

U. S. NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment request

AGENCY: U. S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 40, "Domestic Licensing of Source Material"; NRC Form 244, "Registration Certificate - Use of Depleted Uranium under General License"; and NRC Form 484, "Domestic Monitoring Data Report."
2. Current OMB approval number: 3150-0031

DF03

3. How often the collection is required: Reports required under 10 CFR Part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 5 to 10 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis. NRC Form 244 is submitted when depleted uranium is received or transferred under general license. NRC Form 484 is submitted biannually to report groundwater data necessary to implement EPA groundwater standards.
  
4. Who is required or asked to report:  

10 CFR Part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.

NRC Form 244: Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).

NRC Form 484: Uranium recovery facility licensees reporting groundwater monitoring data pursuant to 10 CFR 40.65.

5. The number of annual respondents:
  - 10 CFR Part 40: 156 for NRC licensees and 172 for Agreement State licensees.
  - NRC Form 244: 20 for NRC licensees and 40 for Agreement State licensees.
  - NRC Form 484: Included in 10 CFR Part 40, above.
  
6. The number of hours needed annually to complete the requirement or request:
  - 10 CFR Part 40: 26,049 hours for reporting requirements and 9,019 hours for recordkeeping requirements, or a total of 35,068 hours for NRC licensees; 28,083 hours for reporting requirements and 9,398 hours for recordkeeping requirements, or a total of 37,481 hours for Agreement State licensees.
  - NRC Form 244: 20 hours for NRC licensees and 40 hours for Agreement State licensees for reporting requirements.
  - NRC Form 484: Included in 10 CFR Part 40, above.
  
7. Abstract: 10 CFR Part 40 establishes requirements for licenses for the receipt, possession, use, and transfer of radioactive source and byproduct material. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by 10 CFR Part 40. NRC Form 484 is used to report certain groundwater monitoring data required by 10 CFR Part 40 for uranium recovery licensees. The application,

reporting, and recordkeeping requirements are necessary to permit the NRC to make a determination on whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

Submit, by (insert date 60 days after publication in the Federal Register), comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate 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 or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov/NRC/PUBLIC/OMB/index.html>). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 E 6, Washington, DC 20555-0001, by telephone at (301) 415-7233, or by Internet electronic mail at [BJS1@NRC.GOV](mailto:BJS1@NRC.GOV).

Dated at Rockville, Maryland, this 28<sup>th</sup> day of February, 2000.

For the Nuclear Regulatory Commission.

  
Brenda Jo. Shelton, NRC Clearance Officer  
Office of the Chief Information Officer

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Dated at Rockville, Maryland, this \_\_\_ day of \_\_\_\_\_, 2000.

For the Nuclear Regulatory Commission.

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Brenda Jo. Shelton, NRC Clearance Officer  
Office of the Chief Information Officer

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\* See previous concurrence.

OFFICE	NMSS/IMNS		NMSS/IMNS		NMSS		OCIO/IRMB	
NAME	JMMcCausland *		FACardile *		T. Sherr *		BJShelton	
DATE	01/10/00		01/11/00		01/24/00		2/29/00	

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*Handwritten initials and date: JMS 1/10/00*

OFFICE	NMSS/IMNS		NMSS/IMNS		NMSS		OCIO/IRMB	
NAME	JMMcCausland <i>JMS</i>		FACardile <i>FA</i>		T. Sherr <i>TS</i>		BJShelton	
DATE	01/10/00		01/10/00		01/24/00		1 / 00	

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# REGISTRATION CERTIFICATE -- USE OF DEPLETED URANIUM UNDER GENERAL LICENSE

Estimated burden per response to comply with this mandatory information collection request: 1 hour. NRC requires this information to identify the general licensee and to facilitate subsequent communication. Forward comments regarding burden estimate to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0031), Office of Management and Budget, Washington, DC 20503. NRC may not conduct or sponsor, and a person is not required to respond to, an information collection, unless it displays a currently valid OMB control number.

Section 40.25 of 10 CFR Part 40 establishes a general license authorizing the use of depleted uranium contained in industrial products or devices for mass-volume applications. Submit this NRC form 244 within 30 days after the first receipt or acquisition of such depleted uranium.

### 1. INSTRUCTIONS:

- A. Print or type the name and address of the registrant (including ZIP Code) for whom this form is filed in Box 3 below.
- B. Submit this form in duplicate to:  
 Director, Office of Nuclear Material Safety and Safeguards  
 U.S. Nuclear Regulatory Commission  
 Washington, DC 20555-0001  
 with a copy to the appropriate Regional Administrator at the address listed on the reverse.  
 (NRC will assign a file number, and a copy of this form will be returned to you.)

2. I hereby file NRC Form 244 pursuant to 10 CFR 40.25, for use of depleted uranium contained in industrial products or devices for mass-volume applications.

3. NAME AND ADDRESS OF REGISTRANT FOR WHOM THIS FORM IS FILED <i>(Include ZIP Code)</i>	4. FILE NUMBER <i>(Leave blank - to be assigned by NRC)</i>
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5. INDIVIDUAL DULY AUTHORIZED TO ACT FOR AND ON BEHALF OF THE REGISTRANT IN SUPERVISING THE PROCEDURES IDENTIFIED IN 10 CFR 40.25(C)(1)(III)

A. NAME	B. TITLE	
C. ADDRESS	D. TELEPHONE NUMBER <i>(Include Area Code)</i>	E. FACSIMILE TELEPHONE NUMBER <i>(Include Area Code)</i>
	E. E-MAIL ADDRESS	

### 6. CERTIFICATION

I hereby certify that:

- A. All information in this registration certificate is true and complete.
- B. This registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in 10 CFR 40.25(a) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium.
- C. I understand that Commission regulations require that any changes in information furnished by a registrant on this registration certificate be reported in writing to the Director, Office of Nuclear Material Safety and Safeguards, with a copy to the appropriate Regional Administrator at the address listed on the reverse, within 30 days after the effective date of such change.
- D. I understand that the registrant is required to comply with the provisions of Section 40.25 of the NRC's regulation 10 CFR Part 40 (reprinted on the reverse side of this form) with respect to all depleted uranium which the registrant receives, acquires, uses, or transfers under the general license for which this registration certificate is filed with the U.S. Nuclear Regulatory Commission.

E. PRINTED OR TYPED NAME AND TITLE OF PERSON FILING FORM	F. SIGNATURE	G. DATE
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**WARNING: FALSE STATEMENTS IN THIS CERTIFICATE MAY BE SUBJECT TO CIVIL AND/OR CRIMINAL PENALTIES. NRC REGULATIONS REQUIRE THAT SUBMISSIONS TO THE NRC BE COMPLETE AND ACCURATE IN ALL MATERIAL RESPECTS. 18 U.S.C. SECTION 1001 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION.**

## REGIONAL ADDRESSES

REGION	IF YOU ARE LOCATED IN	ADDRESS	REGION	IF YOU ARE LOCATED IN	ADDRESS
I	CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA, RHODE ISLAND, AND VERMONT	REGIONAL ADMINISTRATOR REGION I U.S. NUCLEAR REGULATORY COMMISSION 475 ALLENDALE ROAD KING OF PRUSSIA, PA 19406-1415	IV	ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, HAWAII, IDAHO, KANSAS, LOUISIANA, MONTANA, NEBRASKA, NEVADA, NEW MEXICO, NORTH DAKOTA, OKLAHOMA, OREGON, PACIFIC TRUST TERRITORIES, SOUTH DAKOTA, TEXAS, UTAH, WASHINGTON, AND WYOMING	REGIONAL ADMINISTRATOR REGION IV U.S. NUCLEAR REGULATORY COMMISSION 611 RYAN PLAZA DRIVE, SUITE 400 ARLINGTON, TX 76011-8064
II	ALABAMA, FLORIDA, GEORGIA, KENTUCKY, MISSISSIPPI, NORTH CAROLINA, PUERTO RICO, SOUTH CAROLINA, TENNESSEE, VIRGINIA, VIRGIN ISLANDS, AND WEST VIRGINIA	REGIONAL ADMINISTRATOR REGION II U.S. NUCLEAR REGULATORY COMMISSION 101 MARIETTA STREET NW, SUITE 2900 ATLANTA, GA 30323-0199			
III	ILLINOIS, INDIANA, IOWA, MICHIGAN, MINNESOTA, MISSOURI, OHIO, AND WISCONSIN	REGIONAL ADMINISTRATOR REGION III U.S. NUCLEAR REGULATORY COMMISSION 801 WARRENVILLE ROAD USLE, IL 60532-4351			

### 10 CFR 40.25

**§40.25** General license for use of certain industrial products or devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of paragraphs (b), (c), (d), and (e) of this section, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in paragraph (a) of this section applies only to industrial products or devices which have been manufactured or initially transferred in accordance with a specific license issued pursuant to §40.34(a) of this part or in accordance with a specific license issued by an Agreement State which authorizes manufacture of the products or devices for distribution to persons generally licensed by the Agreement State.

(c)(1) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (a) of this section shall file NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License," with the Director, Division of Nuclear Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Administrator. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on NRC Form 244 the following information and such other information as may be required by that form:

(i) Name and address of the registrant;

(ii) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in paragraph (a) of this section and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(iii) Name and/or title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in paragraph (c)(1)(ii) of this section.

(2) The registrant possessing or using depleted uranium under the general license established by paragraph (a) of this section shall, in writing to the Director, Division of Nuclear Material Safety, with a copy to the Regional

Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D of Part 20 of this chapter, any changes in information furnished by him in the NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by paragraph (a) of this section:

(1) Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium.

(2) Shall not abandon such depleted uranium.

(3) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of 40.51 of this part. In the case where the transferee receives the depleted uranium pursuant to the general license established by paragraph (a) of this section, the transferor shall furnish the transferee a copy of this section and a copy of NRC form 244. In the case where the transferee receives the depleted uranium pursuant to a general license contained in an Agreement State's regulation equivalent to this section, the transferor shall furnish the transferee a copy of this section and a copy of NRC Form 244 accompanied by a note explaining that use of the product or device is regulated by the Agreement State under requirements substantially the same as those in this section.

(4) Within 30 days of any transfer, shall report in writing to the Director, Division of Nuclear Material Safety, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D of Part 20 of this chapter, the name and address of the person receiving the source material pursuant to such transfer.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by paragraph (a) of this section is exempt from the requirements of Parts 10, 20, and 21 of this chapter with respect to the depleted uranium covered by the general license.

ADAMS  
Designated Original

DRAFT SUPPORTING STATEMENT  
FOR

10 CFR PART 40  
DOMESTIC LICENSING OF SOURCE MATERIAL  
(3150-0020)

NRC FORM 244  
REGISTRATION CERTIFICATE - USE OF DEPLETED URANIUM  
UNDER GENERAL LICENSE  
(3150-0031)

AND

NRC FORM 484  
DETECTION MONITORING DATA REPORT  
(3150-0020)

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EXTENSION REQUEST

Description of the Information Collection

NRC Regulations in 10 CFR Part 40 establish requirements for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct material. The regulations were issued pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974, the National Environmental Policy Act of 1969 (NEPA), and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) (all as amended). Information concerning the application, recordkeeping, and reporting requirements imposed by specific sections is provided below.

A. Justification

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

Section 40.9(b) requires that an applicant or licensee notify the Commission of information which the licensee recognizes as having significant implications for public health and safety or the common defense and security. This requirement applies only to information which is not covered by other reporting or updating requirements. The information must be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information.

This requirement is necessary because there may be some circumstances in which a licensee possesses some information which could be important to the protection of public health and safety or the common defense and security but which is not otherwise required to be reported. The codification of this full disclosure requirement should not result in significant additional burdens on applicants or licensees. No formal program is required. What is expected is that licensees will maintain a professional attitude toward safety and that if some potential safety information is identified by the licensee, the information will be provided freely and promptly to the NRC so that the agency can evaluate it and act on it if necessary.

The NRC has not received any Section 40.9(b) reports for several years and does not anticipate any in the near future, but the requirement is important because it could have implications for public health and safety.

Section 40.23 imposes requirements which are necessary to permit the United States to comply with its obligations as a signatory to the Convention on the Physical Protection of Nuclear Material (the Convention). The purpose of the Convention is to provide for the establishment and maintenance of adequate physical security with respect to international shipment of significant quantities of source or special nuclear material.

Section 40.23(b) requires that carriers of transient shipments of natural uranium under the general license in Section 40.23(a) provide written notification to NRC concerning the shipments at least 10 days before transport. Section 40.23(c) requires that such carriers notify NRC of unscheduled stops at United States ports. Section 40.23(b)(2)(ix) requires that licensees who transport transient shipments between countries that are not party to the Convention provide NRC a certification that arrangements have been made to notify NRC when the shipment has been received at the destination facility. Section 40.23(d) provides that a licensee may amend a notification by telephone.

The information is used by the NRC staff to ensure that the requirements of the Convention are met.

Section 40.25(c) requires persons to file NRC Form 244, "Registration Certificate - Use of Depleted Uranium Under General License," with the NRC within 30 days after first receipt of depleted uranium under the general license in Section 40.25(a) and to report any changes to the information on Form 244 within 30 days of the change. The purposes of the registration requirement are: (1) to provide means of identifying the general licensee, (2) to permit NRC to inform the general licensee of the terms and conditions of the general license upon first receipt of depleted uranium, and (3) to facilitate subsequent communication with the general licensee.

The use of NRC Form 244 is covered under OMB Clearance No. 3150-0031. The information collection burden data for Form 244 is provided separately in the burden table in this supporting statement.

Section 40.25(d)(3) requires persons transferring depleted uranium to a transferee pursuant to the general license in Section 40.25(a) to furnish to the transferee a copy of Section 40.25 and a copy of Form 244, and if under the regulations of an Agreement State, an explanation of that fact. These documents inform the user of the need to register and other requirements of the general license. NRC has printed Section 40.25 on the back of Form 244, so that both requirements can be met by providing one piece of paper to the transferee, thus minimizing the burden for licensees.

Section 40.25(d)(4) requires persons to report in writing to the NRC Director of the Division of Industrial and Medical Nuclear Safety (IMNS), with a copy to the appropriate NRC Regional Administrator, within 30 days of any transfer of depleted uranium under the general license in Section 40.25(a), the name and address of the person receiving the source material pursuant to such transfer.

The information is used by the NRC staff to identify persons who possess depleted uranium products so that inspections may be made of general licensees to determine compliance with the terms and conditions of the general license.

Because general licensees do not often use or transfer depleted uranium under this general license, there have been very few reports of transfer, and there is consequently only a small burden.

Section 40.26(c)(2) requires that persons receiving title to, owning, or possessing byproduct material (mill tailings or wastes) under the general license established in Section 40.26(a) document the daily inspections of tailings or waste retention systems and immediately notify the NRC Regional Office or the Director, Office of Nuclear Material Safety and Safeguards (NMSS) at NRC Headquarters, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions which could lead to failure of the system and result in a release of tailings or waste into unrestricted areas. Records of daily inspections must be retained for three years.

The purpose of this requirement is to provide for documented daily inspections of waste retention facilities, so as to avoid failure of such systems, and to require the reporting of significant failures so that appropriate followup actions may be taken and the cause of the failure may be determined, in order to avoid other failures from the same cause.

Only reports of failures will be submitted to NRC. These will be notifications only, not detailed analyses of failure cause or consequences. The notification will be used to trigger the establishment of direct communications with the licensee to determine the need for followup emergency response, cleanup and decontamination activities and standards, and also later failure analysis.

Section 40.26(d) provides that the general license covering tailings at active mills expires within nine months from the effective date of this requirement unless an affected licensee has submitted an application for license renewal or amendment which includes a detailed program for meeting the criteria in Appendix A to 10 CFR Part 40. This rule is necessary to ensure that all existing mill operators develop acceptable programs relating to the long term disposition of tailings at active mills in a timely manner.

Information collection supporting data are included below in the burden for Appendix A.

Section 40.27(c)(3) requires that the licensee under the general license for custody and long-term care of a residual radioactive material disposal site notify the Commission of any changes to the Long-Term Surveillance Plan (LTSP). This information is necessary to permit NRC to ensure that changes to the LTSP do not decrease protection of public health and safety.

Section 40.27(c)(5) requires that the licensee under the general license for custody and long-term care of a residual radioactive material disposal site notify the Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency. This information is necessary to permit NRC to ensure that the construction, actions, or repairs do not decrease protection of public health and safety.

Section 40.31(a) provides that applications for specific licenses for source material should be submitted on NRC Form 313, "Application for Material License." Because Part 40 licenses cover a broad range of uses, license applications vary from simple to complex. Applications for facility licenses are generally more complex and will require the use of attachment sheets to provide the detailed information required.

The NRC staff reviews the information to assess the adequacy of the applicant's training, experience, equipment, physical plant and procedures and plans for protection of public health and safety, the common defense and security, and the environment. The NRC review and the findings derived therefrom form the basis for NRC licensing decisions related to source material.

The use of NRC Form 313 has previously been approved under OMB Clearance No. 3150-0120, which should be referred to for information collection burden and supporting data.

Section 40.31(b) provides that NRC may require further statements after the filing of the application and before expiration of the license to enable NRC to determine whether the application should be granted or denied or whether a license should be modified or revoked. Such additional information is sometimes needed to clarify information submitted in the application, or to rectify deficiencies in proposed or existing programs for protection of public health and safety, the common defense and security, or the environment.

The additional information submitted is reviewed by various NRC organizational units to assess the adequacy of the applicant's training, experience, equipment, physical plant, procedures and plans for protection of public health and safety, the common defense and security, and the environment. The NRC review and the findings derived therefrom form the basis for NRC decisions concerning the issuance, modification, or revocation of the licenses for source and byproduct material.

The application is only submitted for the initial license and for renewals thereafter. Requests for additional information are only issued as necessary to complete or clarify the information submitted in the application, to rectify deficiencies in proposed programs, or to determine whether it may be necessary to modify or revoke a license in order to assure the protection of public health and safety, common defense and security, or the environment.

The application process requires that licensees and applicants perform a comprehensive review of their entire radiation safety and other programs appropriate to the licensed activity, to assure that all activities will be or are being conducted safely and in accordance with NRC regulations. The review and submission of the information required on the application form and additional statements are essential to NRC's determination of whether the applicant has the training, experience, equipment, facilities, and procedures for the receipt, use, possession, transfer, or delivery of source or byproduct material that are adequate to protect public health and safety, the common defense and security, and the environment. The burden and cost associated with further statements is included in the burden and cost data for submittal of applications on NRC Form 313, which has previously been cleared under OMB Clearance No. 3150-0120.

Section 40.31(f) requires that an application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by an Environmental Report required pursuant to 10 CFR Part 51.

The NRC staff reviews the information submitted by applicants to assure that it is complete and to consider and balance alternatives for the project in order to best protect the environment.

Facilities for uranium milling, production of uranium hexafluoride, or the other activities covered by this section are generally large and complex and have the potential to significantly affect the quality of the human environment. NRC's consideration of environmental effects and balancing of alternatives for the project, as mandated by the National Environmental Policy Act of 1969 (NEPA), requires the submission by the applicant of a comprehensive and detailed environmental report.

This section refers to and requires the submission of information pursuant to 10 CFR Part 51. The supporting information concerning the collection of the information, the burden imposed on respondents, and cost to the Government, is contained in the Supporting Statement for 10 CFR Part 51, which was previously cleared under OMB Clearance No. 3150-0021.

#### Section 40.31(g)

The United States, as a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), has joined with other nations in an effort to limit the spread of nuclear weapons. To encourage widespread adherence to the NPT by non-nuclear-weapon States, which would be committed to accept the application of safeguards administered by the International Atomic Energy Agency (IAEA), President Johnson in 1967 announced that the United States would permit IAEA to apply its safeguards to nuclear activities in this country - excluding only those with direct national security significance. This policy has been reaffirmed by each succeeding President and has been referred to by other governments as a consideration affecting their decision to ratify the NPT.

The instrument for applying IAEA safeguards in the United States is a formal Agreement. The US/IAEA Agreement contains provisions which parallel agreements between IAEA and non-nuclear-weapon States, the principal difference being the exclusion of national security activities. Implementation of the Agreement requires the cooperation of NRC licensees, in accordance with 10 CFR Part 75 and amendments to 10 CFR Parts 40, 50, 70, 150, and 170.

Section 40.31(g) requires that, in response to a written request by the Commission, an applicant for a license to possess and use source material in a uranium hexafluoride production plant or a fuel fabrication plant and any other applicant for a license to possess and use more than one effective kilogram of source material should file with the Commission the installation information described in 10 CFR 75.11 on IAEA Form N-71. The information includes a description of the general design of the installation in reference to flow of nuclear material, a description of features of the installation relating to material accounting, containment and surveillance, and a description of the existing and proposed procedures of the installation for nuclear material accounting and control.

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, Section 75.11. The information will then be furnished to the IAEA.

This section refers to and requires the submission of information pursuant to 10 CFR Part 75 and IAEA Form N-71. The supporting information concerning the collection of the information, the burden imposed on respondents, and cost to the Government, is contained in the Supporting Statements for 10 CFR Part 75, OMB Clearance No. 3150-0055, and IAEA Form N-71, OMB Clearance No. 3150-0056, which should be referred to for information collection burden and supporting data.

Section 40.31(h) requires applications for licenses to receive, possess, and use source material for uranium or thorium milling, or byproduct material at sites formerly associated with such milling, to contain detailed programs for meeting the criteria in Appendix A to 10 CFR 40. This information is necessary to allow NRC, pursuant to its obligations under the Atomic Energy Act of 1954, NEPA, and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), to assure that licensed uranium milling operations are conducted so as to provide appropriate protection of public health and safety, as well as the environment.

The information collection burdens and supporting data for this section are included below in the burden for Appendix A.

Section 40.31(i) provides that, as required by Section 40.36, certain applications for specific licenses must contain a decommissioning funding plan or a certification of financial assurance for decommissioning. The justification, burden, and other supporting information for this requirement are covered under Section 40.36.

Section 40.31(j)(1) provides that applications to possess uranium hexafluoride in excess of 50 kilograms in a single container or 1000 kilograms total must contain: (1) an evaluation showing that the maximum intake of uranium by a member of the public in the event of a release would not exceed 2 milligrams, or (2) an emergency plan for responding to the radiological hazards of an accidental release of source material and to any associated chemical hazards. This information is necessary to ensure that adequate measures have been taken for protection of public health and safety through features to minimize or protect against releases and provisions for emergency response.

Section 40.31(j)(3)(viii) provides that an emergency plan submitted under Section 40.31(j)(1), above, for responding to radiological or associated chemical hazards of an accidental release, must include a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, and a commitment to notify the NRC operations center immediately after making the above offsite notifications and not later than one hour after declaring an emergency. These notifications are necessary to permit the NRC to determine whether immediate assistance or other prompt action is necessary to ensure adequate protection of public health and safety.

Section 40.35(b) requires that persons licensed to manufacture or initially transfer industrial products and devices containing depleted uranium label or mark each unit to identify the manufacturer or initial transferor, the license number, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium. The label must also state that the receipt, possession, use, and transfer of the product or device are subject to a general license or equivalent and the regulations of NRC or an Agreement State. This labeling is needed to inform persons who may use, possess, or find such a product or device, that it contains depleted uranium and is subject to specified regulatory requirements.

Section 40.35(d) requires that licensees for such manufacture or initial transfer furnish a copy of the general license contained in Section 40.25 and a copy of NRC Form 244, or the equivalent general license and certificate from an Agreement State, accompanied by an explanatory note, to each person to whom source material in a product or device is transferred for use pursuant to the general license. These documents inform the user of the need to register and other requirements of the general license. NRC has printed Section 40.25 on the back of Form 244, so that both

requirements can be met by providing one piece of paper to the transferee, thus minimizing the burden for licensees.

Section 40.35(e) contains the reporting and recordkeeping requirements for all transfers of industrial products or devices to persons for use under the general license in Section 40.25. Sections 40.35(e)(1) and (2) require that the holder of a specific license to manufacture industrial products and devices containing depleted uranium under Section 40.34 must report to the Director of NMSS or to the responsible Agreement State agency, as appropriate, all transfers of industrial products or devices to persons for use under the general license in Section 40.25 or the equivalent Agreement State license. The report must be submitted within 30 days of the end of the calendar quarter in which such a product or device is transferred to the generally-licensed person. Section 40.35(e)(3) requires that such licensees keep records for a period of three years showing the name, address, and point of contact for each such transferee, the date and quantity of depleted uranium in each product for each transfer, and compliance with the reporting requirements of Section 40.35.

The purpose of these requirements is to enable NRC or the appropriate Agreement State to identify the general licensee, to identify an individual by name who may serve as a point of contact between the agency and the general licensee, and to enable agency staff to determine the location and quantity of such radioactive material to assist them in determining that protection of public health and safety is being maintained. NRC licensees have made no recent transfers under Section 40.35(e), but this requirement is necessary for reporting and recordkeeping of future transfers.

Section 40.35(f) requires that licensees required to submit emergency plans under § 40.31(i) must furnish to the Director of NMSS and to affected offsite response organizations, within 6 months of the change, a copy of a change which does not decrease the effectiveness of the plan. The section requires that licensees submit an application to NRC for approval of any change which decreases the effectiveness of the plan. The notification and approval requirements are necessary so that NRC can ensure that changes and proposed changes to the emergency plan will still provide an adequate level of protection to public health and safety.

Section 40.36 sets forth the requirements for financial assurance and recordkeeping for decommissioning. Sections 40.36 (a) and (b) specify which licensees are required to submit a certification or decommissioning funding plan. Section 40.36(c) specifies criteria for required submittal of a decommissioning funding plan or certification. Section 40.36 (d) contains specifications regarding content of the funding plan. Section 40.36(e) specifies acceptable methods for providing for financial assurance either through a certification or funding plan. Section 40.36(f) requires that licensees keep records important to the safe and effective decommissioning of the facility until the license is terminated by the Commission. Section 40.36(f)(1) requires that licensees keep records of spills or other unusual occurrences involving the spread of contamination that remains after cleanup, including information on involved nuclides, quantities, forms, and concentrations. Section 40.36(f)(2) requires that licensees keep records of as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes. Section 40.36(f)(3) requires that licensees list in a single document (to be held by the licensee and updated once every two years) identification of all restricted areas where licensed materials were used or stored, all areas outside of restricted areas where documentation is required under Section 40.36(f)(1) for unusual occurrences or spills, and all areas outside of restricted areas where waste has been buried or containing material such that, if the license expired, the licensee would be required to decontaminate the area or seek special approval for disposal. This listing must be

updated and maintained for the life of the license. Section 40.36(f)(4) requires that licensees keep records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used.

The records and reports required by Section 40.36 are necessary for the Commission to determine whether an applicant will be able to decontaminate licensed premises to a level suitable for release for unrestricted use before the license may be terminated. NRC will review the information to ensure that adequate funds will be available to ensure that the applicant will conduct decontamination efforts in a timely manner and minimize exposure of workers to radioactive materials. The information will also be used to ensure that the decontamination efforts will reduce the residual radioactive contamination sufficiently to protect public health and safety after the site is released for unrestricted use, so that no future users of the site will be inadvertently exposed to radiation.

Section 40.41(f) requires each licensee to notify the appropriate NRC Regional Administrator, in writing, immediately following the commencement of a bankruptcy proceeding by or against the licensee. No action is required of a licensee unless and until a bankruptcy petition is filed.

Notification of the NRC in cases of bankruptcy would alert the Commission so that it may deal with potential hazards to public health and safety posed by a licensee that does not have the resources to properly secure the licensed material or clean up possible contamination. The information provided by the required notification would be used by the regional inspection and licensing staff, in consultation with headquarters legal and program staff, to initiate a determination of the need for prompt NRC response or regulatory action. In addition, prompt notification would allow NRC to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of site cleanup before funds are disbursed and become unavailable for cleanup.

Section 40.42(d) requires each holder of a specific license to provide written notification within 60 days to the NRC and to either begin decommissioning its site or submit within 12 months of notification a decommissioning plan, if (1) the license has expired, (2) the licensee has decided to permanently cease principal activities at, either the entire or part of, its site, (3) no principal activities under the license have been conducted for 24 months, or (4) no principal activities have been conducted for 24 months in any building or area that contains residual radioactivity and is unsuitable for release.

Submission of this information is needed so that NRC can communicate with the licensees on a timely basis regarding disposition of the licensed material and cleanup of the facility before the facility may be released for unrestricted use.

Section 40.42(e) permits the licensee, following approval of the decommissioning plan, to reduce the amount of financial assurance as decommissioning proceeds.

The NRC reviews any request for reduction of the amount of financial assurance to verify that the licensee will have adequate funds to ensure that its facility will be clear of all radioactive material and, consequently, suitable for unrestricted use.

Section 40.42(f) permits the NRC to grant a request to delay or postpone initiation of a licensee's decommissioning process. Licensees are required to submit such requests no later than 30 days before notification of decommissioning actions and plans required by Section 40.42(d) so that the

NRC can review the request to determine if such relief is not detrimental to public health and safety.

Section 40.42(g)(1) requires that licensees submit a decommissioning plan if required by license condition or the decommissioning procedures and activities have not previously been approved by the NRC and the procedures could increase potential health and safety impacts to workers or the public. Submittal of the decommissioning plan is necessary for NRC to evaluate any health and safety impacts.

Section 40.42(g)(2) provides for NRC approval of an alternate schedule for submittal of a decommissioning plan. The NRC will review the alternate schedule to determine if it is necessary for the effective conduct of decommissioning operations and presents no undue risk from radiation to public health and safety.

Section 40.42(j) contains the information that licensees must submit to the NRC as the final step in decommissioning. This includes certifying the disposition of all licensed material, on NRC Form 314 or equivalent, and submitting a report on the results of a survey of the premises. This information is necessary for NRC to evaluate whether the site is suitable for release for unrestricted use.

Sections 40.43 and 40.44 require that applications for renewal of a license or amendment of a license be filed in accordance with Section 40.31. The burden and cost data for these applications for renewal or amendment have been included in the supporting data for NRC Form 313, "Application for Material License," OMB Clearance No. 3150-0120, which should be referred to for information collection burden and cost data.

Sections 40.51(c) and (d). Section 40.51(c) requires that, before transferring source or byproduct material to a specific licensee or a general licensee who is required to register prior to receipt, the transferor must verify that the transferee's license authorizes receipt of the type, form, and quantity of source or byproduct material to be transferred. Section 40.51(d) specifies methods acceptable to the Commission for accomplishing the required verification, including:

- (1) The transferor may have in his possession, and read, a copy of the transferee's specific license or registration certificate.
- (2) The transferor may have a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration number, issuing agency, and expiration date.
- (3) For emergency shipments, the transferor may accept oral certification from the transferee, provided it is confirmed in writing within 10 days.
- (4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or Agreement State licensing agency.
- (5) When other methods are not available, the transferor may obtain and record confirmation from the Commission or Agreement State licensing agency.

The information required by Sections 40.51(c) and (d) is used by transferring licensees to provide assurance that the licensed byproduct material is being transferred to a person who is authorized to receive it. This verification serves as an additional check to prevent transfer of byproduct material to persons who may not have the facilities, training, experience, equipment, or procedures necessary for the safe handling of the material. Records of these certifications will be reviewed by NRC inspectors during periodic inspections to ensure that licensees have been complying with verification requirements.

Section 40.60 requires licensees to notify NRC immediately (i.e., within four hours) by telephone of events or conditions that threaten the health and safety of individuals using licensed material or that prevent the performance of surveys or other safety-related duties necessary to maintain control over licensed material. Licensees must report contamination events in which access to an area must be restricted for more than 24 hours because of contamination. It is important that NRC be notified in such cases because accidental contamination events increase radiation exposure and the risk of ingesting radioactive material. Licensees are required to report events in which equipment necessary to prevent uncontrolled releases of radioactive material, to prevent overexposure to radiation, or to mitigate the consequences of an accident is disabled or fails to function as designed. This includes procedural errors, equipment failure, equipment damage, etc. This notification is necessary in situations in which there are no backup systems available to protect public health and safety. Notification is not required for an individual component failure if redundant systems are operable and available to automatically perform the required function. Licensees are required to report within 24 hours events that require medical treatment of a radioactively contaminated individual at a medical facility. Such events are significant because they may: (1) indicate safety problems in a licensed operation, (2) risk internal contamination through open wounds, and (3) expose medical personnel to radiation and contamination. Prompt notification is necessary so that NRC can ensure that an evaluation is performed and that measures are taken to prevent recurrence. Licensees are also required to report within 24 hours all fires and explosions involving any device, container, or equipment containing licensed material, so that such events may be promptly evaluated and measures taken to minimize any spread of contamination and determine the performance of features designed to control licensed material. In addition to the telephone report, licensees must make a written followup report within 30 days which includes, in addition to descriptive information, an evaluation of the probable cause and a description of corrective actions taken or planned.

Section 40.61 requires each person who receives source or byproduct material pursuant to a license issued under this part to keep records showing the receipt, transfer, and disposal of such source or byproduct material. Section 40.61(a)(1) requires that records of receipt of source or byproduct material shall be retained as long as the licensee possesses the material and for three years following transfer or disposition. Section 40.61(a)(2) requires that records of transfer be retained until the Commission terminates the license. Section 40.61(a)(3) requires that records of disposal be retained until the Commission terminates the license. Section 40.61(a)(4) provides that, if source or byproduct material is mixed with other licensed material and treated in such a manner as to make direct correlation of receipt, transfer, export or disposition records impossible, the licensee may use evaluate techniques to make the records required by Part 40 account for 100 percent of the material received. Section 40.61(b) requires that if a retention period for records is not specified by the appropriate regulation or license conditions, the records are to be retained until the Commission terminates the license.

Records are necessary as a primary source for determination that licensees have confined their possession and use of source or byproduct material to the locations and purposes authorized in the licenses. Information from the Section 40.61(a) records of receipt, transfer, and disposal are examined together to determine whether the licensee has possessed at any one time no more than the maximum quantity of source or byproduct material authorized in the license.

Section 40.61(d) requires that licensees authorized to possess source material in an unsealed form forward to the NRC Regional Office records pertaining to offsite releases and waste disposal prior to license termination. This forwarding of records is necessary to ensure that adequate information will be available to evaluate offsite consequences, and to ensure that the site is decommissioned effectively.

Section 40.61(e) requires that licensees authorized to possess source material in an unsealed form transfer to the new licensee records pertaining to offsite releases and waste disposal prior to license transfer or reassignment. This transferring of records is necessary to ensure that adequate information will be available to effectively decommission the facility.

Section 40.61(f) requires that all licensees forward records pertaining to decommissioning, required by §40.36(f), to the NRC Regional Office prior to license termination. This forwarding of records is necessary to ensure that adequate information will be available to evaluate offsite consequences, and to ensure that the site is decommissioned effectively.

Section 40.64(a) requires each licensee who transfers, receives, or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin, or who imports or exports 1 kilogram or more of uranium or thorium source material of any origin, to complete and distribute DOE/NRC Form 741, "Nuclear Material Transaction Report," in computer readable form in accordance with instructions in NUREG/BR-0006 and NMSS Report D-24. This report is required in order for the United States 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 report is sent in computer readable format in accordance with the instructions by the shipper no later than the following business day. The receiver submits the report in computer readable format in accordance with the instructions within 10 days of receipt of the material. These reports replace the reports which were previously submitted in paper form.

The use of DOE/NRC Form 741, and its continuation page, Form 741A, has been previously approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

Section 40.64(b) requires each licensee who is authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination thereof, to submit to NRC within 30 days of September 30 each year a statement of the licensee's foreign origin source material inventory.

The information contained in the statement is placed in and maintained by the Nuclear Materials Management and Safeguards system, 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.

Section 40.64(c) requires that each licensee who is authorized to possess uranium or thorium pursuant to a specific license 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 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year. The initial report by telephone, telegraph, mailgram or facsimile must be followed up by a written report within 15 days to the appropriate NRC Regional Office, with a copy to the Director, NMSS. Any substantive additional information which the licensee subsequently obtains must be reported in writing.

The information submitted by licensees under this requirement is evaluated and maintained by 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.

#### Section 40.65

Effluent monitoring reporting requirements in Section 40.65 require each licensee authorized to possess and use source material in uranium milling, in the production of uranium hexafluoride, or in a uranium enrichment facility to submit semiannual reports of the quantities of radioactive materials released to unrestricted areas. If quantities released during the reporting period were significantly above design objectives, the licensee must cover that fact specifically in its reports. The reports will provide a structured, timely and uniform basis for assessing the effectiveness of regulating releases of radioactive material from fuel cycle plants to the unrestricted areas by engineering design features and administrative controls. NRC Form 484, "Sample Format for Reporting Detection Monitoring Data," is provided to assist the licensee in reporting part of the ground-water monitoring data. The purpose of the form is to highlight certain information contained in the semi-annual reports submitted to NRC. The form does not impose any additional burden upon the licensee, but rather is provided to make reporting easier.

Information on effluent monitoring reported by licensees since January 1976 has been reviewed by NRC personnel to ascertain that the licensees' operations are consistent with commitments made in applications for licenses, and to assess the radiation dose commitment to assure that licensees' operations are, and remain, within specified regulatory limits and license conditions, to assure protection of public health, safety, and the environment.

#### Section 40.66

Section 40.66(a) requires that licensees authorized to export natural uranium, other than as ore or ore residue, in excess of 500 kilograms, notify NRC in writing at least 10 days before transport of the shipment. Section 40.66(b) requires that the notification include information identifying the shipper, receiver and carrier, describing the shipment, the itinerary and schedule, and a certification that arrangements have been made to notify NRC when the shipment is received at the receiving facility. Section 40.66(c) provides that a licensee may amend a notification by telephone.

The information is furnished to the Department of Transportation so it can notify countries through which the material passes, in accordance with the Convention provisions. The information will also

be used by the NRC Safeguards staff to ensure that the requirements of the Convention are met.

#### Section 40.67

Section 40.67(a) requires that licensees authorized to import natural uranium, other than as ore or ore residue, in excess of 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material, notify NRC in writing at least 10 days before transport of the shipment. Section 40.66(b) requires that the notification include information identifying the shipper, receiver and carrier, describing the shipment, and the itinerary and schedule. Section 40.66(c) requires that the licensee notify NRC when the shipment is received at the receiving facility. Section 40.66(d) provides that a licensee may amend a prior notification by telephone.

The information will be used by the NRC staff to ensure that the requirements of the Convention are met.

#### Appendix A

Appendix A to 10 CFR Part 40 requires all mill operators to develop and submit to the NRC definitive programs meeting specified criteria in five major categories: technical criteria; financial criteria; site and byproduct material ownership criteria; long-term site surveillance criteria; and hazardous constituents. This information is necessary in order to permit NRC to assure that licensed uranium milling operations are conducted so as to provide protection of public health and safety, as well as the environment, as required by the Atomic Energy Act of 1954, NEPA, and UMTRCA (all as amended).

Either NRC or the responsible Agreement State licensing authority will review the information submitted in order to determine if the proposed programs are adequate for the issuance or continuance of a license, and what conditions, if any, should be imposed.

The information required for new licenses is specific to the proposed site, facility design, and operating procedures. Facilities for uranium milling can be large and complex and have the potential to significantly affect the quality of the human environment. NRC's consideration of environmental effects and balancing of alternatives for the project, as mandated by NEPA and UMTRCA, requires the submission by the applicant of comprehensive and detailed programs for meeting the criteria of Appendix A.

Criterion 5D of Appendix A requires that, if the ground water protection standards under 5B(1) are exceeded at a licensed site, the licensee must submit a proposed corrective action program and supporting rationale to the Commission. The program must address removal of the hazardous constituents or treating them in place. The information is used by NRC to ensure that the licensee's program will return hazardous constituent concentration levels in ground water to the concentrations set as standards.

Criterion 6 of Appendix A requires a one-time verification that the final radon barrier over uranium mill tailings, as constructed, is effective in controlling radon emissions. Within 90 days of completion of the verification, licensees must report to the Commission the results of the testing and analysis, detailing actions taken to verify that levels of release of radon-222 do not exceed 20 pCi/m<sup>2</sup>s. Licensees are required to maintain records documenting the analysis until termination of the license.

Criterion 6A requires that the emplacement of the earthen cover be carried out in accordance with a written, Commission-approved reclamation plan which includes enforceable dates for completion of key reclamation milestone activities. It provides that licensees could submit requests to NRC for extensions of time for performance of milestones, and permits licensee submission of requests that NRC authorize a portion of an impoundment to accept uranium byproduct material or other materials that are similar in physical, chemical, and radiological characteristics to uranium mill tailings and associated wastes, from other sources, during the closure process.

Criterion 8 of Appendix A requires that the licensee must hourly check and record in a log all parameters of the yellowcake stack emission control equipment operation, and retain the log as a record for three years. Criterion 8A of Appendix A requires that the licensee make daily inspections of tailings or waste retention systems, and retain documentation of the inspections as a record for three years. These records are reviewed by NRC inspectors to ensure that operations have been conducted safely and efficiently and within prescribed parameters and that corrective actions have been taken when needed.

Criterion 9 of Appendix A contains provisions concerning financial assurance arrangements for decontamination and decommissioning. These arrangements are covered in Section 40.36, which should be referred to for justification, burden, and other supporting information.

Criterion 12 of Appendix A requires that reports of the results of annual inspections of all the sites under the licensee's jurisdiction must be submitted to the Commission within 90 days of the last site inspection in that calendar year. The information will be reviewed by the NRC to confirm the integrity of the site and to determine the need, if any, for maintenance and/or monitoring.

## 2. Agency Use of the Information

The records that 10 CFR Part 40 requires the licensees to maintain are reviewed during inspections, license renewals, and license amendment reviews to evaluate compliance with NRC radiation safety requirements for possession and use of source and byproduct material.

The records of receipt, transfer, and disposal of source and byproduct material are reviewed by the NRC inspectors to determine that licensees have confined their possession and use of source and byproduct material to the locations, purposes, receipt, and quantities authorized in their licenses.

Reports of significant safety events and theft of radioactive material are used by the agency in evaluating the protective actions required to avoid exposures to radiation or releases of radioactive materials that could exceed regulatory limits and, therefore, impact public health and safety, the common defense and security, and the environment.

Bankruptcy reports, decommissioning plans, decommissioning funding plans, and certifications of financial assurance for decommissioning are reviewed by the NRC to ensure that a licensee has adequate procedures and funds for any necessary cleanup efforts before a licensee's responsibility for source or byproduct materials is terminated and the site is released for unrestricted use.

### 3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Indeed, use of automated information technology is encouraged and, for certain nuclear material transaction data, automated submission is required. However, because of the types of information and the infrequency of submission, many of the applications and reports do not lend themselves readily to the use of automated information technology for submission.

### 4. Effort to Identify Duplication and Use Similar Information

The Information Requirements Control Automated System (IRCAS) was searched to determine duplication. None was found. There is no similar information available to the NRC.

### 5. Effort to Reduce Small Business Burden

Some of the licensees who use source and byproduct material are small businesses. However, since the health and safety consequences of improper handling or use of radioactive source and byproduct material are the same for large and small entities, it is not possible to reduce the burden on small businesses by less frequent or less complete reporting, recordkeeping, or accounting and control procedures.

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

If the information is not collected, NRC will have no way to assess whether licensees are operating within the radiation safety requirements applicable to the possession, use, or transfer of source or byproduct material. Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments are submitted only once. Applications for renewal of licenses are submitted every five years. Information submitted in previous applications may be referenced without being resubmitted. The schedule for collecting the information is the minimum frequency necessary to assure that licensees will continue to conduct programs in a manner that will assure adequate protection of public health and safety.

### 7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), Section 40.9(b) requires that licensees submit a notification to NRC in less than thirty days from the date of identifying information having significant implications for public health and safety or the common defense and security and which is not covered by other reporting requirements. The requirement to provide notification within two working days following the identification of the information is necessary to ensure that NRC is made aware of the significant safety information so as to take prompt effective action to protect public health and safety.

Section 40.25(d)(4) requires persons to report in writing to the NRC, Director of IMNS, with a copy to the appropriate NRC Regional Administrator, within 30 days of any transfer of depleted uranium under the general license in Section 40.25(a), the name and address of the person receiving the source material pursuant to such transfer. This requirement is needed in order to inform the NRC staff of the persons who possess depleted uranium products so that inspections may be made of general licensees to determine compliance with the terms and conditions of the general license.

Section 40.26(c)(2) requires that persons receiving title to, owning, or possessing byproduct material (mill tailings or wastes) under the general license established in Section 40.26(a) document the daily inspections of tailings or waste retention systems and immediately notify the NRC Regional Office or the Division of Waste Management at NRC Headquarters, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions which could lead to failure of the system and result in a release of tailings or waste into unrestricted areas. The immediate notification will be used to trigger the establishment of direct communications with the licensee to determine the need for followup emergency response, cleanup and decontamination activities and standards, and also later failure analysis.

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), Section 40.31(j)(3)(viii) provides that an emergency plan submitted under Section 40.31(j)(1), above, for responding to radiological or associated chemical hazards of an accidental release, must include a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, and a commitment to notify the NRC operations center immediately after making the above offsite notifications and not later than one hour after declaring an emergency. These prompt notifications are necessary to permit the NRC to determine whether immediate assistance or other prompt action is necessary to ensure adequate protection of public health and safety.

Section 40.41(f) requires that licensees notify the NRC, in writing, immediately following the filing of a petition in bankruptcy. The requirement to provide notification promptly following the filing of the petition is necessary to ensure that NRC is made aware of the bankruptcy so as to take effective action to protect public health and safety. Allowing a period of thirty or more days to elapse might preclude NRC from becoming aware of the licensee's distressed financial circumstances in time to prevent the development or aggravation of a potential hazard to the public. Moreover, the United States Code contains requirements regarding notification of creditors in bankruptcy. Section 40.41(f) would require one additional notification. Notifying NRC promptly after the filing of the petition would in fact be less of a burden on the bankrupt than a separate notification later in the proceedings.

Section 40.60 requires licensees to notify NRC immediately (i.e., within four hours) by telephone of events or conditions that threaten the health and safety of individuals using licensed material or that prevent the performance of surveys or other safety-related duties necessary to maintain control over licensed material. It is important that NRC be notified in such cases because accidental contamination events increase radiation exposure and the risk of ingesting radioactive material. Immediate notification is needed so that such events may be promptly evaluated and measures taken to minimize any spread of contamination and determine the performance of features designed to control licensed material.

Section 40.61(a)(1) requires that records of receipt of source or byproduct material shall be retained as long as the licensee possesses the material and for three years following transfer or disposition. Section 40.61(a)(2) requires that records of transfer be retained until the Commission terminates the license. Section 40.61(a)(3) requires that records of disposal be retained until the Commission terminates the license. The requirement that records be retained as long as the nuclear material is possessed or for the duration of the license is necessary to permit NRC inspectors to ensure that all material has been accounted for or, in the event of a discrepancy, to reconstruct the receipts and transfers to determine accountability.

Section 40.64(a) requires licensees to complete and submit, in computer readable form, DOE/NRC Form 741, "Nuclear Material Transaction Report, no later than the following business day. The receiver submits the report in computer readable form within 10 days of receipt of the material. The requirement to submit the report in less than 30 days is necessary in order to ensure that NRC is kept informed of the location of nuclear material in order to carry out its responsibilities to promote the common defense and security and its responsibilities pursuant to the US/IAEA Safeguards Agreement.

Section 40.64(c) requires that licensees 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 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year. The initial report by telephone, telegraph, mailgram or facsimile must be followed up by a written report within 15 days. Any additional information which the licensee subsequently obtains must be reported in writing.

It is necessary to require these reports in less than 30 days in order to permit the NRC staff to implement prompt action to determine whether there has been a diversion or other loss of material and to initiate prompt action in the event of such diversion or loss.

#### 8. Consultations Outside the NRC

The opportunity for public comment on the information collection requirements will be published in the Federal Register.

#### 9. Payment or Gifts to Respondents

Not applicable.

#### 10. Confidentiality of Information

NRC provides no pledge of confidentiality for this collection of information. To the extent information is business confidential, procedures are in place to protect the information from improper disclosure.

#### 11. Justification for Sensitive Questions

This information collection does not involve sensitive questions.

#### 12. Estimated Burden and Burden Hour Cost

The estimates are based on submittals to NRC in past years. The cost to licensees and applicants is calculated at a rate of \$140 per hour for professional staff for the technical reports and records prepared in response to the 10 CFR Part 40 information collection requirements. This rate is based on NRC's fully recoverable fee rate. The recordkeeping requirements in Sections 40.51(c) and (d), and 40.61(b), are calculated at a rate of \$45 per hour, because these requirements can be fulfilled using automated equipment, computer-generated reports and administrative/clerical staff. These figures include both salaries and overhead.

### NRC Licensees:

The total annual burden is estimated to be about 35,088 hours per year (about 225 hours per licensee) for the 156 licensees covered by 10 CFR Part 40. The details are shown in Tables 1 and 2 for reporting and recordkeeping requirements, respectively. The total cost for the NRC licensees would be 1500 hours x \$45/hour, or \$ 67,500 for Sections 40.51(c and d) and 40.61(a and b), plus 33,588 hours x \$140/hour, or \$ 4,702,320 for the other reporting and recordkeeping requirements, giving a total cost of \$ 4,769,820.

### Agreement State Licensees:

The total annual burden is estimated to be 37,521 hours per year (about 218 hours per licensee) for the approximately 172 Agreement State licensees. The details are shown in Tables 3 and 4. The total cost for the Agreement State licensees would be 1,650 hours x \$45/hour, or \$74,250 for Sections 40.51(c and d) and 40.61(a and b), plus 35,871 hours x \$140/hour, or \$5,021,940 for the other reporting and recordkeeping requirements, giving a total cost of \$5,096,190.

### 13. Estimate of Other Additional Costs

None. For licensees under 10 CFR Part 40, it is most likely that purchases of equipment and services were made (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

### 14. Estimated Annualized Cost to the Federal Government

The annual cost for the NRC to review the records and reports required by 10 CFR Part 40 is estimated to be 6207 hours x \$140/hour, or \$868,980. The majority of the cost for review of reports is associated with review of the decommissioning funding plans and decommissioning plans, which account for 4,230 hours, or \$592,200. In addition, technical assistance contracts for review of these plans are estimated at \$ 15,000. Therefore, the total estimated annualized cost to the Federal government for the 10 CFR Part 40 information collection requirements is approximately \$883,980. Application review activities for 10 CFR Part 40 licensees are attributed to and reported under OMB Clearance No. 3150-0120 for NRC Form 313. The burden of certifying the disposition of all licensed material, including accumulated wastes, required for termination of 10 CFR Part 40 licenses is reported under OMB Clearance No. 3150-0028 for NRC Form 314. These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

### 15. Reasons for Change in Burden

#### NRC Licensees

There is an increased burden for NRC licensees since the last OMB clearance package for 10 CFR Part 40 was prepared. The increase is primarily due to information requirements associated with the decommissioning of NRC-licensed facilities to ensure that they can be released for unrestricted use without health and safety impacts on the public. Such information collection requirements include: (1) preparation of decommissioning plans, (2) submittal of

financial assurance documents to ensure that the necessary funding will be available for decommissioning a facility, (3) certification of the disposition of all licensed material, and (4) preparation of a report on the results of a final survey of the premises.

Agreement State Licensees

The burden for Agreement State licensees was not addressed in the previous OMB package for 10 CFR Part 40 and has been included in this submittal. The overall burden has increased due to this inclusion.

16. Publication for Statistical Use

Results will not be tabulated or published.

17. Reason for Not Displaying the Expiration Date

The 10 CFR Part 40 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.

The expiration date is displayed on NRC Forms 244 and 484.

18. Exceptions to the Certification Statement

Not applicable.

B. Collection of Information Employing Statistical Methods

Not applicable.

Table 1. Reporting Burden - NRC Licensees & Applicants

<u>Section</u>	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
40.9(b)	0	1	0
40.23	4	1	4
40.25(c)	Burden is covered under OMB Clearance No. 3150-0031.		
40.25(d)(3)	Burden is covered under OMB Clearance No. 3150-0031.		
40.25(d)(4)	2	0.5	1
40.26(c)(2)	1	2	2
40.26(d)	Burden is included under Appendix A, below.		
40.27(c)(3)	2	8	16
40.27(c)(5)	1	2	2
40.31(a)	Burden is covered under OMB Clearance No. 3150-0120.		
40.31(b)	Burden is covered under OMB Clearance No.31500120.		
40.31(f)	Burden is covered under OMB Clearance No.3150-0021.		
40.31(g)	Burden is covered under OMB Clearance Nos. 3150-0055 & 3150-0056.		
40.31(h)	Burden is included under Appendix A, below.		
40.31(i)	Burden is included under Section 40.36, below		
40.31(j)(1)	1	160	160
40.31(j)(3)(viii)	Burden is included under Section 40.31(j)(1).		
40.35(b)	50	0.5	25
40.35(d)	Burden is covered under OMB Clearance No. 3150-0031.		
40.35(e)	0	0.75	0
40.35(f)	1	80	80
40.36(a) & (b)	DFPs 17	160	2,720
Certifications	3	40	120
40.41(f)	1	1	1
40.42(d)	15	8	120
40.42(e)(2)	5	40	200
40.42(f)	5	40	200
40.42(g)(1)	15	1,000	15,000

Table 1. Reporting Burden - NRC Licensees & Applicants (continued)

<u>Section</u>	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
40.42(g)(2)	5	40	200
40.42(j)	30	100	3,000
40.43	Burden is covered under OMB Clearance No. 3150-0120.		
40.44	Burden is covered under OMB Clearance No. 3150-0120.		
40.60(a)	3	4	12
40.60(b)	14	4	56
40.64(a)	Burden is covered under OMB Clearance No. 3150-0003.		
40.64(b)	150	2	300
40.64(c)	0	2.5	0
40.65	58	15	870
40.66	Burden is included in 40.23, above.		
40.67	Burden is included in 40.23, above.		
Appendix A	60	40	2,400
Criterion 6 & 6A	4	140	560
NRC Form 484	Burden is included in 40.65, above.		
<hr/> TOTAL	447	(156 respondents)	26,049

Table 2. Recordkeeping Burden - NRC Licensees

<u>Section</u>	<u>No. of Records</u>	<u>Annual Hours per Record</u>	<u>Total Recordkeeping Hours</u>
40.26(c)(2)	13,505	0.05	675
40.35(e)(3)	0	0.3	0
40.36(f)	1,280	1.5	1,920
40.51(c)&(d)	200	3.5	700
40.61(a)&(b)	8,000	0.1	800
40.61(d)	125	2	250
40.61(e)	5	2	10
40.61(f)	250	4	1,000
Appendix A	90	40	3,600
Criterion 6 & 6A	4	16	64

Total Number of Recordkeepers: 156

Total Recordkeeping Hours Annually: 9,019 hours or about 58 hours/licensee

NRC Form 244

	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
NRC Form 244	20	1	20

**TOTAL ANNUAL BURDEN HOURS**

Part 40 and NRC Form 484 (OMB Clearance No. 3150-0020) 35,068 hours

NRC Form 244 (OMB Clearance No. 3150-0031) 20 hours

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35,088 hours

Table 3. Part 40 Equivalency Reporting Burden for Agreement State Licensees

<u>Section</u>	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
40.9(b)	2	1	2
40.25(c)	Burden is covered under OMB Clearance No. 3150-0031.		
40.25(d)(3)	Burden is covered under OMB Clearance No. 3150-0031.		
40.25(d)(4)	4	0.5	2
40.26(c)(2)	1	2	2
40.26(d)	Burden is included in Appendix A, below.		
40.31(a)	Burden is covered under OMB Clearance No. 3150-0120.		
40.31(b)	Burden is covered under OMB Clearance No. 3150-0120.		
40.31(f)	Burden is covered under OMB Clearance No. 3150-0021.		
40.31(h)	Burden is included in Appendix A, below.		
40.31(i)	Burden is included in Section 40.36, below.		
40.35(b)	50	0.5	25
40.35(d)	Burden is covered under OMB Clearance No. 3150-0031.		
40.35(e)	4	0.75	3
40.35(f)	1	80	80
40.36(a) & (b) DFPs	19	160	3,040
Certifications	3	40	120
40.41(f)	1	1	1
40.42(d)	17	8	136
40.42(e)(2)	6	40	240
40.42(f)	6	40	240
40.42(g)(1)	17	1,000	17,000
40.42(g)(2)	6	40	240
40.42(j)	33	100	3,300
40.43	Burden is covered under OMB Clearance No. 3150-0120.		
40.44	Burden is covered under OMB Clearance No. 3150-0120.		

Table 3. Part 40 Equivalency Reporting Burden for Agreement State Licensees  
(continued)

<u>Section</u>	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
40.60	33	4	132
40.65	48	15	720
Appendix A	56	40	2,240
Criterion 6 & 6A	4	140	560
NRC Form 484	Burden is included in 40.65, above.		
TOTAL	311	(172 respondents)	28,083

Table 4. Part 40 Equivalency Recordkeeping Burden for Agreement State Licensees

<u>Section</u>	<u>No. of Records</u>	<u>Annual Hours per Record</u>	<u>Total Recordkeeping Hours</u>
40.26(c)(2)	14,856	0.05	743
40.35(e)(3)	1	1	1
40.36(f)	1,408	1.5	2,112
40.51(c)&(d)	220	3.5	770
40.61(a)&(b)	8,800	0.1	880
40.61(d)	138	2.0	276
40.61(e)	6	2.0	12
40.61(f)	275	4.0	1,100
Appendix A	86	40	3,440
Criterion 6 & 6A	4	16	64

Total Number of Recordkeepers: 172

Total Record Keeping Hours Annually: 9,398 hours or about 55 hours/licensee

NRC Form 244

	<u>No. of Responses Annually</u>	<u>Hours Per Submittal</u>	<u>Total Annual Burden (Hrs)</u>
NRC Form 244	40	1	40

**TOTAL ANNUAL BURDEN HOURS**

Part 40 and NRC Form 484 (OMB Clearance No. 3150-0020)	37,481 hours
NRC Form 244 (OMB Clearance No. 3150-0031)	40 hours
	37,521 hours