



NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

[NRC-2010-0271]

RIN 3150-AJ34

**Domestic Licensing of Special Nuclear Material – Written
Reports and Clarifying Amendments**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations related to reportable safety events involving special nuclear material. This rule increases the time licensees are allowed to submit a written follow-up report from within 30 days to within 60 days after the initial report of an event, updates the reporting framework for certain situations, and removes redundant reporting requirements. These amendments affect a licensee or an applicant that is, or plans to be, authorized to possess greater than a critical mass of special nuclear material. This action resulted from a petition for rulemaking (PRM) received by the NRC (PRM-70-8). As a result of this proposed rule, the NRC's "FCSS [Fuel Cycle Safety and Safeguards] Interim Staff Guidance-12, Revision 1, 10 CFR [Title 10 of the Code of Federal Regulations] Part 70, Appendix A – Reportable Safety Events," will contain minor updates that reflect the amendments in this rulemaking.

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to

do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2010-0271. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this proposed rule.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Keith McDaniel, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5252; e-mail: Keith.McDaniel@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information.

Please refer to Docket ID NRC-2010-0271 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information by any of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2010-0271.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The NRC's "FCSS Interim Staff Guidance-12, Revision 1, 10 CFR Part 70, Appendix A – Reportable Safety Events" will be available in ADAMS under Accession No. ML14157A067.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments.

Please include Docket ID NRC-2010-0271 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Procedural Background.

Because the NRC considers this action non-controversial, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. The amendment to the rule will become effective on **[INSERT**

DATE 120 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. However, if the NRC receives significant adverse comments on this proposed rule by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3) The comment causes the NRC staff to make a change (other than editorial) to the rule.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

III. Paperwork Reduction Act Statement.

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR parts 70, Domestic Licensing of Special Nuclear Material-Written Reports and Clarifying Amendments

The form number if applicable: Not applicable.

How often the collection is required: The time for a licensee to submit a written report following a part 70 reportable safety event has changed from within 30 days to within 60 days.

Who will be required or asked to report: This rulemaking would affect an applicant or a licensee that is, or plans to be, authorized to possess greater than a critical mass of special nuclear material.

An estimate of the number of annual responses: There would be no change in the number of annual responses associated with part 70 as a result of the proposed rule.

The estimated number of annual respondents: There would be no change in the number of annual respondents associated with part 70 as a result of the proposed rule.

An estimate of the total number of hours needed annually to complete the requirement or request: This rule does not change the burden associated with part 70.

Abstract: The proposed rule would amend regulations related to reportable safety events involving special nuclear material. The NRC proposes to amend its regulations to increase the time frame for a licensee to submit a written follow-up report to a part 70 reportable safety event from within 30 days to within 60 days. In addition, information collections in part 70, Appendix A(a)(5) and (b)(5) would be deleted because they are no longer needed or are redundant with other part 70, Appendix A reporting requirements. The amendments would affect an applicant or a licensee that is, or plans to be, authorized to possess greater than a critical mass of special nuclear material.

NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed and copied for a fee at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. The OMB clearance package and proposed rule will be available on the NRC's Web site, <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>, for 60 days after the signature date of this document.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above previously stated issues, by **[(INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER)]** to the FOIA [Freedom of Information Act], Privacy, and Information Collections Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to INFOCOLLECTS.RESOURCE@NRC.GOV and to the Desk Officer, Danielle Y. Jones, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0009), Office of Management and Budget, Washington, DC 20503. You may also e-mail comments to Danielle_Y_Jones@omb.eop.gov or comment by telephone at 202-395-1741. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

IV. Plain Writing.

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

List of Subjects in 10 CFR Part 70

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

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 70.

PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 70 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 161, 182, 183, 193, 223, 234 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2243, 2273, 2282, 2297f); secs. 201, 202, 204, 206, 211 (42 U.S.C. 5841, 5842, 5845, 5846, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 194 (2005).

Sections 70.1(c) and 70.20a (b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

Section 70.21(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 70.31 also issued under Atomic Energy Act sec. 57(d) (42 U.S.C. 2077(d)). Sections 70.36 and 70.44 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 70.81 also issued under Atomic Energy Act secs. 186, 187 (42 U.S.C. 2236, 2237). Section 70.82 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

2. In § 70.50, revise the first sentence of the introductory text of paragraph (c)(2) to read as follows:

§ 70.50 Reporting requirements.

* * * * *

(c) * * *

(2) *Written report.* Each licensee that makes a report required by paragraph (a) or (b) of this section shall submit a written follow-up report within 30 days of the initial report. * * *

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3. In § 70.74, revise paragraph (b) to read as follows:

§ 70.74 Additional reporting requirements.

* * * * *

(b) *Written reports.* Each licensee that makes a report required by paragraph (a)(1) of this section shall submit a written follow-up report within 60 days of the initial report. The written report must be sent to the NRC’s Document Control Desk, using an appropriate method listed in § 70.5(a), with a copy to the appropriate NRC regional office listed in appendix D to part 20 of this chapter. The reports must include the information as described in § 70.50(c)(2)(i) through (iv).

Appendix A to Part 70— [Amended]

4. Amend appendix A to part 70 by:

a. In the introductory text to paragraph (a), removing the number “30” and adding, in its place, the number “60;”

b. Removing paragraph (a)(5);

c. In the introductory text to paragraph (b), removing the number “30” and adding, in its place, the number “60;” and

d. Removing paragraph (b)(5).

Dated at Rockville, Maryland, this 15th day of September, 2014.

For the Nuclear Regulatory Commission.

Mark A. Satorius,
Executive Director for Operations.

[FR Doc. 2014-22865 Filed 09/25/2014 at 8:45 am; Publication Date: 09/26/2014]