U.S. Additional Protocol Bulletin

Department of Commerce
Bureau of Industry and Security

U.S. Additional Protocol and Nuclear Fuel Cycle-related Research and Development Activities

The Additional Protocol to the U.S.-International Atomic Energy Agency (IAEA) Safeguards Agreement (the U.S. Additional Protocol or AP) expands the IAEA safeguards regime to cover all aspects of the nuclear fuel cycle, such as equipment manufacturing, public and private funded research and development and hard rock mining activities. For more information relating to/on the Additional Protocol, the IAEA, or the Safeguards Agreement, see Publications AP-001, AP-002 and AP-003.

Reporting Requirements

The Department of Commerce, Bureau of Industry and Security (BIS) has been charged to issue regulations to implement the domestic reporting requirements under the AP. Once published in final form, the AP regulations will require the owner or operator of entities, including colleges and universities, which conduct nuclear fuel cycle-related research and development (R&D) activities to submit reports to BIS of its previous year activities. The R&D activities captured by the regulations are those that do not involve nuclear material and are funded either by the U.S. Government or privately. For privately funded R&D activities only those that are specifically related to enrichment, reprocessing of nuclear fuel or the processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 are required to be reported.

Note: R&D activities related to theoretical or basic scientific research or to research and development on industrial radioisotope applications, medical, hydrological and agricultural applications, health and environmental effects and improved maintenance are not subject to reporting requirements under the AP regulations.

The information to be reported will include:

- Location (GPS coordinates)
- Owner or operator name and contact information;
- Status of the R&D activity
- Specific buildings associated with the activity
- Fuel-cycle stage of the R&D (e.g., enrichment, fuel fabrication, nuclear reactors, etc.)
- Project level (e.g., theoretical conceptual design, prototype, etc.)
- A brief description of the R&D activity and the objective

Definitions

Nuclear fuel cycle-related research and development activities: Those activities which are specifically related to any process or system development aspect of any of the followings:

(1) Conversion of nuclear material
(2) Enrichment of nuclear material
(3) Nuclear fuel fabrication
(4) Reactors
(5) Critical facilities
(6) Reprocessing of nuclear fuel
(7) Processing of intermediate or high level waste containing plutonium and/or high enriched uranium.

Nuclear material: Any source material or special fissionable material, as follows:

(1) *Source material* means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical, or concentrate. The term source material shall *not* be interpreted as applying to ore or ore residue, and;

2) *Special fissionable material* means plutonium 239; uranium 233; uranium enriched in the isotopes 235 or 233; any material containing one or more of the foregoing, but the term special fissionable material does not include source material.

How and when to report your activities

BIS currently intends for companies to submit reports in hard copy via U.S.mail, courier/hand delivery and/or via facsimile at 202-482-1731. The reporting forms are accessible online at www.ap.gov. You will have 30 calendar days from October 31, 2008, the date the final AP regulation was published in the Federal Register, to submit your initial report to BIS. After submission of initial reports, annual reports must be submitted to BIS by January 31`st following any year in which the R&D activity took place. Companies whose activities do not change from the previous calendar year will only need to submit a "no-changes" report, thereby reducing the paperwork burden.

Complementary Access

The Additional Protocol contains provisions for IAEA personnel to conduct inspections, of sites and locations, which are called complementary access. Though the IAEA will not systematically verify declarations, it can seek access to resolve a question relating to the correctness and completeness of the information provided in the U.S. declaration. Before a request for access is sought, the

IAEA must first provide the U.S. with the opportunity to clarify and facilitate the resolution of the question or inconsistency. The IAEA will provide at least 24-hours notice prior to any access. There are no time parameters for the conduct of complementary access established in the Protocol, but inspectors are required to work only during normal business hours, unless otherwise agreed.

The IAEA inspectors will be escorted by members of the U.S. government during all instances of complementary access. In addition, BIS will work with the location owner or operator to help protect national security, sensitive and/or proprietary information and technology through managed access.

IAEA complementary access techniques may include visual observation, collection of environmental samples, utilization of radiation detection and measurement devices, examination of production and shipping records, and other agreed measures.

Conclusion

For more information on the U.S. Additional Protocol, the IAEA, and BIS's implementation of the Additional Protocol for U.S. industry, please call BIS's Treaty Compliance Division at 202-482-1001 or visit the website: www.ap.gov.