

DRAFT OMB SUPPORTING STATEMENT
FOR
10 CFR PART 150
EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY
IN AGREEMENT STATES AND IN OFFSHORE WATERS
UNDER SECTION 274
(3150-0032)

EXTENSION

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) regulations in Part 150 of Title 10 of the Code of Federal Regulations (10 CFR) provide certain exemptions to persons in Agreement States from the licensing requirements contained in Chapters 6, 7, and 8 of the Atomic Energy Act of 1954, as amended, and certain regulations of the Commission. The regulations in 10 CFR Part 150 also define the Commission continued regulatory authority over certain Agreement States activities. Information concerning the application, recordkeeping, and reporting requirements imposed by specific sections of 10 CFR Part 150 is provided below.

This clearance renewal incorporates the information collections contained in the following final rulemakings approved by the Office of Management and Budget (OMB) since the last extension periods: "Regulatory Improvements to the Nuclear Materials Management and Safeguards System," published June 9, 2008 (73 FR 32453), the Final Rule under 10 CFR Part 150 "Exemptions and Continued Regulatory Authority in Agreement States and in offshore Waters Under Section 274," became effective on January 1, 2009, and "Regulatory Changes to Implement the Additional Protocol to the US/IAEA Safeguards Agreement," published December 23, 2008 (73 FR 78599).

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

10 CFR 150.16(a)(1) requires each Agreement State licensee who transfers or receives special nuclear material to complete and submit a U.S. Department of Energy/United States (U.S.) Nuclear Regulatory Commission (DOE/NRC) Form 741, "Nuclear Material Transaction Report," whenever he transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. This report is required in order for the U.S. to fulfill its responsibilities under the U.S./International Atomic Energy Agency (US/IAEA) Safeguards Agreement. Accounting reports for each IAEA material balance area must include inventory change reports showing all changes in the inventory of nuclear material.

The use of DOE/NRC Form 741 is approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

10 CFR 150.16(a)(2) requires each person who, pursuant to an Agreement State specific license, transfers, receives or adjust the inventory in any manner by 1

kilogram or more of uranium or thorium source material with foreign obligations; or who imports or exports 1 kilogram or more of uranium or thorium source material; or uses one kilogram or more of any uranium or thorium source material in enrichment services, downblending uranium that has an initial enrichment of the Uranium 235 isotope of 10 percent or more; or in the fabrication of mixed-oxide fuels, shall complete and submit DOE/NRC Form 741.

This report is required in order for the U.S. to fulfill its responsibilities under the US/IAEA Safeguards Agreement. Accounting reports for each IAEA material balance area must include inventory change reports showing all changes in the inventory of nuclear material.

The use of DOE/NRC Form 741 is approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

10 CFR 150.16(b)(1) requires that each person who, pursuant to an Agreement State license, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the appropriate NRC Regional Office by telephone, any incident in which any theft or unlawful diversion of special nuclear material which he is licensed to possess has been made or is believed to have been made.

10 CFR 150.16(b)(2) requires the licensee to follow the initial report with a written report that sets forth the details of the incident within 15 days. The report must be sent by an appropriate method listed in 10 CFR 150.4 of this part to the Director of the NRC's Office of Federal and State Materials and Environmental Management Programs, with a copy to the appropriate NRC Regional Office, shown in Appendix A to 10 CFR Part 73.

10 CFR 150.16(b)(3) requires each licensee to promptly inform the Regional Administrator of the appropriate NRC Regional Office by means of a written report of any substantive additional information which becomes available to the licensee concerning an attempted or apparent theft or unlawful diversion of special nuclear material.

The information submitted by licensees under this requirement is evaluated and maintained by the NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

10 CFR 150.17(a) requires each person, who possesses or had possessed in the previous reporting period, at any one time and location, special nuclear material in a quantity totaling one gram or more of contained uranium-235, uranium-233 or plutonium shall complete and submit material balance reports concerning the special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed or lost. The report shall be submitted no later than March 31st of each year.

10 CFR Section 150.17(b)(1) requires each person, who possesses or had possessed in the previous reporting period, at any one time and location, one kilogram or more of uranium or thorium source material with foreign obligations, shall document holdings and submit to the Commission each year.

10 CFR Section 150.17(b)(2) requires each person, who possesses or had possessed in the previous reporting period, at any one time and location, one kilogram or more of uranium or thorium source material in the operations of enrichment services, downblending uranium that has an initial enrichment of the Uranium 235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to complete and submit material balance and physical inventory listing reports concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost. The reports shall be submitted to the Commission each year.

The information contained in the material balance statement is placed in and maintained by the Nuclear Materials Management and Safeguards System (NMMSS)¹, pursuant to the Commission's responsibility under Section 161 of the Atomic Energy Act of 1954, as amended, to establish such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material, as it deems necessary or desirable to promote the common defense and security.

10 CFR 150.17(c)(1) requires each licensee who is authorized to possess uranium or thorium pursuant to a specific license to report promptly to the appropriate NRC Headquarters Operations Center by telephone, of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year.

10 CFR 150.17(c)(2) requires the licensee to notify the NRC as soon as possible, but within 4 hours, of discovery of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of such material.

10 CFR 150.17(c)(3) requires the licensee to submit a written report to the appropriate NRC Regional Office within 60 days of the initial report.

10 CFR 150.17(c)(4) requires the licensee to promptly update the written follow up notification with any substantive additional information which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of source material.

The information submitted by licensees under this requirement is evaluated and maintained by NRC in order that the Commission may carry out its responsibility

¹ The NRC and DOE share the cost of operating the NMMSS. Currently, the NRC's share of the system cost is \$1,500,000 for fiscal year 2012. This cost is attributable to the nuclear materials transaction and accounting report forms. This includes the cost of automated data processing, record holding, and clerical processing of all forms (DOE/NRC Forms 741, 740M, 742, and 742C).

under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

10 CFR 150.17a(c)(1) requires an applicant for an Agreement State License or certificate, and each recipient of any Agreement State license or certificate to submit facility information in response to a written request by the Commission, as described in 10 CFR 75.10 of this chapter, on International Atomic Energy Agency (IAEA) Form N-71 and associated forms, and site information on Department of Commerce (DOC)/NRC Form AP-A and associated forms.

10 CFR 150.17a(c)(2) states that the Additional Protocol requires each applicant for an Agreement State License or certificate, and each recipient of any Agreement State license or certificate to submit location information described in 10 CFR 75.11 of this chapter, on DOC/NRC Form AP-1 and associated forms; and

10 CFR 150.17a(d) requires each applicant for an Agreement State License or certificate, and each recipient of any Agreement State license or certificate to submit facility information in response to a written request by the Commission, as described in 10 CFR 75.10 of this chapter, on Form N-71 and associated forms, site information on DOC/NRC Form AP-A and associated forms, and to submit location information described in 10 CFR 75.11 of this chapter, on DOC/NRC Form AP-1 and associated forms; to permit verification thereof by the IAEA and take other action that might be necessary to implement the US/IAEA Safeguards Agreement, and the Additional Protocol in the manner set forth in 10 CFR Part 75 of this chapter.

The NRC staff will review the information submitted by applicants to determine if it is complete and meets the requirements set out in 10 CFR 75.11.

The use of Form N-71 is approved under OMB Clearance No. 3150-0056 and DOE/NRC Forms AP-1 and AP-A along with associated forms are approved under OMB Clearance No. 0694-0135, which should be referred to for the information collection burden and supporting data.

10 CFR 150.19(c) requires that each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The licensee is required to submit a written report to the appropriate NRC Regional Office within 15 days of the initial report.

The information submitted by the licensees under this requirement is evaluated and maintained by the NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

10 CFR 150.20(b)(1) requires that any Agreement State licensee engaging in activities in non-Agreement States under the general license established in Section 150.20(a) shall, at least 3 days prior to engaging in such activity for the first time in a calendar year, file a submittal containing an NRC Form 241 and a copy of this Agreement State specific license and the appropriate fee with the appropriate NRC Regional Office. If a submittal cannot be filed 3 days before engaging in activities under reciprocity, the Regional Administrator may waive the 3-day time requirement provided the licensee: (i) Informs the Region by telephone, facsimile, and NRC Form 241, or letter of initial activities or revisions to the information submitted on the initial NRC Form 241; (ii) Within 3 days after the notification, files an NRC Form 241, a copy of the Agreement State license, and the fee payment.

10 CFR 150.20(b)(2) requires any person engaging in activities in non-Agreement States, in areas of exclusive Federal jurisdiction shall file an amended NRC Form 241 or letter with the Regional Administrator to request approval for changes in work locations, radioactive material, or work activities different from the information contained on the initial NRC Form 241.

The use of the NRC Form 241 is approved under OMB Clearance No. 3150-0013, which should be referred to for the information collection burden and supporting data.

10 CFR 150.31(a) requires that prior to November 8, 1981, in the licensing and regulation of byproduct material, or any activity which results in the production of such byproduct material, Agreement States shall require compliance with the provisions of Appendix A of 10 CFR Part 40 pertaining to ownership of such byproduct material and disposal sites for such material.

10 CFR 150.31(b) requires that after November 8, 1981, in the licensing and regulation of byproduct material, or any activity which results in the production of such byproduct material, an Agreement State shall require:

10 CFR 150.31(b)(1) requires compliance with requirements in Appendix A of 10 CFR Part 40 of this chapter that was established by the Commission pertaining to ownership of such byproduct material and disposal sites for such material.

The compliance burden for Section 150.31(b)(1) is attributable to Appendix A of 10 CFR Part 40, NRC Form 484, which is approved under OMB Clearance No. 3150-0020, and should be referred to for the information collection burden and supporting data.

10 CFR 150.31(b)(2) requires compliance with standards which shall be adopted by the Agreement State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards in Appendix A of

10 CFR Part 40 adopted and enforced by the Commission for the same purpose, including the requirements and standards subsequently promulgated by the Commission and the Administrator of the Environmental Protection Agency (EPA) pursuant to the Uranium Mill Tailing Radiation Control Act of 1978.

10 CFR 150.31(b)(3)(ii) requires compliance with each licensing action which has a significant impact on the human environment, a written analysis by the appropriate State agency (which shall be available to the public before the commencement of any such proceedings) of the impact of such licensing action, including any activities conducted pursuant thereto, on the environment. Such analysis shall include:

- (A) An assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such licenses;
- (B) An assessment of any impact on any waterway and groundwater resulting from such activities;
- (C) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and
- (D) Consideration of the long term impacts, including decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined in 10 CFR 150.3(c)(2) of this part.

10 CFR 150.31(d) provides adopting requirements pursuant to paragraph (b)(2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety and the environment from radiological and nonradiological hazards associated with sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the EPA in accordance with Section 275. Alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

2. Agency Use of the Information

The reports described in 10 CFR 150.16(a), 10 CFR 150.17(a), 10 CFR 150.17(b), and 10 CFR 150.17a contain data that are used to generate reports to provide to several other Governments in accordance with Bilateral Agreements and the IAEA in accordance with the US/IAEA Safeguards Agreement. Information collected is also necessary to the domestic inspection program.

The reports described in 10 CFR 150.16(b), 10 CFR 150.17(c), and 10 CFR 150.19(c) are evaluated and maintained by the NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. The NRC published a final rule on electronic

submission of information in the *Federal Register* (68 FR 58792). The rule was consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. It is estimated that 99% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. The NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

5. Effort to Reduce Small Business Burden

The burden on licensees will vary with size and type of licensed operation. The burden on small business represents approximately five percent of the total burden. Further reduction would not enable the NRC to fulfill its international or domestic responsibilities.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

If the requested information is collected less frequently, the NRC would be unable to have current knowledge of the location of nuclear materials as is required by the Atomic Energy Act of 1954, as amended.

If licensees are not required to submit these reports, the NRC will not be able to maintain material accountability under its statutory responsibilities of the Atomic Energy Act of 1954, as amended.

7. Circumstances which Justify Variation from OMB Guidance

Contrary to OMB guidelines in 5 CFR 1320.5(d), respondents are required to submit more than three copies of certain reports.

Section 150.20(b)(1) of 10 CFR Part 150 requires four copies of NRC Form 241 and four copies of the Agreement State license. Multiple copies are required to report proposed activities in non-Agreement States to one or more NRC Regional Offices, the NRC State Program Office, and the State Health Department.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.16(b) of 10 CFR Part 150 requires that each person who, pursuant to an Agreement State license, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the appropriate NRC Regional Office, by telephone, any incident in which any theft or unlawful diversion of special nuclear material which he is licensed to possess has been made or is believed to have been made. The initial report must be followed within 15 days with a written report which sets forth the details of the incident. The reports are required in less than 30 days in order to

permit the Regional Office to determine whether a diversion or other loss of material had occurred and to initiate prompt action in the event of such diversion or loss.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.17(c) of 10 CFR Part 150 requires each Agreement State licensee who is authorized to possess uranium or thorium pursuant to a specific license to report promptly to the appropriate NRC Regional Office by telephone, of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year. The initial report must be followed within 15 days by a written report which sets forth the details of the incident and its consequences. The reports are required in less than 30 days in order to permit the Regional Office to determine whether a diversion or other losses of material had occurred and to initiate prompt action in the event of such diversion or loss.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.19(c) of 10 CFR Part 150 requires that each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The initial report must be followed within 15 days with a written report which sets forth the details of the incident and its consequences. The reports are required in less than 30 days in order to permit the Regional Office to determine whether a diversion or other losses of material had occurred and to initiate prompt action in the event of such diversion or loss.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

This information collection does not involve sensitive questions.

12. Estimated Burden and Burden Hour Cost

The total annual burden is estimated to be approximately 190 hours per year, or 12.66 hours per licensee (190 total annual reporting burden hours ÷ 15 total number of respondents = 12.66), for the licensees covered under 10 CFR Part 150. The details are shown in Table 1. The total burden hour cost for the licensees is

estimated to be \$52,060/year (190 total annual reporting burden hours x \$274/hour).

The burden estimates for the 10 CFR Part 150 information collection requirements are based on submittals to the NRC in past years. The cost to the licensees is calculated at a rate of \$274 per hour for preparation of the reports prepared in response to the 10 CFR Part 150 reporting requirements. This rate is based on NRC's fully recoverable fee rate.

13. Estimate of Other Additional Costs

The NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden and, therefore, can be used to calculate approximate records storage costs. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost. Because the recordkeeping burden is estimated to be 0 hours, the storage cost for this clearance is \$0.00 (0 hours x 0.0004 x \$274/hour).

14. Estimated Annualized Cost to the Federal Government

The collection of information requires a total of 30 minutes of NRC staff time to review the initial reports required by 10 CFR 150.16(b)(1), 150.17(c)(1) and (2) and 150.19(c). For approximately 4 reports per year, the collection requires approximately 2.0 hours annually (0.5 hours/initial report x 4 reports). The total annual cost to review the initial reports is estimated to be \$548.00 (2.0 hours x \$274/hour).

The collection of information requires a total of 9.5 hrs of NRC staff time to review the follow-up written reports required by 150.16(b)(2), 150.17(c)(3), and 150.19(c). For approximately 3 reports per year the collection requires approximately 28.5 hours total annually (9.5 hour/follow-up report x 3 reports). For follow-up reports required by 10 CFR 150.16 (b)(3) and 150.17(c)(4), the review takes approximately 3 hrs with a total annual cost of \$1644.00 (\$274/hr x 6 hours). The total annual cost to review the follow-up/written reports is estimated to be \$9,453.00 (34.5 hours x \$274/hour)

The collection of information requires a total of 80 hours for the review of an environmental assessment as specified in 10 CFR 150.31 (b)(3)(C)(iii) of Agreement State staff time. For an estimated two reports per year, the total annual cost for the Agreement States is estimated to be \$43,840 (\$274 per hour x 160 hrs)

The total annual burden for government is 190 hours which result in an annual cost of \$52,060 (190 hrs x \$274/hr). These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171. Other costs are attributed to operating NMSS.

15. Reasons for Change in Burden or Cost

There has been no change in burden since the last renewal, However, the professional hourly rate increased from \$257/hr to \$274/hour.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The 10 CFR Part 150 requirements are contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

N/A.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

N/A.

Table 1: NRC and Agreement State Reporting Burden*

Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hrs per Response	Total Annual Reporting Burden (Hrs)	Cost @ \$274/Hr
150.16(a)(1) Burden covered under OMB Clearance No. 3150-0003	0	0	0	0	0	0
150.16 (a)(2) Burden covered under OMB Clearance No. 3150-0003	0	0	0	0	0	0
150.16(b)(1) Initial Report	1	1	1	0.5	0.5	137
150.16(b)(2) 15-day Written Report	1**	1	1	9.5	9.5	2,603
150.16(b)(3)* None Expected	1	1	0	3	0	0
150.17(a) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	0
150.17(b)(1) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	0
150.17 (b)(2) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	0
150.17(c)(1) Initial Report	1	1	1	0.5	0.5	137
150.17(c)(2)* None Expected	1	0	0	0.5	0	0
150.17(c)(3) Written Report	1**	1	1	9.5	9.5	2,603
150.17(c)(4)* None Expected	1	0	0	3	0	0
150.17a(c)(1) No reports are expected for the next clearance because, although eligible, no A/S licensees have been selected by the IAEA for inspection of their source material inventory Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	0
150.17a(c)(2) Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	0

Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hrs per Response	Total Annual Reporting Burden (Hrs)	Cost @ \$274/Hr
150.17a(d) Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	0
150.19(c) Initial Report	1	1	1	0.5	0.5	137
150.19(c) 15-day Written Follow-up Report	1**	1	1	9.5	9.5	2,603
150.20(b)(1) Burden covered under OMB Clearance No.3150-0013						
150.20(b)(2) Burden covered under OMB Clearance No.3150-0013						
150.31(a) Burden covered under OMB Clearance No. 3150-0020						
150.31(b) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(1) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(2) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(3)(C)(iii)	6	1	2	80	160	43,840
150.31(d) Burden covered under OMB Clearance No. 3150-0020						
TOTALS	15		8		190	52,060

*All NRC reporting burden except for 150.31(b)(3)(C)(iii)

**The same respondent will provide the initial report and any substantive additional information.