NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

RIN 3150–AG60

Termination of Section 274i Agreement Between the State of Louisiana and the Nuclear Regulatory Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its regulations to remove the reference to an inspection agreement, referred to as the 274i Agreement, with the State of Louisiana. The inspection agreement entered into pursuant to section 274i of the Atomic Energy Act allowed the State of Louisiana to perform inspections or other functions in offshore waters adjacent to Louisiana on behalf of the NRC. This reference is located in the reciprocity regulations in 10 CFR 150.20. Under section 150.20(c), certain general licensees are not required to file with the NRC if the licensee provides timely notification of its offshore activities to the Agreement State that issued the specific license, and that State is listed in 150.20(d) as agreeing to perform inspections for NRC under a 274i agreement. Louisiana is the only Agreement State listed in the regulation. This action responds to a request from the Governor of Louisiana to terminate the agreement. The NRC agreed that the 274i inspection agreement is no longer needed and should be terminated. Therefore, the NRC is revising the regulations by deleting 150.20 (c) and (d) in their entirety. In the event NRC enters into a 274i inspection agreement with an Agreement State in the future, the provisions of 150.20(c) and (d), which were promulgated following notice and comment rulemaking, will be reinstated via direct final rulemaking.

DATES: The final rule is effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Stephanie P. Bush-Goddard, Ph.D., Office of Nuclear Material Safety and Safeguards, telephone (301) 415–6257, e-mail, SPB@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

In 1967, the State of Louisiana and the United States Atomic Energy Commission (now the U.S. Nuclear Regulatory Commission) entered into an agreement pursuant to section 274b of the Atomic Energy Act of 1954, as amended, to discontinue the Commission's regulatory responsibilities over the use and possession of certain types of radioactive material in Louisiana. The State of Louisiana, in turn, assumed authority (formerly exercised by the NRC) over these regulatory activities. This agreement was noticed in the **Federal Register** on May 3, 1967 (32 FR 6806). The discontinuance of the Commission's authority became effective May 1, 1967 and, at the same time, established Louisiana as an Agreement State. Additionally, on May 3, 1967 (32 FR 6807), the Commission published in the **Federal Register** a notice of an agreement between the State of Louisiana and the Commission that permitted the State to perform inspections or other functions in offshore waters adjacent to Louisiana on behalf of the Commission. This inspection agreement, entered into pursuant to section 274i of the Act, did not expand the State's regulatory authority but rather specifically authorized the State to conduct inspection activities and other functions on the Commission's behalf.

The NRC received a letter from Louisiana Governor M. J. ''Mike'' Foster, Jr., dated March 22, 2000, which requested termination of the section 274i agreement. The Governor stated that the termination would become effective 30 days from receipt of the letter. The request was filed in accordance with section 6 of the inspection agreement, which states: ''* * * This Agreement shall become effective on May 1, 1967, and shall remain in effect so long as the 274b Agreement remains in effect unless sooner terminated by either party on 30 days' prior written notice.''

Governor Foster noted that difficulties arranging transportation and a lack of financial and personnel resources made it burdensome to conduct field activities for the NRC. The State concluded that the section 274i inspection agreement was no longer needed and should be terminated.

Effective April 26, 2000, the inspection agreement with the State of Louisiana and the NRC was terminated. Beginning April 26, 2000, the NRC, not the State, began conducting inspections of NRC-licensed activities in offshore waters adjacent to Louisiana. In this final rule, the NRC is issuing a conforming amendment to its reciprocity regulations in 10 CFR 150.20 (c) and (d). These sections provide that a licensee is not required to fulfill certain NRC reporting requirements for licensed activities performed in certain offshore waters. Under section 150.20 (c), certain general licensees are not required to file with the NRC if the licensee provides timely notification of its offshore activities to the Agreement State that issued the specific license, and that State is listed in 150.20(d) as agreeing to perform inspections for NRC under a 274i agreement. Louisiana was the only Agreement State listed in the regulation because it was the only State which had entered into such an agreement with the NRC.

In a letter to Governor Foster acknowledging termination of the 274i Agreement, the NRC indicated it would remove from the regulation only the specific reference to the NRC's inspection agreement with Louisiana in section 150.20(d). However, to promote clarity in the regulations, these sections will be removed in their entirety. In the event NRC enters into a 274i inspection agreement with an Agreement State in the future, the provisions of 150.20(c) and (d), which were promulgated following notice and comment rulemaking, will be reinstated via direct final rulemaking. In a separate communication, the NRC will provide guidance to Louisiana licensees on the impacts that the termination of this agreement will have on the notification and fee requirements for activities conducted in offshore waters.

However, termination of the section 274i inspection agreement does not in any way affect the existing agreement between the Commission and the State of Louisiana entered into pursuant to section 274b of the Act. Accordingly, termination of the inspection agreement does not affect Louisiana's status as an Agreement State.

Procedural Background

This amendment involves a conforming change to NRC's regulations to reflect the fact that the State of Louisiana has terminated the section 274i inspection agreement. Accordingly, the NRC finds that, pursuant to 5 U.S.C. 553(b)(B), notice and comment is unnecessary. These amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature, conforming the NRC's regulations as a result of the April 26, 2000 termination of the 274i agreement with the State of Louisiana.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and

published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Public Law 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is revising its regulations to remove the reference to an inspection agreement, referred to as the 274i Agreement, with the State of Louisiana. The inspection agreement entered into pursuant to section 274i of the Atomic Energy Act allowed the State of Louisiana to perform inspections or other functions in offshore waters adjacent to Louisiana on behalf of the NRC. This reference is located in the reciprocity regulations in 10 CFR 150.20. Under section 150.20(c), certain general licensees are not required to file with the NRC if the licensee provides timely notification of its offshore activities to the Agreement State that issued the specific license, and that State is listed in 150.20(d) as agreeing to perform inspections for NRC under a 274i agreement. Louisiana is the only Agreement State listed in the regulation. This action responds to a request from the Governor of Louisiana to terminate the agreement. The NRC agreed that the 274i inspection agreement is no longer needed and should be terminated. Therefore, the NRC is revising the regulations by deleting 150.20 (c) and (d) in their entirety. In the event NRC enters into a 274i inspection agreement with an Agreement State in the future, the provisions of 150.20 (c) and (d), which were promulgated following notice and comment rulemaking, will be reinstated via direct final rulemaking. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0032.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

These minor amendments impose no new restrictions or requirements, and therefore, have no significant impact. Accordingly, a regulatory analysis is considered not necessary and has not been prepared.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This administrative rule is being revised to remove the reference to an inspection agreement, referred to as the 274i Agreement, with the State of Louisiana. The inspection agreement entered into pursuant to section 274i of the Atomic Energy Act allowed the State of Louisiana to perform inspections or other functions in offshore waters adjacent to Louisiana on behalf of the NRC. This reference is located in the reciprocity regulations in 10 CFR 150.20. Under section 150.20(c), certain general licensees are not required to file with the NRC if the licensee provides timely notification of its offshore activities to the Agreement State that issued the specific license, and that State is listed in 150.20(d) as agreeing to perform inspections for NRC under a 274i agreement. Louisiana is the only Agreement State listed in the regulation. This action responds to a request from the Governor of Louisiana to terminate the agreement. The NRC agreed that the 274i inspection agreement is no longer needed and should be terminated. Therefore, the NRC is revising the regulations by deleting 150.20(c) and (d) in their entirety. In the event NRC enters into a 274i inspection agreement with an Agreement State in the future, the provisions of 150.20(c) and (d), which were promulgated following notice and comment rulemaking, will be reinstated via direct final rulemaking.

Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in 10 CFR Chapter 1. Therefore, a backfit analysis is not required for this final rule.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 150.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

1. The authority citation for part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. Law 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec 234, 83 Stat. 444 (42 U.S.C. 2282).

§ 150.20 [Amended]

2. In § 150.20, paragraph (b)(1), first sentence, remove the words ''Except as specified in paragraph (c) of this section, shall'', add in their place ''shall'' and remove paragraphs (c) and (d).

Dated at Rockville, Maryland, this 28th day of December, 2000.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Acting Executive Director for Operations.

[FR Doc. 01–1079 Filed 1–18–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 740, 742, and 748

[Docket No. 010112014–1014–01]

RIN 0694–AC41

Implementation of Presidential Announcement of January 10, 2001: Revisions to License Exception CTP

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising License Exception CTP to reflect rapid technological advances in computing capability. This rule implements the President's sixth revision to U.S. export controls on high performance computers (HPCs), announced January 10, 2001. License Exception CTP is revised by removing Computer Tier 2 and merging its countries into Computer Tier 1. All HPCs continue to be eligible for export to a Computer Tier 1 country under License Exception CTP. Additionally, HPCs with CTP up to 85,000 MTOPS can be exported to Computer Tier 3 countries under License Exception CTP, and beginning March 20, 2001, exporters will no longer be required to submit National Defense Authorization Act (NDAA) advance notifications for HPCs with CTP exceeding 85,000 MTOPS. The NDAA advance notification will not be required for these computers, because exporters will be submitting a license for exports to Computer Tier 3 countries of HPCs with CTP exceeding 85,000 MTOPS. This rule also moves Lithuania from Computer Tier 3 to Computer Tier 1, effective May 19, 2001. The President's action will promote our national security, enhance the effectiveness of our export control system and ease unnecessary regulatory burdens on both government and industry.

DATES: This rule is effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Tanya Hodge Mottley in the Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, at (202) 482–1837.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2001, the President announced significant changes to U.S. export control policy for HPCs. The new policy continues the Administration's commitment, as announced on July 1, 1999, to review and update its HPC policy every six months in order to reflect rapid advancements in computer hardware, as well as identify any risk posed by HPC exports to certain end-users and countries. This policy strengthens America's high tech competitiveness, while maintaining export controls to protect U.S. national security.

The Administration, in consultation with the national security community and industry, has determined that additional adjustments are warranted. Effective immediately, all countries in Computer Tier 2 have been moved to Computer Tier 1. Computer Tier 2 has been deleted. Those countries formerly in Computer Tier 2 do not pose proliferation or security threats to the United States.

This rule implements the Administration's decision to increase License Exception CTP eligibility for HPC exports to countries in Computer Tier 3 by raising the CTP level to 85,000 MTOPS, to reflect the widespread availability of computers, including high performance computing capability attained by clustering numerous lower level personal computers together.

Effective March 20, 2001, this rule raises the advance notification requirement level for HPC exports to Computer Tier 3 countries from 28,000 to 85,000 MTOPS. As required by the NDAA, changes in the advance notification level for HPC exports to Tier 3 destinations are only effective 60 days following the President's submission of a report to Congress. In addition, this rule revises the support documentation requirements for computers exported to the People's Republic of China.

This rule removes Lithuania from Computer Tier 3 and places it in Computer Tier 1. However, due to the requirements in the 1998 National Defense Authorization Act (NDAA), removing Lithuania from Computer Tier 3 is not effective until 120 days after the Congress receives a report justifying such a removal.

This rule revises the Export Administration Regulations by modifying computer exports under License Exception CTP, as follows:

1. Moving all Computer Tier 2 countries to Computer Tier 1;
2. Raising the CTP limit for computers eligible for License Exception CTP for exports and reexports to Computer Tier 3 destinations from ''28,000 MTOPS'' to ''85,000 MTOPS'';
3. Moving Lithuania to Tier 1 as of May 19, 2001;
4. Revising the CTP range for which NDAA notification is required for computers exported or reexported to Computer Tier 3 countries;
5. Revising the CTP level of computers for which PRC End-User Certificates are required as support documentation for export under License Exception CTP; and
6. Revising the CTP level of the computers that require post shipment verification reports for exports to Computer Tier 3 countries.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This regulation involves collections previously approved by the Office of Management and Budget under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes per manual submission and 40 minutes per electronic submission. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Information is also collected under OMB control number 0694–0107, ''National Defense Authorization Act,'' Advance Notifications and Post-Shipment Verification Reports, which carries a burden hour estimate of 15 minutes per report. This rule also involves collections of information under OMB control number 0694–0073, ''Export Controls of High Performance Computers'' and OMB control number 0694–0093, ''Import Certificates and End-User Certificates.''

3. This rule does not contain policies with Federalism implications as that