



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 37, 40, 70, 71, 72, 73, 76, and 95

[NRC-2018-0183]

RIN 3150-AK14

Miscellaneous Corrections – Organizational Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include removing an office from a list of office recipients, removing an office reference, correcting an office designation and a phone number, removing and correcting division titles, and removing a followup reporting instruction. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Please refer to Docket ID **NRC-2018-0183** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0183**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov.

- **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 "[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.

- **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.

FOR FURTHER INFORMATION CONTACT: Jill Shepherd-Vladimir, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1230, e-mail: Jill.Shepherd-Vladimir@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is amending its regulations in parts 37, 40, 70, 71, 72, 73, 76, and 95 of title 10 of the *Code of Federal Regulations* (10 CFR) to make miscellaneous corrections. These changes include removing an office from a list of office recipients, removing an office reference, correcting an office designation and a phone number, removing and

correcting division titles, and removing a followup reporting instruction. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

II. Summary of Changes

10 CFR Part 37

Remove Office Reference. In § 37.7(a), this final rule removes the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, from the list of recipients.

10 CFR Parts 37 and 40

Remove Reporting Instruction. In §§ 37.81(g) and 40.64(c)(2) and (3), this final rule removes the erroneous instructions for where to submit a copy of a followup notification. These paragraphs already point to the sections that provide the appropriate mailing address and addressee(s).

10 CFR Parts 37, 40, 70, 71, 72, and 73

Remove Division Title. In §§ 37.77, 40.23(b)(1), 40.66(a) and (b)(5), 40.67(a), 70.5, 70.20, 71.97, 73.4, 73.37, 73.71, 73.72, 73.73, and 73.74, this final rule removes the Division of Security Policy to ensure that correspondence goes directly to the Director, Office of Nuclear Security and Incident Response rather than to a division director.

10 CFR Parts 40, 73, and 76

Correct Division Title. In §§ 40.23(c), 40.66(c), and 40.67(c) and (d), 73.26, 73.27, 73.67, and 76.5a, this final rule corrects the title of the Division of Security Policy to read as Division of Physical and Cyber Security Policy.

10 CFR Part 40

Correct Designation. In § 40.23(b)(2)(ix), this final rule replaces the Division of Security Policy with the higher level designation of the Office of Nuclear Security and Incident Response.

Correct Telephone Number. In § 40.23(d), this final rule removes the incorrect telephone number “(301) 415-6828” and replaces it with the correct telephone number “(301)- 287-3598” for the Director of the Division of Physical and Cyber Security Policy.

10 CFR Part 70

Correct Office Designation. In § 70.32(c)(2), (e), and (i), this final rule replaces the Office of Nuclear Security and Incident Response with the Office of Nuclear Material Safety and Safeguards.

10 CFR Part 72

Remove Division Title. In § 72.186(b), this final rule removes the Division of Spent Fuel Management so that notifications go to the Director, Office of Nuclear Material Safety and Safeguards rather than to division level management.

10 CFR Part 95

Remove Division Title. In § 95.9(a), this final rule removes the Division of Security Operations so that notification go to Office level management rather than division level management.

III. Rulemaking Procedure

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the requirements for publication in the *Federal Register* of a notice of proposed rulemaking and opportunity for comment if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. These changes include removing an office from a list of office recipients, removing an office reference, correcting an office designation and a phone number, removing and correcting division titles, and removing a followup reporting instruction. The Commission is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. These amendments do not require action by any person or entity regulated by the NRC, and do not change the substantive responsibilities of any person or entity regulated by the NRC.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing

regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

V. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

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

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. 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).

VII. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule do not constitute backfitting and are not inconsistent with any of the issue finality provisions in 10 CFR part 52. The amendments are non-substantive in nature, including removing an office from a list of office recipients, removing an office reference, correcting an office designation and a phone number, removing and correcting division titles, and removing a followup reporting instruction. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of the rule in final form would not constitute backfitting or represent a violation of any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801-808).

List of Subjects

10 CFR Part 37

Byproduct material, Criminal penalties, Exports, Hazardous materials transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 40

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

10 CFR Part 70

Classified information, Criminal penalties, Emergency medical services, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material, Whistleblowing.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Incorporation by reference, Intergovernmental relations, Nuclear materials, Packaging and containers, Penalties, Radioactive materials, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Incorporation by reference, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 76

Certification, Criminal penalties, Nuclear energy, Penalties, Radiation protection, Reporting and record keeping requirements, Security measures, Special nuclear material, Uranium, Uranium enrichment by gaseous diffusion.

10 CFR Part 95

Classified information, Criminal penalties, Penalties, 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 parts 37, 40, 70, 71, 72, 73, 76, and 95:

PART 37 – PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2

QUANTITIES OF RADIOACTIVE MATERIAL

1. The authority citation for part 37 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

2. Revise § 37.7(a) to read as follows:

§ 37.7 Communications.

* * * * *

(a) By mail addressed to: ATTN: Document Control Desk; Director, Office of Nuclear Reactor Regulation; Director, Office of New Reactors; or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001;

* * * * *

§ 37.77 [Amended]

3. In § 37.77, wherever it appears, remove the title “Division of Security Policy,” and in paragraph (c)(1), remove the phrase “of Nuclear Security”.

§ 37.81 [Amended]

4. In § 37.81(g) introductory text, remove the third sentence.

PART 40 – DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for part 40 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act of 1974, secs. 201, 202,

206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

§ 40.23 [Amended]

6. Amend § 40.23 as follows:

a. In paragraph (b)(1), remove the title “Division of Security Policy,”;

b. In paragraph (b)(2)(ix), remove the title “Division of Security Policy” and add in its place the title “Office of Nuclear Security and Incident Response”.

c. In paragraph (c), remove the title “Division of Security Policy” and add in its place the title “Division of Physical and Cyber Security Policy”.

d. In paragraph (d), remove the title “Division of Security Policy” and add in its place the title “Division of Physical and Cyber Security Policy”; and remove the telephone number “(301) 415-6828” and add in its place the telephone number “301-287-3598”.

§ 40.64 [Amended]

7. In § 40.64(c)(2) and (3), remove the last sentence in each paragraph.

§ 40.66 [Amended]

8. Amend § 40.66 as follows:

a. In paragraph (a), remove the title “Division of Security Policy,”;

b. In paragraph (b)(5), remove the title “Division of Security Policy,” and add in its place the title “Director,”; and

c. In paragraph (c), remove the title “Division of Security Policy,” and add in its place the title “Director,”.

§ 40.67 [Amended]

8. Amend § 40.67 as follows:

a. In paragraph (a), remove the title “Division of Security Policy,”; and

b. In paragraphs (c) and (d), remove the title “Division of Security Policy” and add in its place the phrase “Director, Office of Nuclear Security and Incident Response”.

PART 70 – DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57(d), 108, 122, 161, 182, 183, 184, 186, 187, 193, 223, 234, 274, 1701 (42 U.S.C. 2071, 2073, 2077(d), 2138, 2152, 2201, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

§§ 70.5 and 70.20b [Amended]

10. In §§ 70.5 and 70.20b, wherever it appears, remove the title “Division of Security Policy,”.

§ 70.32 [Amended]

11. In § 70.32, wherever it appears, remove the title “Division of Security Policy, Office of Nuclear Security and Incident Response” and add in its place the title “Office of Nuclear Material Safety and Safeguards”.

PART 71 – PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

12. The authority citation for part 71 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 81, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 180 (42 U.S.C. 10175); 44 U.S.C. 3504 note.
Section 71.97 also issued under Sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 71.97 [Amended]

13. In § 71.97, wherever it appears, remove the title “Division of Security Policy,”.

PART 72 – LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

14. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

§ 72.186 [Amended]

15. In § 72.186(b), remove the title “Division of Spent Fuel Management,”.

PART 73 – PHYSICAL PROTECTION OF PLANTS AND MATERIALS

16. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note. Section 73.37(b)(2) also issued under Sec. 301, Public Law 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

§§ 73.4, 73.37, 73.71, 73.72, 73.73 and 73.74 [Amended]

17. In §§ 73.4, 73.37, 73.71, 73.72, 73.73, and 73.74, wherever it appears, remove the title “Division of Security Policy,”.

§§ 73.26, 73.27, and 73.67 [Amended]

18. In §§ 73.26, 73.27, and 73.67, wherever it appears, remove the title “Division of Security Policy” and add in its place the title “Division of Physical and Cyber Security Policy”.

PART 76 – CERTIFICATION OF GASEOUS DIFFUSION PLANTS

19. The authority citation for part 76 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 122, 161, 193(f), 223, 234, 1701 (42 U.S.C. 2152, 2201, 2243(f), 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 206, 211 (42 U.S.C. 5841, 5846, 5851); 44 U.S.C. 3504 note.

§ 76.5 [Amended]

20. In § 76.5(a), remove the title “Division of Security Policy,”.

PART 95 – FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

21. The authority citation for part 95 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, as amended, 25 FR 1583, 3 CFR, 1959-1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298.

§ 95.9 [Amended]

22. In § 95.9(a), remove the title “Division of Security Operations,”.

Dated at Rockville, Maryland, this 16th day of November, 2018.

For the Nuclear Regulatory Commission.

Pamela J. Shepherd-Vladimir, Acting Chief,
Regulatory Analysis and Rulemaking
Support Branch,
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