

DRAFT OMB SUPPORTING STATEMENT FOR
REPORTING AND RECORDKEEPING REQUIREMENTS FOR
EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL
10 CFR PART 110
(3150-0036)
EXTENSION AND REVISION REQUEST

DESCRIPTION OF THE INFORMATION COLLECTION

The Nuclear Regulatory Commission (NRC), under the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, has authority for exercising export and import controls over nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a. Any person who wishes to export or import nuclear equipment and material under the provisions in 10 CFR Part 110 must provide certain information collection elements to enable the NRC and the Executive Branch to make required export and import licensing determinations.

A. JUSTIFICATION

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

Section 110.7a, states information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

Section 110.7a(b), Notice of Information of Significant Implication, requires that each applicant or licensee notify the Administrator of the appropriate NRC Regional Office within two days of identifying any information that has a significant implication for public health and safety or common defense and security on a regulated activity.

All persons who wish to export or import nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a must provide certain information collection elements to enable the NRC and the Executive Branch to make required export and import licensing determinations to ensure compliance with NRC regulations and to satisfy statutory requirements of the Atomic Energy Act of 1954, as amended.

Section 110.20(a)(1), Filing of Export of Incidental Radioactive Material, requires that a person using a general license as authority to export incidental radioactive material contained in or a contaminant of a shipment exceeding 100 kilograms in total weight file an NRC Form 7 before the export takes place.

Section 110.23(b), Annual Report of Exports of Americium and Neptunium, requires that a person using the general license in paragraph (a) as authority to export americium and neptunium shall submit by February 1 of each year an annual report to NRC of all shipments made in the previous calendar year. The

report requires a description of the material, quantity, approximate shipment dates, a list of recipient countries, end users and end use.

Section 110.26(d), Annual Report of Components Exported, requires that a person using the general license to export nuclear components shall submit by February 1 of each year an annual report to NRC of all components shipped during the previous calendar year. The report requires a description of the components keyed to the categories listed in Appendix A to Part 110; approximate shipment dates; and a list of recipient countries and end users keyed to the items shipped.

Section 110.27(d), Persons using the general license for imports of formula quantities of strategic special nuclear material (as defined in 73.2 of this chapter) under this general license shall provide the notifications required in § 73.27 and § 73.72 of this chapter.

Section 110.31(a), Applications for a Specific License to Export or Import (Original shipments, Amendments, Renewals), requires that a person file an application for a license to export or import with the Deputy Director of the NRC's Office of International Programs, using an appropriate method listed in § 110.4.

Section 110.31(b), Application for a specific license to export and import must be accompanied by the appropriate fee in accordance with the fee schedule in § 170.21 and § 170.31. A license application will not be processed unless the specified fee is received.

Section 110.31(c), Applications for an export, import, combined export/import, amendment or renewal license filed under 10 CFR Part 110 shall be filed on NRC Form 7.

Section 110.31(f), The applicant shall withdraw an application when it is no longer needed. The Commission's official files retain all documents related to a withdrawn application.

Section 110.32, Information required in an application for a specific license/NRC Form 7, specifies the data elements and supplemental documentation required from an applicant used to determine whether or not to grant a license.

Section 110.50(a)(7), Notice of Defective Packaging, requires that export and import licensees notify the NRC if they know or have reason to believe that the packaging requirements of 10 CFR Part 71 for nuclear material covered by their licenses have not been met.

Section 110.50(b)(3), Notification of the Export of Foreign Nuclear Equipment or Material, requires that, unless a license specifically authorizes the export of foreign nuclear equipment or material, licensees shall notify the NRC in writing at least 40 days prior to the intended shipment date to enable the U.S. Government to obtain confirmation that the foreign government has given its consent to the

intended export, and to convey this information to the licensee in writing.

Section 110.50(b)(4), Notification of Shipments of Radioactive Material Listed in Appendix P, requires licensees to notify the NRC in writing at least 7 days in advance of each shipment, to the extent practical, but in no case less than 24 hours in advance of each shipment. For export notifications, the following information is required: Part 110 export license number and expiration date, name of the individual and licensee making the notification, address and telephone number, foreign recipient name, address, and end use location(s) (if different from recipients' address), radionuclides and activity level in TBq, both for single and aggregate shipments, make, model and serial number, for any Category 1 and 2 sealed sources, if available, end use in the importing country, if known, shipment date, and a copy of the foreign recipient's authorization or confirmation of that authorization from the government of the importing country as required by §110.32. For import notifications, the following information is required: Part 110 import license number and expiration date, name of individual and licensee making the notification, address, and telephone number, recipient name, location, and address (if different from above), radionuclides and activity level in TBq, both for single and aggregate shipments, make, model and serial number, radionuclide, and activity level for any Category 1 and 2 sealed sources, if available, end use in the U.S., shipment date from exporting facility and estimated arrival date at the end use location, and NRC or Agreement State license number to possess the import in the U.S. and expiration date.

Section 110.51, Amendment and renewal of licenses, states that a licensee shall submit an application to renew a license or to amend a license on a completed NRC form 7.

Section 110.52(b), Revocation, Suspension, Modification of Licenses, allows the NRC to request additional information from licensees to determine whether a license should be revoked, suspended, or modified.

Section 110.53(b)(1), Record Retention, requires that licensees maintain records concerning their exports or imports for five years, except that byproduct material records must be retained for three years.

Section 110.53(b)(2), States that records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

2. Agency Use of Information

The requirement of § 110.7a, that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects is essential to ensure that licensees not withhold or misrepresent material facts which could impact a license determination.

The notification requirement in § 110.7a(b) enhances the capability of the Commission to respond rapidly and effectively if such a threat were to materialize on a regulated activity.

The information obtained from persons who wish to export or import nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a is necessary to make required export and import licensing determinations, as well as to ensure compliance with NRC regulations which satisfy statutory requirements of the Atomic Energy Act of 1954, as amended.

The filing of an NRC Form 7 required by § 110.20(a)(1) before export of incidental radioactive material helps to ensure that an exporter will not ship radioactive waste for disposal in another country under the guise of shipping usable materials for recycling or resource recovery.

Annual reports of americium and neptunium exported under general license required by § 110.23(b) provide the NRC with data which the U.S. Government must report to the International Atomic Energy Agency (IAEA).

Annual reports of components exported under general license required by § 110.26(d) provide NRC with additional assurance against the improper accumulation of sensitive components in the country of import.

The notice of import of a formula quantity of strategic special nuclear material required by § 110.27(d) is used to ensure that the material is adequately protected at all times within the geographical limits of the U.S.

License applications required by §§ 110.31, 110.32, and 110.51 are used by the Commission and the Executive Branch to make required export and import licensing determinations. If applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue a license authorizing the export or import.

Notices of defective packaging required by § 110.50(a)(7) facilitate NRC's ability to enforce the packaging requirements of 10 CFR Part 71 and to take possible enforcement action against licensees for packaging violations.

The requirement in § 110.50(b)(3) to notify the NRC in writing at least 40 days prior to shipment of foreign nuclear equipment or material unless a license

specifically authorizes the export of foreign nuclear equipment or material enables the U.S. Government to obtain confirmation that the foreign government has given its consent to the intended export.

Prior notification of shipments of radioactive materials listed in Appendix P required by § 110.50(b)(4) is used to track this material within the U.S. and to detect any diversions of the material.

The additional information that the Commission may require from licensees as specified in § 110.52(b) is used by the NRC to make necessary statutory, regulatory, and policy determinations in connection with prospective actions to revoke, suspend or modify an export or import license.

Shipment records required by § 110.53(b) are used for NRC inspection to ensure compliance with regulations and are necessary in connection with prospective enforcement actions against possible violators of 10 CFR Part 110.

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. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows 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. The mandatory prior notifications under § 110.50(b) (4) can be submitted electronically, and optional reporting forms for import and export notifications will be made available from the NRC website. All of these notifications are now being transmitted to the NRC either by telefax or email.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. 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 requirements specified in 10 CFR Part 110 are the same for large and small businesses, because the proliferation and policy concerns are the same; thus, all businesses must provide the same data.

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

Failure to provide complete and accurate information on all applications as specified in § 110.7a could result in an unreliable applicant obtaining an import or export authorization.

Failure to fully comply with § 110.7a(b) could result in a licensee not providing information that has significant implications for public health and safety or common defense and security.

Failure to fully comply with §§ 110.8, 110.9, and 110.9(a) could result in unauthorized and unregulated import or export of material and equipment subject to NRC licensing jurisdiction.

The information requested in § 110.20 cannot be collected less frequently because it reflects the International Atomic Energy Agency (IAEA) Code of Practice on the International Transboundary Movement of Radioactive Waste to help ensure that radioactive waste coming into or leaving the U.S. is subject to U.S. Government approval and consent of other involved parties.

The information requested in § 110.23(b) must be collected on a yearly basis to comply with a U.S. Government reporting commitment to the IAEA.

The general license in § 110.26 significantly reduces the regulatory burden on exporters of nuclear components, so the reporting requirement in § 110.26(c) is reasonable and less burdensome on exporters than submitting specific license applications.

The information requested in §§ 110.31-32 is the minimum amount necessary for NRC to fulfill the statutory and regulatory requirements governing exports and imports of nuclear material and equipment. The information is submitted only when deemed necessary and is keyed to the decision criteria that guides the NRC in approving or denying applications. Schedules are not imposed. If the collection is less frequent, a person who wishes to export or import under 10 CFR Part 110 would be unable to do so because the NRC could not make the necessary determinations to approve applications.

If the collection in §110.50(a)(7) is less frequent, the licensee could possibly ship improperly packaged nuclear materials which may endanger the health and safety of the public.

If the collection in § 110.50(b)(3) is less frequent, the U.S. Government might violate the provisions of U.S. bilateral agreements with other Governments. The report is not frequently required because the origin of the material is normally identified before the export license is issued, and, accordingly, is authorized for export on the face of the license.

The records maintained in § 110.53 are largely common business records and do not contain any special requirements, therefore, the regulatory impact is minimal. If the information is provided less frequently, the NRC would be unable to verify compliance with requirements in a timely manner.

7. Circumstances Which Justify Variation From OMB Guidelines

The reason for retaining records for five years for each export or import except for byproduct material, where records shall be retained for three years, is that these exports or imports are relatively more important with respect to nuclear nonproliferation.

Requiring the applicant or licensee to notify the Commission within two days of identifying information having a significant implication for public health and safety or common defense and security on a regulated activity enables the Commission to respond rapidly and effectively to a threat to the public health and safety or the common defense and security. This collection requirement is contained in other parts of NRC's regulations. No notifications are expected.

8. Consultations Outside the NRC

The opportunity for public comment will be 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

There are no sensitive questions.

12. Estimated Burden and Burden Hour Cost

The annual public burden for this information collection is 524 hours. There are approximately 103 record keepers for exporters/importers of nuclear material and equipment. All licensees comply equally with the collections in §§ 110.23(b), 110.26(d), 110.31(f), 110.50(a)(7), 110.50(b)(3), 110.50(b)(4), and 110.52(b). Based upon information from exporters and importers and using the current average cost of \$238 per hour for reactor licensees and material licensees, a reasonable estimate of the annual burden of 10 CFR Part 110 requirements on industry is as follows:

ANNUAL REPORTING BURDEN

Section	Annual No. of Respondents	Annual No. of Responses per Respondent	No. of Responses	Burden Per Response	Total Annual Burden Hours	Total Annual Cost (\$238)
110.23(b)	10	1	10	2	20	\$4,760
110.26(d)	16	1	16	2	32	\$7,616
110.31(f)	1	1	1	1	1	\$238
110.50(a)(7)	1	1	1	.5	.5	\$119
110.50(b)(3)	14	1	14	.5	7	\$1,666
110.50(b)(4)-no form	60	13.3	400	.5	200	\$47,600
110.50(b)(4)-with form	60	13.3	400	.4	160	\$38,080
110.52(b)	1	1	1	.5	.5	\$119
TOTAL	103		843		421	\$98,532

ANNUAL RECORDKEEPING BURDEN

Section	Annual No. of Record keepers	Annual Hours per Record Keeper	Total Annual Burden Hours	Total Annual Cost
110.53(b)(2)	103	1.0	103	\$24,514
TOTAL	103		103	\$24,514

Total Number of Responses: 843

Total Number of Respondent/Record keepers: 103

Total Reporting Burden: 421 hours

Total Recordkeeping Burden: 103 hours

Total Burden: 524 hours (421 Reporting + 103 Recordkeeping) at a cost of \$124,712 (524 hrs. x \$238).

13. Estimate of Other Additional Costs

For licensees subject to 10 CFR Part 110, it is most likely that any purchases of equipment and services were made before October 1, 1995, in order to achieve regulatory compliance with requirements not associated with this information collection, for reasons other than to provide information or keep records for the government, or as part of customary and usual business or private practices.

NRC estimates that the storage and equipment costs for licensees subject to this information collection are approximately \$22.50 per license, based on a rate of \$45 per square foot of filing space. The recordkeeping burden is roughly proportional to the quantity of records to be maintained. Based on the number of active licenses issued annually, the total annual records storage cost is estimated to be equal to the per license rate of \$22.50 x (103 record keepers) x (an average of 3 licenses issued per year per record keeper) x (5 years of required record retention) or \$34,762.50.

14. Estimated Annualized Cost to the Federal Government

The collection of information under 10 CFR Part 110 requires approximately 390 NRC professional staff hours per year to investigate, review and take action on the reported information associated with the collections referred to above. The annual labor cost to the Federal Government at an average of \$238 per staff hour for reactor and materials licensees is \$92,820 (390 hours x \$238). The costs for OMB 3150-0036 are recovered fully through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171. The following table summarizes the burden calculation:

Section	Annual No. of Respondents	Annual No. of Responses per Respondent	No. of Responses	Hours Per Response	Total Annual Burden Hours	Total Annual Cost (\$238)
110.23(b)	10	1	10	2	20	\$4,760
110.26(d)	16	1	16	2	32	\$7,616
110.31(f)	1	1	1	1	1	\$238
110.50(a)(7)	1	1	1	.5	0.5	\$119
110.50(b)(3)	15	1	15	.5	7.5	\$1,785
110.50(b)(4) no reporting form	80	10	800	.0125	9	\$2,142
110.50(b)(4) additional follow-up	60	1.33	80	4	320	\$76,160
TOTALS	183		843		390	\$92,820

15. Reasons for Changes in Public Burden or Cost

The overall burden decreased by 333 from 857 to 524 hours, and the number of responses decreased by 455 from 1,298 to 843, as follows:

Annual Recordkeeping Burden - Decreased by 276 from 379 hours to 103 hours.

Annual Reporting Burden: Decreased by 57 from 478 hours to 421 hours.

This net decrease reflects a reduction in the estimated number of record keepers (from 361 to 103), a reduction in the estimated annual burden per record keeper to comply with 110.52(b) (from 1.2 hours to 1 hour), and a reduced burden for the activity described in 110.50(b)(4), (from 30 minutes to 24 minutes) resulting from efficiencies gained in implementing the optional import reporting form (NRC Form 830) and export reporting form (NRC Form 831). It is estimated that 50 percent (400) of all responses will be received using the reporting forms.

Modest increases to burden were attributable to increases in the time attributed to the general license reporting requirement in 110.23 (from 30 minutes to 2 hours), and the time required to provide additional information from a licensee to determine if a license should be revoked, suspended or modified (from zero minutes to 30 minutes). The net result is an overall decrease in responses of 139, from 982 to 843, and a decrease in public burden of 333 hours, from 857 to 524.

Total annual burden decrease: 333

Net Burden Change: 333 hours (276 recordkeeping hours + 57 reporting hours)

Net change in responses: 139 (982 - 843)

The change in cost also reflects an increase in the annual labor cost for reactor and materials licensees from \$201 to \$238 per hour.

16. Publication for Statistical Use

Not applicable.

17. Reason for Not Displaying the Expiration Date

The requirement is 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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.