursuant to part 70 of this chapter are conducted, and

(iii) The physical protection of special nuclear material by any person who, pursuant to the regulations in part 61 or 70 of this chapter, possesses or uses at any site or contiguous sites subject to the control by the licensee, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

(2) This part prescribes requirements for the physical protection of special nuclear material in transportation by any person who is licensed pursuant to the regulations in parts 70 and 110 of this chapter who imports, exports, transports, delivers to a carrier for transport in a single shipment, or takes delivery of a single shipment free on board (F.O.B.) where it is delivered to a carrier, formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

(3) This part also applies to shipments by air of special nuclear material in quantities exceeding: (i) 20 grams or 20 curies, whichever is less, of plutonium or uranium-233, or (ii) 350 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope).

(4) Special nuclear material subject to this part may also be protected pursuant to security procedures prescribed by the Commission or another Government agency for the protection of classified materials. The provisions and requirements of this part are in addition to, and not in substitution for, any such security procedures. Compliance with the requirements of this part does

not relieve any licensee from any requirement or obligation to protect special nuclear material pursuant to security procedures prescribed by the Commission or other Government agency for the protection of classified materials.

(5) This part also applies to the shipment of irradiated reactor fuel in quantities that in a single shipment both exceed 100 grams in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, and have a total radiation dose in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding.

(6) This part prescribes requirements for the physical protection of spent nuclear fuel and high-level radioactive waste stored in either an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage (MRS) installation licensed under part 72 of this chapter, or stored at the geologic repository operations area licensed under part 60 of this chapter.

(7) This part prescribes requirements for the protection of Safeguards Information in the hands of any person, whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

(8) This part prescribes requirements for advance notice of export and import shipments of special nuclear material, including irradiated reactor fuel.

(9) As provided in part 76 of this chapter, the regulations of this part establish procedures and criteria for physical security for the issuance of a certificate of compliance or the approval of a compliance plan.

[44 FR 68186, Nov. 28, 1979, as amended at 45 FR 67645, Oct. 14, 1980; 45 FR 80271, Dec. 4, 1980; 46 FR 51724, Oct. 22, 1981; 47 FR 57482, Dec. 27, 1982; 52 FR 9653, Mar. 26, 1987; 53 FR 31683, Aug. 19, 1988; 53 FR 45451, Nov. 10, 1988; 59 FR 38899, Aug. 1, 1994; 59 FR 48960, Sept. 23, 1994; 63 FR 26962, May 15, 1998]

§ 73.2 Definitions.

As used in this part:

(a) Terms defined in parts 50 and 70 of this chapter have the same meaning when used in this part.

Appropriate Nuclear Regulatory Commission Regional Office listed in appendix A means:

(1) For domestic shipments—the Regional Office within whose region the licensee who is responsible for the physical protection arrangements of the shipment is located.

(2) For export shipments—the Regional Office within whose region the licensee who is responsible for the physical protection arrangements of the shipment is located, and the Regional Office for the region in which the last point of exit of the shipment from the U.S. is located.

(3) For import shipments—the Regional Office within whose region the licensee who is responsible for the physical protection arrangements of the shipment is located, and the Regional Office for the region in which the first point of entry of the shipment into the U.S. is located.

Armed escort means an armed person, not necessarily uniformed, whose primary duty is to accompany shipments of special nuclear material for the protection of such shipments against theft or radiological sabotage.

Armed response personnel means persons, not necessarily uniformed, whose primary duty in the event of attempted theft of special nuclear material or radiological sabotage shall be to respond, armed and equipped, to prevent or delay such actions.

Authorized individual means any individual, including an employee, a student, a consultant, or an agent of a licensee who has been designated in writing by a licensee to have responsibility for surveillance of or control over special nuclear material or to have unescorted access to areas where special nuclear material is used or stored.

Bullet/resisting means protection against complete penetration, passage of fragments of projectiles, and spalling (fragmentation) of the protective material that could cause injury to a person standing directly behind the bullet-resisting barrier.

Contiguous sites means licensee controlled locations, deemed by the Commission to be in close enough proximity to each other, that the special nuclear material must be considered in the aggregate for the purpose of physical protection.

Continuous visual surveillance means unobstructed view at all times of a shipment of special nuclear material, and of all access to a temporary storage area or cargo compartment containing the shipment.

Controlled access area means any temporarily or permanently established area which is clearly demarcated, access to which is controlled and which affords isolation of the material or persons within it.

Deceit means methods used to attempt to gain unauthorized access, introduce unauthorized materials, or remove strategic special nuclear materials, where the attempt involves falsification to present the appearance of authorized access.

DOE and Department of Energy means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*), to the extent that the Department, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Pub. L. 93-438, 88 Stat. 1233 at 1237, 42 U.S.C. 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565 at 577-578, 42 U.S.C. 7151).

Force means violent methods used by an adversary to attempt to steal strategic special nuclear material or to sabotage a nuclear facility or violent methods used by response personnel to protect against such adversary actions.

Formula quantity means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium). This class of material is sometimes referred to as a Category I quantity of material.

Guard means a uniformed individual armed with a firearm whose primary duty is the protection of special nuclear material against theft, the pro-

tection of a plant against radiological sabotage, or both.

Incendiary device means any self-contained device intended to create an intense fire that can damage normally flame-resistant or retardant materials.

Intrusion alarm means a tamper indicating electrical, electromechanical, electrooptical, electronic or similar device which will detect intrusion by an individual into a building, protected area, vital area, or material access area, and alert guards or watchmen by means of actuated visible and audible signals.

Isolation zone means any area adjacent to a physical barrier, clear of all objects which could conceal or shield an individual.

Lock in the case of vaults or vault type rooms means a three-position, manipulation resistant, dial type, built-in combination lock or combination padlock and in the case of fences, walls, and buildings means an integral door lock or padlock which provides protection equivalent to a six-tumbler cylinder lock. *Lock* in the case of a vault or vault type room also means any manipulation resistant, electromechanical device which provides the same function as a built-in combination lock or combination padlock, which can be operated remotely or by the *reading* or insertion of information, which can be uniquely characterized, and which allows operation of the device. *Locked* means protected by an operable lock.

Material access area means any location which contains special nuclear material, within a vault or a building, the roof, walls, and floor of which each constitute a physical barrier.

Movement control center means an operations center which is remote from transport activity and which maintains periodic position information on the movement of strategic special nuclear material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

Need to know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in

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the performance of official, contractual, or licensee duties of employment.

Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), (except that the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 and sections 104, 105, and 202 of the Uranium Mill Tailings Radiation Control Act of 1978), any state or political subdivision of a state, or any political subdivision of any government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

Physical barrier means:

(1) Fences constructed of No. 11 American wire gauge, or heavier wire fabric, topped by three strands or more of barbed wire or similar material on brackets angled inward or outward between 30° and 45° from the vertical, with an overall height of not less than eight feet, including the barbed topping;

(2) Building walls, ceilings and floors constructed of stone, brick, cinder block, concrete, steel or comparable materials (openings in which are secured by grates, doors, or covers of construction and fastening of sufficient strength such that the integrity of the wall is not lessened by any opening), or walls of similar construction, not part of a building, provided with a barbed topping described in paragraph (1) of this definition of a height of not less than 8 feet; or

(3) Any other physical obstruction constructed in a manner and of materials suitable for the purpose for which the obstruction is intended.

Protected area means an area encompassed by physical barriers and to which access is controlled.

Radiological sabotage means any deliberate act directed against a plant or transport in which an activity licensed pursuant to the regulations in this chapter is conducted, or against a component of such a plant or transport which could directly or indirectly en-

danger the public health and safety by exposure to radiation.

Safeguards Information means information not otherwise classified as National Security Information or Restricted Data which specifically identifies a licensee's or applicant's detailed, (1) security measures for the physical protection of special nuclear material, or (2) security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities.

Security management means persons responsible for security at the policy and general management level.

Security Storage Container includes any of the following repositories: (1) For storage in a building located within a protected or controlled access area, a steel filing cabinet equipped with a steel locking bar and a three position, changeable combination, GSA approved padlock; (2) A security filing cabinet that bears a Test Certification Label on the side of the locking drawer, or interior plate, and is marked, *General Services Administration Approved Security Container* on the exterior of the top drawer or door; (3) A bank safe-deposit box; and (4) Other repositories which in the judgement of the NRC, would provide comparable physical protection.

Security supervision means persons, not necessarily uniformed or armed, whose primary duties are supervision and direction of security at the day-to-day operating level.

Special nuclear material of low strategic significance means:

(1) Less than an amount of special nuclear material of moderate strategic significance as defined in paragraph (1) of the definition of strategic nuclear material of moderate strategic significance in this section, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in U-235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = (grams contained U-235) + (grams plutonium) + (grams U-233); or

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(2) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope); or

(3) 10,000 grams or more of uranium-235 (contained in uranium enriched above natural but less than 10 percent in the U-235 isotope).

This class of material is sometimes referred to as a Category III quantity of material.

Special nuclear material of moderate strategic significance means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium, or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U-235) + 2 (grams U-233 + grams plutonium); or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope).

This class of material is sometimes referred to as a Category II quantity of material.

Stealth means methods used to attempt to gain unauthorized access, introduce unauthorized materials, or remove strategic special nuclear material, where the fact of such attempt is concealed or an attempt is made to conceal it.

Strategic special nuclear material means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

Tactical Response Team means the primary response force for each shift which can be identified by a distinctive item of uniform, armed with specified weapons, and whose other duties permit immediate response.

Transport means any land, sea, or air conveyance or modules for these conveyances such as rail cars or standardized cargo containers.

Undergoing processing means performing active operations on material such as chemical transformation, physical transformation, or transit between such operations, to be differentiated

from storage or packaging for shipment.

Vault means a windowless enclosure with walls, floor, roof and door(s) designed and constructed to delay penetration from forced entry.

Vault-type room means a room with one or more doors, all capable of being locked, protected by an intrusion alarm which creates an alarm upon the entry of a person anywhere into the room and upon exit from the room or upon movement of an individual within the room.

Vital area means any area which contains vital equipment.

Vital equipment means any equipment, system, device, or material, the failure, destruction, or release of which could directly or indirectly endanger the public health and safety by exposure to radiation. Equipment or systems which would be required to function to protect public health and safety following such failure, destruction, or release are also considered to be vital.

Watchman means an individual, not necessarily uniformed or armed with a firearm, who provides protection for a plant and the special nuclear material therein in the course of performing other duties.

[38 FR 35430, Dec. 28, 1973, as amended at 39 FR 2352, Jan. 21, 1974; 40 FR 52841, Nov. 13, 1975; 42 FR 10838, Feb. 24, 1977; 43 FR 37425, Aug. 23, 1978; 44 FR 43282, July 24, 1979; 44 FR 68187, Nov. 28, 1979; 45 FR 14201, Mar. 5, 1980; 46 FR 51724, Oct. 22, 1981; 53 FR 45451, Nov. 10, 1988; 55 FR 51401, Dec. 14, 1990; 57 FR 33429, July 29, 1992]

§ 73.3 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretations 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 as binding upon the Commission.

§ 73.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part should be addressed to the Director of

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Nuclear Material Safety and Safeguards or the Director of Nuclear Reactor Regulation, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered in person at the Commission's offices at 2120 L Street NW, Washington, DC, or at 11555 Rockville Pike, Rockville, MD.

[53 FR 6139, Mar. 1, 1988, as amended at 53 FR 43422, Oct. 27, 1988]

§ 73.5 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

§ 73.6 Exemptions for certain quantities and kinds of special nuclear material.

A licensee is exempt from the requirements of 10 CFR part 26 and §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.70 and 73.72 with respect to the following special nuclear material:

(a) Uranium-235 contained in uranium enriched to less than 20 percent in the U-235 isotope:

(b) Special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding; and

(c) Special nuclear material in a quantity not exceeding 350 grams of uranium-235, uranium-233, plutonium, or a combination thereof, possessed in any analytical, research, quality control, metallurgical or electronic laboratory.

(d) Special nuclear material that is being transported by the United States Department of Energy transport system.

(e) Special nuclear material at non-power reactors.

Licensees subject to § 73.60 are not exempted from §§ 73.70 and 73.72, and li-

cees subject to § 73.67(e) are not exempted from § 73.72 of this part.

[40 FR 52841, Nov. 13, 1975, as amended at 44 FR 68187, Nov. 28, 1979; 58 FR 31471, June 3, 1993]

§ 73.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission 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 if it does not display a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0002.

(b) The approved information collection requirements contained in this part appear in §§ 73.5, 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.56, 73.57, 73.60, 73.67, 73.70, 73.71, 73.72, 73.73, 73.74, and appendices B, C and G.

[62 FR 52189, Oct. 6, 1997]

§ 73.20 General performance objective and requirements.

(a) In addition to any other requirements of this part, each licensee who is authorized to operate a fuel reprocessing plant pursuant to part 50 of this chapter; possesses or uses formula quantities of strategic special nuclear material at any site or contiguous sites subject to control by the licensee; is authorized to transport or deliver to a carrier for transportation pursuant to part 70 of this chapter formula quantities of strategic special nuclear material; takes delivery of formula quantities of strategic special nuclear material free on board (f.o.b.) the point at which it is delivered to a carrier for transportation; or imports or exports formula quantities of strategic special nuclear material, shall establish and maintain or make arrangements for a physical protection system which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical

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to the common defense and security, and do not constitute an unreasonable risk to the public health and safety. The physical protection system shall be designed to protect against the design basis threats of theft or diversion of strategic special nuclear material and radiological sabotage as stated in § 73.1(a).

(b) To achieve the general performance objective of paragraph (a) of this section a licensee shall establish and maintain, or arrange for, a physical protection system that:

(1) Provides the performance capabilities described in § 73.25 for in-transit protection or in § 73.45 for fixed site protection unless otherwise authorized by the Commission;

(2) Is designed with sufficient redundancy and diversity to ensure maintenance of the capabilities described in §§ 73.25 and 73.45;

(3) Includes a safeguards contingency capability that can meet the criteria in appendix C to this part "Licensee Safeguards Contingency Plans;" and

(4) Includes a testing and maintenance program to assure control over all activities and devices affecting the effectiveness, reliability, and availability of the physical protection system, including a demonstration that any defects of such activities and devices will be promptly detected and corrected for the total period of time they are required as a part of the physical protection system.

(c) Each licensee subject to the requirements of paragraphs (a) and (b) of this section shall establish, maintain, and follow NRC-approved safeguards physical protection and safeguards contingency plans that describe how the licensee will comply with the requirements of paragraphs (a) and (b) of this section.

[44 FR 68188, Nov. 28, 1979, as amended at 57 FR 33430, July 29, 1992]

§ 73.21 Requirements for the protection of safeguards information.

(a) *General performance requirement.* Each licensee who (1) possesses a formula quantity of strategic special nuclear material, or (2) is authorized to operate a nuclear power reactor, or (3) transports, or delivers to a carrier for transport, a formula quantity of stra-

tegic special nuclear material or more than 100 grams of irradiated reactor fuel, and each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure. To meet this general performance requirement, licensees and persons subject to this section shall establish and maintain an information protection system that includes the measures specified in paragraphs (b) through (i) of this section. Information protection procedures employed by State and local police forces are deemed to meet these requirements.

(b) *Information to be protected.* The specific types of information, documents, and reports that shall be protected are as follows:

(1) *Physical protection at fixed sites.* Information not otherwise classified as Restricted Data or National Security Information relating to the protection of facilities that possess formula quantities of strategic special nuclear material, and power reactors. Specifically:

(i) The composite physical security plan for the nuclear facility or site.

(ii) Site specific drawings, diagrams, sketches, or maps that substantially represent the final design features of the physical protection system.

(iii) Details of alarm system layouts showing location of intrusion detection devices, alarm assessment equipment, alarm system wiring, emergency power sources, and duress alarms.

(iv) Written physical security orders and procedures for members of the security organization, duress codes, and patrol schedules.

(v) Details of the on-site and off-site communications systems that are used for security purposes.

(vi) Lock combinations and mechanical key design.

(vii) Documents and other matter that contain lists or locations of certain safety-related equipment explicitly identified in the documents as vital for purposes of physical protection, as contained in physical security plans, safeguards contingency plans, or plant specific safeguards analyses for production or utilization facilities.

(viii) The composite safeguards contingency plan for the facility or site.

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(ix) Those portions of the facility guard qualification and training plan which disclose features of the physical security system or response procedures.

(x) Response plans to specific threats detailing size, disposition, response times, and armament of responding forces.

(xi) Size, armament, and disposition of on-site reserve forces.

(xii) Size, identity, armament, and arrival times of off-site forces committed to respond to safeguards emergencies.

(xiii) Information required by the Commission pursuant to 10 CFR 73.55 (c) (8) and (9).

(2) *Physical protection in transit.* Information not otherwise classified as Restricted Data or National Security Information relative to the protection of shipments of formula quantities of strategic special nuclear material and spent fuel. Specifically:

(i) The composite transportation physical security plan.

(ii) Schedules and itineraries for specific shipments. (Routes and quantities for shipments of spent fuel are not withheld from public disclosure. Schedules for spent fuel shipments may be released 10 days after the last shipment of a current series.)

(iii) Details of vehicle immobilization features, intrusion alarm devices, and communication systems.

(iv) Arrangements with and capabilities of local police response forces, and locations of safe havens.

(v) Details regarding limitations of radio-telephone communications.

(vi) Procedures for response to safeguards emergencies.

(3) *Inspections, audits and evaluations.* Information not otherwise classified as National Security Information or Restricted Data relating to safeguards inspections and reports. Specifically:

(i) Portions of safeguards inspection reports, evaluations, audits, or investigations that contain details of a licensee's or applicant's physical security system or that disclose uncorrected defects, weaknesses, or vulnerabilities in the system. Information regarding defects, weaknesses or vulnerabilities may be released after corrections have been made. Reports of

investigations may be released after the investigation has been completed, unless withheld pursuant to other authorities, e.g., the Freedom of Information Act (5 U.S.C. 552).

(4) *Correspondence.* Portions of correspondence insofar as they contain Safeguards Information specifically defined in paragraphs (b)(1) through (b)(3) of this paragraph.

(c) *Access to Safeguards Information.* (1) Except as the Commission may otherwise authorize, no person may have access to Safeguards Information unless the person has an established "need to know" for the information and is:

(i) An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government. However, an individual to be authorized access to Safeguards Information by a nuclear power reactor applicant or licensee must undergo a Federal Bureau of Investigation criminal history check to the extent required by 10 CFR 73.57;

(ii) A member of a duly authorized committee of the Congress;

(iii) The Governor of a State or designated representatives;

(iv) A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;

(v) A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies; or

(vi) An individual to whom disclosure is ordered pursuant to § 2.744(e) of this chapter.

(2) Except as the Commission may otherwise authorize, no person may disclose Safeguards Information to any other person except as set forth in paragraph (c)(1) of this section.

(d) *Protection while in use or storage.* (1) While in use, matter containing Safeguards Information shall be under the control of an authorized individual.

(2) While unattended, Safeguards Information shall be stored in a locked security storage container. Knowledge of lock combinations protecting Safeguards Information shall be limited to

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a minimum number of personnel for operating purposes who have a "need to know" and are otherwise authorized access to Safeguards Information in accordance with the provisions of this section.

(e) *Preparation and marking of documents.* Each document or other matter that contains Safeguards Information as defined in paragraph (b) in this section shall be marked "Safeguards Information" in a conspicuous manner to indicate the presence of protected information (portion marking is not required for the specific items of information set forth in paragraph §73.21(b) other than guard qualification and training plans and correspondence to and from the NRC). Documents and other matter containing Safeguards Information in the hands of contractors and agents of licensees that were produced more than one year prior to the effective date of this amendment need not be marked unless they are removed from storage containers for use.

(f) *Reproduction and destruction of matter containing Safeguards Information.* (1) Safeguards Information may be reproduced to the minimum extent necessary consistent with need without permission of the originator.

(2) Documents or other matter containing Safeguards Information may be destroyed by any method that assures complete destruction of the Safeguards Information they contain.

(g) *External transmission of documents and material.* (1) Documents or other matter containing Safeguards Information, when transmitted outside an authorized place of use or storage, shall be packaged to preclude disclosure of the presence of protected information.

(2) Safeguards Information may be transported by messenger-courier, United States first class, registered, express, or certified mail, or by any individual authorized access pursuant to §73.21(c).

(3) Except under emergency or extraordinary conditions, Safeguards Information shall be transmitted only by protected telecommunications circuits (including facsimile) approved by the NRC. Physical security events required to be reported pursuant to §73.71 are considered to be extraordinary conditions.

(h) *Use of automatic data processing (ADP) systems.* Safeguards Information may be processed or produced on an ADP system provided that the system is self-contained within the licensee's or his contractor's facility and requires the use of an entry code for access to stored information. Other systems may be used if approved for security by the NRC.

(i) *Removal from Safeguards Information category.* Documents originally containing Safeguards Information shall be removed from the Safeguards Information category whenever the information no longer meets the criteria contained in this section.

[46 FR 51724, Oct. 22, 1981, as amended at 54 FR 17704, Apr. 25, 1989; 59 FR 38899, Aug. 1, 1994]

§ 73.24 Prohibitions.

(a) Except as specifically approved by the Nuclear Regulatory Commission, no shipment of special nuclear material shall be made in passenger aircraft in excess of (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium-233, or (2) 350 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope).

(b) Unless otherwise approved by the Nuclear Regulatory Commission, no licensee may make shipments of special nuclear material in which individual shipments are less than a formula quantity, but the total quantity in shipments in transit at the same time could equal or exceed a formula quantity, unless either of the following conditions are met:

(1) The licensee shall confirm and log the arrival at the final destination of each individual shipment and retain the log for three years from the date of the last entry in the log. The licensee shall also schedule shipments to ensure that the total quantity for two or more shipments in transit at the same time does not equal or exceed the formula quantity, or

(2) Physical protection in accordance with the requirements of §§ 73.20, 73.25, and 73.26 is provided by the licensee for such shipments as appropriate so that the total quantity of special nuclear material in the remaining shipments not so protected, and in transit at the

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same time, does not equal or exceed a formula quantity.

[44 FR 68188, Nov. 28, 1979, as amended at 53 FR 19257, May 27, 1988]

PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL IN TRANSIT

§ 73.25 Performance capabilities for physical protection of strategic special nuclear material in transit.

(a) To meet the general performance objective and requirements of § 73.20 an in-transit physical protection system shall include the performance capabilities described in paragraphs (b) through (d) of this section unless otherwise authorized by the Commission.

(b) Restrict access to and activity in the vicinity of transports and strategic special nuclear material. To achieve this capability the physical protection system shall:

(1) Minimize the vulnerability of the strategic special nuclear material by using the following subfunctions and procedures:

(i) Preplanning itineraries for the movement of strategic special nuclear material;

(ii) Periodically updating knowledge of route conditions for the movement of strategic special nuclear material;

(iii) Maintaining knowledge of the status and position of the strategic special nuclear material en route; and

(iv) Determining and communicating alternative itineraries en route as conditions warrant.

(2) Detect and delay any unauthorized attempt to gain access or introduce unauthorized materials by stealth or force into the vicinity of transports and strategic special nuclear material using the following subsystems and subfunctions:

(i) Controlled access areas to isolate strategic special nuclear material and transports to assure that unauthorized persons shall not have direct access to, and unauthorized materials shall not be introduced into the vicinity of, the transports and strategic special nuclear material, and

(ii) Access detection subsystems and procedures to detect, assess and communicate any unauthorized penetration (or such attempts) of a controlled access area by persons, vehicles or ma-

terials so that the response will satisfy the general performance objective and requirements of § 73.20(a).

(3) Detect attempts to gain unauthorized access or introduce unauthorized materials into the vicinity of transports by deceit using the following subsystems and subfunctions:

(i) Access authorization controls and procedures to provide current authorization schedules and access criteria for persons, materials and vehicles; and

(ii) Access controls and procedures to verify the identity of persons, materials and vehicles, to assess such identity against current authorization schedules and access criteria before permitting access, and to initiate response measures to deny unauthorized entries.

(c) Prevent or delay unauthorized entry or introduction of unauthorized materials into, and unauthorized removal of, strategic special nuclear material from transports. To achieve this capability the physical protection system shall:

(1) Detect attempts to gain unauthorized entry or introduce unauthorized materials into transports by deceit using the following subsystems and subfunctions:

(i) Access authorization controls and procedures to provide current authorization schedules and entry criteria for access into transports for both persons and materials; and

(ii) Entry controls and procedures to verify the identity of persons and materials and to permit transport entry only to those persons and materials specified by the current authorization schedules and entry criteria.

(2) Detect attempts to gain unauthorized entry or introduce unauthorized material into transports by stealth or force using the following subsystems and subfunctions:

(i) Transport features to delay access to strategic special nuclear material sufficient to permit the detection and response systems to function so as to satisfy the general performance objective and requirements of § 73.20(a);

(ii) Inspection and detection subsystems and procedures to detect unauthorized tampering with transports and cargo containers; and