

DRAFT OMB SUPPORTING STATEMENT
FOR
10 CFR PART 75
SAFEGUARDS ON NUCLEAR MATERIAL -
IMPLEMENTATION OF US/IAEA AGREEMENT
(3150-0055)

EXTENSION

Description of the Information Collection

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, in 1967 President Johnson announced that the United States would permit the International Atomic Energy Agency (IAEA) to apply its safeguards to nuclear activities in this country. This policy has been reaffirmed by each succeeding President. The US/IAEA Agreement contains provisions which parallel agreements between the IAEA and non-nuclear-weapon States, the principal difference being the exclusion of national security activities. 10 CFR Part 75 establishes requirements to implement the US/IAEA Agreement for the application of safeguards in the U.S. The requirements of Part 75 apply to all 214 persons licensed or certified by the Commission or Agreement States who are defined to be installations under Section 75.4 and specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the Commission. Six out of the 214 persons are currently chosen to participate in the US/IAEA Agreement. Only one participant out of the 6 is required to report, maintain records, and undergo inspections while the remaining 5 participants are required to report only for their facilities.

A. Justification

1. Need for and Practical Utility of the Information Collection

The implementing regulations identify provisions requiring licensees (1) to submit information concerning their installation for the use of IAEA; (2) to establish, maintain, and follow prescribed material accounting and control procedures; (3) to provide reports; and (4) to permit inspections by IAEA representatives. For NRC to implement its responsibilities, it is necessary for licensees affected by Part 75 to maintain records and submit reports pursuant to the following sections.

Section 75.3(a) states that the Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of this part under specified conditions. Applications under this section are examined by the NRC staff to determine whether the requested exemption is authorized by law and whether it will not endanger life or property or the common defense and security, and to determine if it is in the public interest.

Section 75.7 requires that a licensee visited by a representative of the IAEA shall immediately communicate with the Commission, by telephone, to verify the credentials of the visitor if the licensee does not have prior written Commission verification. This communication is necessary to permit the Commission to provide facility access to duly authorized IAEA representatives.

Section 75.11(a) requires each licensee subject to the provisions of Part 75 to submit installation information to the Commission in response to a written request. IAEA Form N-71 is used to collect this information. The use of IAEA Form N-71 has previously been approved by OMB under clearance number 3150-0056, which should be referred to for information collection burden and supporting data.

Section 75.11(b) requires each licensee to identify the installation information which includes: 1) labelling its general character, purpose, nominal capacity (thermal power level), and geographic location, and the name and address to be used for routine purposes; 2) a description of the general arrangement and layout of equipment within the installation; 3) a description of features of the installation relating to material accounting, containment, and surveillance; and 4) a description of the existing and proposed procedures at the installation for nuclear material accounting and control, with special reference to material balance areas established by the licensee, measurement of flow, and procedures for physical inventory taking.

Section 75.11(c) requires each licensee to submit to the Commission information with respect to any modification or change at the installation affecting the information given under Section 75.11(a). This information is required in order to ensure that the current information is provided to IAEA.

Section 75.11(d) specifies that the information required by (a) and (c) above, submitted on IAEA Form N-71 or other forms, must include identification of features of installation and nuclear material in sufficient detail to facilitate verification, determination of material balance areas and key measurement points, establishment of nominal timing and procedures for physical inventory, record and report requirements and evaluation procedures, requirements and procedures for verification of the quantity and location of nuclear material, and selection of containment and surveillance methods and techniques at the strategic points at which they are to be applied. This information is collected by NRC and forwarded to the IAEA.

Section 75.11(e) specifies that the licensee's detailed security measures for the physical protection of an installation shall be included in the installation information only when and to the extent specifically requested by the Commission. This information, when requested, is necessary for IAEA to safeguard nuclear material.

Section 75.12(b)(1) provides that a licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted to the IAEA. A licensee who makes such a request should identify the pertinent document or part thereof and make a full statement of the reasons supporting the request. The licensee must retain a copy of the request and all documents related to the request as a record until the license is terminated or until the licensee is notified that it is no longer selected for the IAEA safeguards. Superseded material must be retained for three years. The information is reviewed by NRC to determine whether the information should be withheld from IAEA. In considering such a request, the Commission attempts to achieve an effective balance between legitimate concerns of licensees, including protection of the competitive position of the owner of the information, and the undertaking of the United States to cooperate with the IAEA to facilitate the implementation of the safeguards provided for in the Agreement.

Section 75.12(b)(4) provides that, if a request is granted, the information will not be transmitted but will be held by the licensee as a record for examination by IAEA at a location designated by the Commission until the Commission terminates the license or until the licensee is notified that it is no longer covered by the Agreement. Superseded material must be retained for three years. Historically licensees have not made the request under 75.12(b) however, the

requirement is needed in case a different licensee is selected by IAEA. At this time IAEA has not indicated interest in selecting new licensees.

Section 75.12(d) provides that a licensee may request that information submitted under 75.11 or 75.14 not be physically transmitted to or made available to IAEA. Such a request is reviewed by the Commission to determine whether it is consistent with the Agreement.

Section 75.14 requires that, at the time information is submitted under Section 75.11 (Form N-71) and promptly whenever changes are made, the licensee must submit to the Commission information on organizational responsibility for material control and accounting and on health and safety rules to be observed by the IAEA inspectors at the installation. IAEA Form N-71 is used to collect this information. The use of IAEA Form N-71 has previously been approved by OMB under clearance number 3150-0056, which should be referred to for information collection burden and supporting data.

Section 75.21 requires that each licensee notified in writing by the Commission that its installation has been identified under the Agreement must establish, maintain and follow written material accounting and control procedures. The procedures must be retained as a record until the Commission terminates the license or until the Commission notifies the licensee that it is no longer selected under the Agreement. Superseded material must be retained for three years. The procedures must include: a measurement system; procedures for evaluation of precision and accuracy of measurements and estimation of measurement uncertainty; procedures for identification, review and evaluation of shipper/receiver measurement differences; physical inventory procedures, including frequency; procedures for evaluation of accumulations of unmeasured inventory and losses; and a system of accounting and operating records. The information is used by the licensee to carry out its material control and accounting operations, and is reviewed by NRC and IAEA to ensure the adequacy of the licensee's material control and accounting programs.

Section 75.22 requires that the accounting records required by Section 75.21 must include, for each IAEA material balance area, inventory changes, measurement results, adjustments and corrections with respect to inventory changes, book inventories and physical inventories, material identification, batch data and source data. For inventory changes, the records must show the date of the inventory change and, when appropriate, the originating or receiving IAEA material balance area or shipper or recipient. These records are used by the IAEA to determine whether there has been a diversion of material.

Section 75.23 requires that the operating records required by Section 75.21 must include, for each IAEA material balance area, those operating data which are used to establish changes in the quantities and composition of nuclear material, the data obtained from calibrations, procedures and estimates, description of the actions taken for a physical inventory and of the actions taken to ascertain the magnitude and cause of any accidental or unmeasured loss.

Section 75.24 requires that records required by Sections 75.22 and 75.23 must be retained for five years. This requirement is the result of international agreements.

Section 75.31 requires that a licensee which has been informed in writing that its installation has been identified under the IAEA Agreement must make an initial inventory report on DOE/NRC Form 742, and must thereafter make accounting reports. In addition, a licensee who has been given notice pursuant to Section 75.41 that its installation is subject to the application of IAEA safeguards must make the special reports described in Section 75.36, based on the records kept in accordance with Section 75.21. At the request of the Commission, the licensee must amplify or clarify in writing, within 20 days, any report relevant to implementation of the

Agreement. This information is necessary to provide required information to IAEA in accordance with the Agreement.

Section 75.32 requires that the initial inventory report, on DOE/NRC Form 742, in accordance with printed instructions for completing the form, must show the quantities of nuclear material contained in or at an installation as of the initial inventory reporting date. That date is the last day of the calendar month in which the Commission gives the licensee notice that an initial inventory report is required. The initial inventory report must be dispatched within 20 days after the initial inventory reporting period. DOE/NRC Form 742 is used to collect this information. The use of DOE/NRC Form 742 has previously been approved by OMB under clearance number 3150-0004, which should be referred to for information collection burden and supporting data. This form is now required to be submitted in computer-readable format, as more fully described below and in OMB Clearance 3150-0004.

Section 75.33 requires that the accounting reports for each IAEA material balance area shall consist of inventory change reports on DOE/NRC Form 741 and material status reports on DOE/NRC Form 742. The use of DOE/NRC Forms 741 and 742 has previously been approved by OMB under clearance numbers 3150-0003 and 3150-0004, which should be referred to for information collection burden and supporting data. These forms are now required to be submitted in computer-readable format, as more fully described below and in OMB Clearances 3150-0003 and 3150-0004.

Section 75.34 requires that inventory change reports be submitted on DOE/NRC Form 741, in accordance with printed instructions for completing the form. Form 741 serves as a shipping and transfer document for special nuclear material and source material as required of NRC and Agreement State licensees. This requirement is needed to enable the U.S. to fulfill its responsibilities as an IAEA participant. DOE/NRC Form 741 is used to collect this information. The use of DOE/NRC Form 741 has previously been approved by OMB under clearance number 3150-0003, which should be referred to for information collection burden and supporting data. This form is now required to be submitted in computer-readable format, as more fully described below and in OMB Clearance 3150-0003.

Section 75.35 requires that material status reports must be submitted and must include a material balance report on DOE/NRC Form 742, and attached thereto a physical inventory listing on DOE/NRC Form 742C listing all batches separately and specifying material identification and batch data for each batch, accompanied by a DOE/NRC Form 740M, Concise Note, in accordance with printed instructions for completing the forms. The material status reports must be dispatched as soon as possible and in any event within 30 days after the start of the physical inventory. The use of those forms has previously been approved by OMB under the following clearance numbers, which should be referred to for information collection burden and supporting data:

DOE/NRC Form 742	OMB No. 3150-0004
DOE/NRC Form 742C	OMB No. 3150-0058
DOE/NRC Form 740M	OMB No. 3150-0057

Those forms are now required to be submitted in computer-readable format, as more fully described below and in the OMB Clearances cited.

Section 75.36 requires that licensees that have been given notice pursuant to Section 75.41 must make a special report to the Commission immediately by telephone and telegraph, mailgram or facsimile in certain specified situations involving the possibility of loss of nuclear material in excess of specified limits and in case of unexpected changes in containment to the

extent that unauthorized removal of nuclear material has become possible. This information is evaluated by NRC to determine whether any immediate response or corrective action may be necessary.

Section 75.42(h) requires that licensees shall notify the Commission promptly, by telephone, whenever an IAEA inspector arrives at an installation without advance notification.

Section 75.43(a) requires that licensees that have been given notice pursuant to Section 75.41 must give advance written notice to the Commission of specified domestic or international transfers.

Section 75.43(b) requires that notification be given of any proposed shipment of nuclear material for peaceful purposes under an export license issued pursuant to 10 CFR Part 110 in any amount exceeding one effective kilogram, directly or indirectly to any non-nuclear weapon state.

Section 75.43(c)(1) requires that notification be given with respect to nuclear material of specified quantities which immediately prior to export is subject to safeguards under the US/IAEA Agreement.

Section 75.43(c)(2) requires that notification be given with respect to any proposed import of nuclear material described in Section 75.43(c)(1) of any amount exceeding one effective kilogram. For two or more shipments within any 90 day period from points of origin in the same country, the aggregate of which will exceed one effective kilogram, notification must be given for each shipment.

Section 75.43(d) requires that notification be given with respect to any shipments of nuclear material to a destination in the U.S. other than an installation on the eligible list.

Section 75.44(a)(1) & (2) specifies that notification required by Section 75.43 shall be given to the Commission in Section 75.44(a)(1) at least 20 days in advance of the preparation of the nuclear material for shipment, in the cases of export and domestic transfers; and in Section 75.44(a)(2) at least 12 days in advance of the unpackaging of nuclear material.

Section 75.44(c) requires that notification be given to the Commission as soon as possible of any delay in the shipment or receipt of nuclear material for which advance notification is required.

Section 75.45 specifies that the notifications required by Section 75.43 must include specified information on the nuclear material and the probable dates of receipt or shipment. For export and import shipments, it should also include information on containers, destination, means of transport, and expected date of arrival.

These notifications are necessary to permit NRC to ensure that sufficient protection is being provided for material being transported and to ensure that any needed coordination with IAEA inspections is arranged.

2. Agency Use of Information

In order to fulfill United States responsibilities under the US/IAEA Agreement, NRC is required to collect the information and make it available to the IAEA. NRC would not be able to fulfill its responsibilities without the information. In an effort to minimize duplication and licensee

burden, NRC and the Department of Energy (DOE) jointly maintain a Nuclear Materials Management and Safeguards System (NMMSS). Common reporting forms, such as, the DOE/NRC Forms 740M, 741, 742, and 742C, are used to minimize the reporting burden on industry members required to provide nuclear materials data to one or both agencies or to IAEA. In those cases, the licensee is able to file one report to meet the requirements of both agencies, and of IAEA if required. For those reports, the information is entered, stored, and maintained in the NMMSS and is used to generate reports that are submitted to the IAEA for use in monitoring of selected U.S. facilities.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Applicants and licensees may use electronic information processing systems to prepare and submit required information. Licensees submitting DOE/NRC Forms 741, 741A, 740M, 742, or 742C, previously had the option of submitting the required information on a facsimile of the form or transmitting the information electronically. NRC amended its regulations to require those licensees to submit such reports in computer readable form. This change eliminated the need for hard copy forms and reduced the burden on licensees through the use of current information technology. The rate of electronic submittal for these forms is approximately 90 percent.

4. Effort to Identify Duplication and Use Similar Information

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

5. Effort to Reduce Small Business Burden

NRC has determined that the affected entities are not small entities or businesses as those terms are used in the Regulatory Flexibility Act.

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

The data collection times are established by an international agreement and cannot be changed except by modifying the agreement. If the information were not collected, the United States would not be able to meet its obligations under the international agreement.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), ten copies of IAEA Form N-71 are required to be submitted. The copies are needed for distribution to the IAEA, Department of State, Department of Defense, the Department of Energy, the NRC's IAEA Project Officer, and the selected facility's files. Some of the agencies require multiple copies. The need for concurrent review, the complexity of the review, and the need for timely completion of the review, dictate the requirement for multiple copies.

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), Sections 75.31 and 75.32 require that licensees submit information to NRC in less than 30 days. These requirements are necessary in order to meet the time requirements for notification to IAEA under the Agreement.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.12(b)(4) requires that licensees retain certain sensitive information as a record for examination by the IAEA until the

Commission terminates the license or until the licensee is notified by the Commission that it is no longer covered by the agreement. The availability of these records is necessary so that arrangements may be made for the IAEA to review them if circumstances require.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.21 requires that a licensee notified in writing by the Commission that its installation has been identified under the Agreement must retain written material accounting and control procedures as a record until the Commission terminates the license or until the Commission notifies the licensee that it is no longer selected under the Agreement. Superseded material must be retained for three years. It is necessary that the procedures be retained for more than three years so that they may be used by the licensee to carry out its material control and accounting operations. The procedures are also reviewed by NRC to ensure the adequacy of the licensee's material control and accounting programs.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.24 requires that records required by Sections 75.22 and 75.23 must be retained for five years. This requirement is necessary to comply with international agreements.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.36 requires that licensees that have been given notice pursuant to Section 75.41 must make a special report to the Commission immediately by telephone and telegraph, mailgram or facsimile in certain specified situations involving the possibility of loss of nuclear material in excess of specified limits and in case of unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible. Requiring that this information be reported in less than 30 days is necessary so that the information may be promptly evaluated by NRC to determine whether any immediate response or corrective action may be necessary.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.44(a)(1) requires licensees to notify the Commission for exports and domestic transfers in less than 30 days. These requirements are necessary in order to meet the time requirements under the Agreement.

Contrary to the OMB guidelines in 5 CFR 1320.5(d), Section 75.44(a)(2) requires licensees to notify the Commission for imports in less than 30 days. These requirements are necessary in order to meet the time requirements under the Agreement.

8. Consultations Outside the Agency

An opportunity to comment on the information collection requirements for this clearance package has been published in the Federal Register.

9. Payment or Gifts to Respondents

Not applicable.

10. Confidentiality of Information

None, except for proprietary or safeguards information covered under 10 CFR 2.790.

11. Justification for Sensitive Questions

None.

12. Estimated Burden and Burden Hour Cost

The estimated annual cost to licensees to respond to the collection requirements is \$345,600 (2,400 hours x \$144). The cost is calculated at a rate of \$144 per hour, which is based on NRC's fee recovery rate.

13. Estimate of Other Additional Costs

NRC has determined that the storage and equipment costs per foot are approximately \$45. The quantity of records to be maintained is roughly proportional to the recordkeeping burden. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to .0004 percent of the recordkeeping burden cost. Therefore, the storage cost for this clearance is insignificant (400 recordkeeping hours x .0004 = 0.16).

14. Estimated Annualized Cost to the Federal Government

Cost to the Government for review of reporting forms is attributable to and reported under the clearances for those forms as cited above. The cost for professional review other than the cited forms is estimated to be 20 professional staff hours at \$144 per hour, or \$2,880. These costs are fully recovered by fees to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost

The overall burden estimate for Part 75 has decreased from 4,848 hours to 2,400 hours, for a net reduction of 2,448 hours, because of a re-estimate of the number of responses (reduced from 13 to 7) based on the actual number of responses received during the last 3 years. We anticipate no exemptions; inspections; withholding of information; situations of special reports involving the possible loss of nuclear material; no advance notice of transfers, shipments, exports, and imports of nuclear material during the next 3 year clearance period. The reduction in burden hours associated with Sections 75.3(a), 75.12(b), and 75.36 is 12 hours each for a total of 36 hours, and Sections 75.43(b), 75.43(c)(2), and 75.43(d) is 4 hours each for a total of 12 hours, for a total decrease in reporting burden of 48 hours. The burden to maintain records under Section 12(b)(4) has decreased from 2,400 hours to zero because no requests for exemption are anticipated, and therefore, no records are required to be kept.

There has been an increase in the overall cost as a result of an increase in the rate from \$125/hr to \$144/hr.

16. Publication for Statistical Use

This information will not be published for statistical use.

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

None.

B. Collection of Information Employing Statistical Methods

Not applicable.

TABLE 1: REPORTING BURDEN FOR NRC LICENSEES (PART 75)

Section	No. of Respondents	Annual Responses	Hours Per Response	Total Annual Burden	Comments
75.3(a)	6	0	12	0	
75.7	1	1	0.2	0.2	
75.11(a)					See OMB Clearance No. 3150-0056
75.11(b)					Included in 75.11(a)
75.11(c)					Included in 75.11(a)
75.11(d)					Included in 75.11(a)
75.11(e)					Included in 75.11(a)
75.12(b)	6	0	12	0	
75.12(d)					Included in 75.12(b)
75.14					See OMB Clearance No 3150-0056
75.31					Included in 75.32 and 75.36
75.32					See OMB Clearance No. 3150-0004
75.33					See OMB Clearance Nos. 3150-0003 and -0004
75.34					See OMB Clearance No. 3150-0003
75.35					See OMB Clearance Nos. 3150-0004, -0058, & -0057
75.36	6	0	12	0	
75.42(h)					Included in 75.7
75.43(a)					Included in 75.43(b) and 75.43(c)(2)

Section	No. of Respondents	Annual Responses	Hours Per Response	Total Annual Burden	Comments
75.43(b)	6	0	4	0	
75.43(c)(1)					Included in 75.43(c)(2)
75.43(c)(2)	6	0	4	0	
75.43(d)	6	0	4	0	
75.44(a)(1)					Included in 75.43(b)
75.44(a)(2)					Included in 75.43(c)
75.44(c)					Included in 75.43(b) and 75.43(c)(2)
75.45					Included in 75.43(b) and 75.43(c)(2)
TOTAL		1		.2	

TABLE 2: RECORDKEEPING BURDEN FOR NRC LICENSEES (PART 75)

Section	Number of Recordkeepers	Hours/Record	Total Annual Burden	Comments
75.12(B)(4)	1	0	0	
75.21 (b)	6	400	2,400	
75.22				Included in 75.21
75.23				Included in 75.21
75.24				Included in 75.21
TOTAL	6	400	2,400	

Total Overall Responses = 7 (1 total responses for reporting + 6 recordkeepers)
 Reporting + Recordkeeping hours = 2,400 (.2 total reporting hours + 2,400 total recordkeeping)
 Total Cost to Respondent = \$345,600 (2,400 burden hours x \$144/hr)