Nuclear Regulatory Commission

§ 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 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]
§ 75.1 Purpose.

This part establishes a system of nuclear material accounting and nuclear material control to implement, with respect to NRC and Agreement State licensees, the Agreement between the United States and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States.

§ 75.2 Scope.

(a) Except as provided in §75.3, the requirements in this part apply to all persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation, as defined in §75.4(k), on the United States eligible list. They also apply, to the extent specified in §§50.78, 40.31(g), 70.21(g), and 150.17a of this chapter, to holders of construction permits and to persons who intend to receive source material or special nuclear material.

(b) The United States eligible list is a list of installations eligible for IAEA safeguards under the US/IAEA Safeguards Agreement which the Secretary of State or his designee files with the Commission. A copy of this list is available for inspection at the NRC Web site, \textit{http://www.nrc.gov}, and/or at the NRC Public Document Room. In accordance with the provisions of the Agreement, the following activities are excluded from the United States eligible list:

(1) Activities having direct national security significance.

(2) Activities involving mining and ore processing.


§ 75.3 Exemptions.

(a) The Commission 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 Agreement, are not inimical to the common defense and security, and are otherwise in the public interest.

(b) Without limiting the generality of paragraph (a) of this section, an exemption under this section may be granted with respect to nuclear material of the following types:

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

(2) Nuclear material used in non-nuclear activities, if such nuclear material is recoverable, and

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

§ 75.4 Definitions.

As used in this part:

(a) 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.

(b) Agreement, except as used in the term Agreement State, means the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States. Unless otherwise specified, the term refers both to the principal text of the Agreement, consisting of 90 articles, and to the Protocol thereto.

(c) 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.

(d) 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.

(e) Containment\(^1\) means:

(1) The application of any devices designed to limit the mobility of nuclear material, the access of personnel, or

\(^1\)The term refers to nuclear material safeguards rather than radiological protection.
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§ 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

the unauthorized operation of equipment such as transfer valves and sampler lines; and

(2) Structural elements, including the design of buildings and layout of equipment, which minimize and control access to nuclear material.

(f) 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(q) of this chapter.

(g) Facility Attachment means that portion of the Subsidiary Arrangements to the principal text of the Agreement that pertains to a particular installation that has been identified pursuant to Article 39(b) thereof.

(h) IAEA means the International Atomic Energy Agency or its duly authorized representatives.

(i) 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.

(j) Identification under the Agreement means identification by the IAEA pursuant to Article 39(b) of the principal text of the Agreement or Article 2(a) of the Protocol.

(k) Installation means:

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

(2) A uranium hexafluoride production plant;

(3) A fuel fabrication plant;

(4) An independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) as defined in §72.3 of this chapter; or

(5) Any location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to parts 40, 60, 63, or 70 of this chapter or an Agreement State license.

(l) Inventory change means an increase or decrease, established in accordance with the procedures required by this part, in terms of batches of nuclear material in an IAEA material balance area.

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

(n) Nuclear material means any source material or any special nuclear material.

(o) Ore processing means uranium milling and other procedures for producing UO$_3$ from uranium ore or from uranium concentrates produced as a byproduct from phosphate or other non-nuclear chemical production plants.

(p) Surveillance means instrumental or human observation to indicate or detect the movement of nuclear material.

(q) Transitional Facility Attachment means that portion of the Transitional Subsidiary Arrangements to the Protocol to the Agreement that pertains to a particular installation that has been identified pursuant to Article 2(a) thereof.

(r) United States eligible list means the list of installations described in §75.2.


§ 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
§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

(a) All information and reports required to be submitted pursuant to the provisions of this part and other communications concerning the regulations in this part shall be delivered as follows:

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<thead>
<tr>
<th>Item</th>
<th>Section</th>
<th>Manner of delivery</th>
</tr>
</thead>
<tbody>
<tr>
<td>IAEA Representative</td>
<td>75.7</td>
<td>To the Cognizant Director.</td>
</tr>
<tr>
<td>Installation Information</td>
<td>75.11</td>
<td>Do.</td>
</tr>
<tr>
<td>Sensitive Information</td>
<td>75.12</td>
<td>Do.</td>
</tr>
<tr>
<td>Verification of Installation Information</td>
<td>75.13</td>
<td>Do.</td>
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<td>Supplemental Information</td>
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<td>Do.</td>
</tr>
<tr>
<td>General Requirements (Amplification)</td>
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<td>As specified in the request.</td>
</tr>
<tr>
<td>Initial Inventory Reports</td>
<td>75.32</td>
<td>In accordance with printed instructions for preparation of DOE/NRC Form–742.</td>
</tr>
<tr>
<td>Inventory Change Reports</td>
<td>75.34</td>
<td>In accordance with printed instructions for preparation of DOE/NRC Form–741, –742, –742C, and –740M.</td>
</tr>
<tr>
<td>Material Status Reports</td>
<td>75.35</td>
<td>In accordance with printed instructions for preparation of DOE/NRC Form–742, –742C, and –740M.</td>
</tr>
<tr>
<td>Special Reports</td>
<td>75.36</td>
<td>To the Regional Office of the NRC.</td>
</tr>
<tr>
<td>Inspection</td>
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<td>Do.</td>
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<tr>
<td>Transfers (advance notification)</td>
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<td>Do.</td>
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<td>Delays</td>
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<td>Do.</td>
</tr>
<tr>
<td>Other Communications</td>
<td>75.44</td>
<td>To the cognizant Director.</td>
</tr>
</tbody>
</table>

(b) If an installation is a nuclear power plant or a non-power reactor for which a construction permit, operating license or a combined license has been issued, whether or not a license to receive and possess nuclear material at the installation has been issued, the cognizant Director is either the Director, Office of New Reactors, or the Director, Office of Nuclear Reactor Regulation. For all other installations, the cognizant Director is the Director, Office of Nuclear Material Safety and Safeguards.

(c) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Reactor Regulation (or Director, Nuclear Materials Safety and Safeguards, as appropriate), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC’s offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC’s Web site at http://www.nrc.gov/site-help/e-submittals.html, by calling (301) 415-0439, by e-mail to EIE@nrc.gov, or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of non-public information.

(d) Communications to the Regional Office of the NRC shall be addressed to the office listed in Appendix A of part 73 of this chapter for the region in which the installation is located.

(e) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as
stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

§ 75.7 IAEA representatives.

Each licensee subject to the provisions of this part shall recognize as a duly authorized representative of the IAEA any person bearing IAEA credentials who at the time of a visit or inspection, or of any visit or inspection within the preceding two years, is or was accompanied by a Commission employee, provided, that if the IAEA representative is not accompanied by a Commission employee, his credentials shall have been confirmed by the Commission in writing for the particular visit or inspection or for a specified term. The licensee shall immediately communicate with the Commission, by telephone, with respect to the credentials of any other person who claims to be an IAEA representative and shall accept telephone confirmation of such credentials by the Commission.

§ 75.8 Facility attachments.

(a) The Facility Attachment or Transitional Facility Attachment will document the determinations referred to in § 75.11 and will contain such other provisions as may be appropriate.

(b) The Commission will issue license amendments, as necessary, for implementation of the Agreement and the Facility Attachment (as amended from time to time).

§ 75.9 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 unless it displays a currently valid OMB control number.
§ 75.11 Installation information.

(a) Each licensee subject to the provisions of this part shall submit installation information, in response to a written request from the Commission, with respect to any installation which the Commission indicates has been identified under the Agreement and in which the licensee carries out licensed activities. (The Commission request shall state whether the installation has been identified under Article 39(b) of the principal text of the Agreement or Article 2(a) of the Protocol.) The licensee shall submit such information to the Commission within the period, which shall be at least 45 days, specified in the Commission’s request.

(b) Installation information includes:

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

(2) A description of the general arrangement of the installation with reference, to the extent feasible, to the form, 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 installation relating to material accounting, containment, and surveillance; and

(4) A description of the existing and proposed procedures at the installation 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 licensee may identify a process step involving information which 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 such information.)

(c) Each licensee shall thereafter submit to the Commission information with respect to any modification at the installation affecting the information referred to in paragraph (a) of this section. Such information shall be submitted:

(1) With respect to a modification of a type described in the license conditions: At least 70 days before the modification is scheduled to be completed, except that in an emergency or other unforeseen situation a shorter period may be approved by the Commission.

(2) With respect to any other modification relevant to the application of the provisions of the Agreement: At the time the first inventory change report is submitted after the modification is completed.

(d) The information specified in paragraphs (a) and (c) of this section shall be prepared on Form N–71 or other forms supplied by the Commission (including appropriate IAEA Design Information Questionnaire forms). The information shall be sufficiently detailed.
§ 75.12 Communication of information to IAEA.

(a) Except as otherwise provided in this section, the Commission will furnish to the IAEA all information submitted under §§ 75.11 and 75.14.

(b)(1) A licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted physically to the IAEA. A licensee who makes such a request should, 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. The licensee shall retain a copy of the request and all documents related to the request as a record until the Commission terminates the license for each installation involved with the request or until the Commission notifies the licensee that the license is no longer under the agreement. Superseded material must be retained for three years after each change is made.

(2) In considering such a request, it is the policy of the Commission to achieve an effective balance between legitimate concerns of licensees, 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 Agreement. The Commission 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 Agreement.

(3) If a request is denied, the Commission will notify the applicant with a statement of reasons. The notice of denial will specify a time, not less than ten (10) days after the date of the notice, when the information will be transmitted physically to the IAEA.

(4) If a request is granted, the Commission will determine a location where the information will remain readily available for examination by the IAEA and will so inform the licensee. The licensee shall retain this information as a record until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the license is no longer under the agreement. Superseded material must be retained for three years after each change is made.

(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 Agreement, the Commission may at its own
§ 75.13 Verification.

(a) Each licensee subject to the provisions of this part shall afford to the IAEA during normal working hours, pursuant to prior notice from the Commission, opportunity to visit the installation to verify the installation information submitted under § 75.11. The licensee may accompany IAEA representatives who visit the installation for such purpose, provided that the IAEA representatives shall not be delayed or otherwise impeded in the exercise of their functions.

(b) The notice from the Commission may be given by telephone or in writing and shall provide the licensee actual knowledge of the visit at least three days in advance. The licensee should consult with the Commission immediately if the visit would unduly interfere with its activities or if its key personnel cannot be available.

(c) The Commission will to the extent feasible, unless the licensee agrees otherwise, assign an employee to accompany an IAEA representative engaged in a visit described in this section.

§ 75.14 Supplemental information.

(a) At the time information is submitted by a licensee under § 75.11(a) (Form N-71), and promptly whenever changes are made, such licensee shall submit to the Commission:

1. Information on organizational responsibility for material accounting and control, including information with respect to separation of functions to provide internal checks and balances.

2. Health and safety rules to be observed by the IAEA inspectors at the installation.

(b) Information submitted pursuant to this section shall indicate that the information is being supplied for purposes of implementation of the US/IAEA Safeguards Agreement.

§ 75.21 General requirements.

(a) Each licensee who has been given notice by the Commission in writing that its installation has been identified under the Agreement shall establish, maintain, and follow written material accounting and control procedures. The licensee shall retain as a record current material accounting and control procedures until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the license is no longer under the agreement. Superseded material must be retained for three years after each change is made.

(b) 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.

(c)(1) The procedures shall, unless otherwise specified in license conditions, conform to the installation information submitted by the licensee under § 75.11.

(2) Until installation information has been submitted by the licensee, the procedures shall be sufficient to document changes in the quantity of nuclear material in or at its installation. 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 license subject thereto shall constitute compliance with this paragraph.

(d) 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.


§ 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.

The records referred to in §§ 75.22 and 75.23 shall be retained by the licensee for at least five years.

§ 75.32 Initial inventory report.

(a) The initial inventory reporting date shall be the last day of the calendar month in which the Commission gives the licensee notice that an initial inventory report is required.
§ 75.33 Accounting reports.

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

(i) Computer-readable Nuclear Material Transaction Reports (Inventory Change Reports); and

(ii) Computer-readable Material Balance 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 recording and may be corrected at a later date, as required.


§ 75.34 Inventory change reports.

(a) Nuclear Material Transaction Reports (Inventory Change Reports) in computer-readable format to be completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 “Personal Computer Data Input for NRC Licensees”), 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.

Each licensee who receives special nuclear material from a foreign source shall complete both the supplier’s and receiver’s portion of the form.

(b) Nuclear Material Transactions Reports (Inventory Change Reports), when appropriate, must be accompanied by computer-readable Concise Notes, completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 “Personal Computer Data Input for NRC Licensees”).

Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. This prescribed computer-readable format replaces the DOE/NRC Form 740M which has been previously submitted in paper form. This Concise Note is used in:

(1) Explaining the inventory changes on the basis of the operating records provided for under § 75.23; and

(2) Describing, to the extent specified in the license conditions, the anticipated operational program for the installation, including particularly, but not exclusively, the schedule for taking physical inventory.

[59 FR 35622, July 13, 1994]

§ 75.35 Material status reports.

(a) A material status report must be submitted for each physical inventory which is taken as part of the material accounting and control procedures required by § 75.21. The material status report must include a computer-readable Material Balance Report and a computer-readable Physical Inventory Listing which lists all batches separately and specifies material identification and batch data for each batch.

When appropriate, the material status report must be accompanied by a computer-readable Concise Note. The reports described in this section must be prepared and submitted in accordance with instructions (NUREG/BR–0007, NUREG/BR–0006 and NMMSS Report D–24 “Personal Computer Data Input for NRC Licensees”). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission,
Nuclear Regulatory Commission

Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. These prescribed computer-readable formats replace the DOE/NRC Forms 742, 742C, and 740M which have been submitted in paper form.

(b) Unless otherwise specified in the license conditions, material status reports shall be dispatched as soon as possible and in any event within thirty (30) days after the start of the physical inventory.


§ 75.35 Special reports.

(a) This section applies only to licensees who have been given notice, pursuant to §75.41, that their installations are subject to the application of IAEA safeguards.

(b) Each licensee who is subject to this section shall immediately make a special report to the Commission, by telephone (and also by telegraph, mailgram, or facsimile), in those situations described in license conditions.

(c) The situations referred to in paragraph (b) of this section include (1) the possibility of loss of nuclear material in excess of specified limits and (2) unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible.

§ 75.37 Disclosure of reports to IAEA.

The Commission may communicate to the IAEA any reports submitted to it pursuant to this part or any information contained in such reports.

INSTALLATIONS DESIGNATED FOR IAEA SAFEGUARDS

§ 75.41 Designation.

The Commission, by written notice, will designate those installations which, in accordance with identifications made from time to time by the IAEA, under Article 39(b) of the principal text of the Agreement, are subject to the application of IAEA safeguards. Such notice shall be effective until the Commission informs the licensee, in writing, that its installation is no longer so designated. Whenever a previously-designated installation is no longer subject to the application of IAEA safeguards, the Commission will give the licensee prompt notice to that effect.

§ 75.42 Inspections.

(a) Each licensee who has been given notice pursuant to §75.41 shall afford to the IAEA, at all reasonable times, opportunity to inspect its designated installation as provided in this section. Licensee representatives may accompany IAEA inspectors, provided that the IAEA inspectors are not thereby delayed or otherwise impeded in the exercise of their functions.

(b) As provided in the Agreement, an inspection may be ad hoc, routine, or special (or a combination of the foregoing). An inspection shall be deemed to be routine unless the Commission has specifically advised the licensee otherwise.

(c) The locations to which IAEA inspectors shall have access in the performance of inspections shall be as follows:

1. Ad hoc inspections to verify information contained in the licensee's initial inventory report or to identify and verify changes in the situation which have occurred since the initial inventory reporting date: any location where the initial inventory report or any inspections carried out therewith indicate that nuclear material subject to safeguards under the Agreement 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 given under §75.43(b) (pertaining to exports) or §75.43(c) (pertaining to imports): Any place where such nuclear material may be located.

3. Routine inspections: The strategic points referred to in §75.11 (or, until such strategic points have been specified, to the locations referred to in paragraph (c)(1) of this section) and the records maintained pursuant to this part.

4. Special inspections: Any of the locations specified above and any additional locations where the Commission, in response to an IAEA request, finds access to be necessary.
§ 75.43 Circumstances requiring advance notification.

(a) Each licensee who has been given notice, pursuant to §75.41, shall give advance written notification to the Commission with respect to 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.

2All 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).
(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 shall be given with respect to 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 an installation on the United States eligible list.

§ 75.44 Timing of advance notification.

(a) Except as provided in paragraph (b) of this section, notification to the Commission, where required by § 75.43, shall be given:

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

(2) In the case of imports, at least twelve days in advance of the unpackaging of nuclear material at the installation.

(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.

§ 75.45 Content of advance notification.

(a) The notifications required by § 75.43 shall 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 installation 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 installation, the approximate number of items to be received or shipped, and the probable dates of receipt or shipment. The notification shall indicate that the information is being supplied pursuant to § 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).

§ 75.46 Expenses.

(a) Under the Agreement, the IAEA undertakes to reimburse a licensee who has been given notice, pursuant to § 75.41, for extraordinary expenses incurred as a result of its specific request: Provided, That the IAEA has agreed in advance to do so. The Agreement also contemplates that in any case the IAEA will reimburse a licensee for the cost of making additional measurements or taking samples at the specific request of an IAEA inspector.

(b) The Commission will inform the licensee, in the license conditions or other written communication, of those items of extraordinary expense which the Agency has agreed in advance to reimburse.
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(c) The Commission will inform the licensee, in the license conditions, 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 Commission will take such action as it finds to be appropriate to assist the licensee with respect to the reimbursement of any expense which, under the Agreement, is to be borne by the IAEA.

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, 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 75 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 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, 75.8, 75.9, 75.12, 75.37, 75.41, 75.46, 75.51, and 75.53.

[57 FR 55079, Nov. 24, 1992]

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

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