

DRAFT SUPPORTING STATEMENT
FOR
10 CFR PART 140

"Financial Protection Requirements and Indemnity Agreements"

(OMB Clearance No. 3150-0039)

REVISION

DESCRIPTION OF THE INFORMATION COLLECTION

The regulations in 10 CFR Part 140 provide appropriate procedures and requirements for determining the financial protection required of licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to Section 170 of the Atomic Energy Act of 1954, as amended (the Act), and the liability insurance required of uranium enrichment facility licensees pursuant to Section 193 of the Act. The change in burden for this clearance period reflects a reduction in the number of responses in Sections 140.15(a) and 140.21, from 87 to 70 and from 80 to 75, respectively. The burden per response increases for section 140.15(a).

A. JUSTIFICATION

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

Section 140.6(a) requires that licensees submit a report to the NRC in the event of bodily injury or property damage arising out of the possession or use of radioactive material. This information assists NRC in assessing the extent of any damages which may have occurred or are expected to occur so that appropriate action may be taken to initiate the remedies provided by the Price-Anderson Act.

Section 140.7(b) pertains to a situation where a reactor manufacturer (licensee) builds a number of small research reactors (rated at 3 1/3 megawatts or less) and operates them at its site prior to delivery to a buyer. Each such reactor is indemnified under the Price-Anderson system, and because of such indemnification, the manufacturer is liable to pay a fee for each reactor operated. Rather than be billed for each reactor separately, the licensee is required to estimate the maximum number of reactors operating at any one time, and the fee is based on this estimate. If experience shows that more or less than this estimated maximum have operated, the licensee will inform the NRC so that the fee can be adjusted.

Section 140.8 pertains to specific exemptions when the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and are otherwise in the best interest of the public.

Section 140.13 requires that each holder of a construction permit under Part 50 and each holder of a Part 70 license must maintain \$1 million in financial protection prior to issuance of a Part 50 operating license and submit evidence of fulfilling this requirement, as required by Section 170 of the Act.

Section 140.13a requires that each holder of a Part 70 license to possess and use plutonium at a plutonium processing and fuel fabrication plant must maintain \$200 million of financial protection and submit evidence of fulfilling this requirement, as required by Section 170 of the Act.

Section 140.13b requires proof of liability insurance to be filed with the Commission, pursuant to 140.15, before issuance of a license for a uranium enrichment facility, as required by Section 193 of the Act.

Sections 140.15(a)(1) and (2) require those licensees who choose to maintain financial protection in the form of liability insurance required pursuant to Section 170(b) of the Act to submit proof to the NRC of their financial protection (copies of new policies and copies of endorsements, i.e., amendments to the policies). All liability policies are with the nuclear insurance pool, American Nuclear Insurers (ANI).

Sections 140.15(b)(1) and (2) require proof of financial protection for those licensees who choose to maintain financial protection in the form of the licensees' own resources pursuant to Section 170(b) of the Act to be submitted to NRC. Respondents to these requirements must annually submit certified financial statements for the previous three years, and if a statement is older than 90 days, an uncertified statement prepared within the 90-day period. NRC reviews this information to determine whether the licensee has adequate financial protection.

Section 140.15(c) requires any licensee to file with the NRC such additional proof of financial protection or other financial information as the NRC determines to be necessary to determine whether financial protection is being maintained pursuant to 10 CFR Part 140.

Section 140.15(e) requires licensees to promptly notify the NRC of any material change in financial protection or in other financial information so that NRC can reevaluate these changes.

Sections 140.17(a) and (b) require that licensees submit to NRC proof that insurers are legally authorized to issue liability policies and that at least 30 days prior to the termination of such policies, licensees shall inform the NRC of renewal of such policies pursuant to Section 170(b) of the Act, or shall file other proof of financial protection. With this information, NRC judges the legality and reliability of licensee liability policies.

Section 140.20(c) specifies that licensees who indicate that they will not be paying retrospective premium assessments, immediately submit their financial statements to NRC. Retrospective premiums are required pursuant to Section

170(b) of the Act. As required, subsequent submission of financial statements by such licensees may be requested by NRC. These statements are necessary to determine whether the NRC will be required to pay, on behalf of a licensee, any unpaid retrospective premiums. The Act authorizes the NRC to levy liens to obtain payment from the licensee.

Section 140.21 requires licensees to submit to NRC copies of any one of several financial devices to guarantee a licensee's payment of a retrospective premium assessment as required pursuant to Section 170(b) of the Act. This evidence is required to be submitted at the issuance of the license and annually, on the date on which the indemnity agreement is effective. Copies of these financial devices provide NRC with the assurance that licensees maintain adequate financial protection.

The NRC completes its review of this information within approximately one month after its receipt.

2. Agency Use of Information

As stated specifically above, NRC uses the information required by 10 CFR Part 140 to assess (a) the financial protection required of licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to Section 170 of the Act and (b) the liability insurance required of uranium enrichment facility licensees pursuant to Section 193 of the Act.

3. Reduction of Burden Through Information Technology

There is no legal obstacle to the use of information technology. Moreover, NRC encourages its use.

4. Effort to Identify Duplication and Use Similar Information

There is no source for the required information other than licensees and the nuclear insurance pools. The Information Requirements Control Automated System (IRCAS) has been searched. There is no duplication with other information collections.

5. Effort to Reduce Small Business Burden

Small business is not affected by 10 CFR 140 information collection requirements.

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

Not collecting this information or collecting it at less frequent intervals would be deleterious to NRC's mission to protect public health and safety.

7. Circumstances Which Justify Variation from OMB Guidelines

This information collection does not vary from OMB guidelines.

8. Consultations Outside the NRC

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

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

NRC provides no pledge of confidentiality of this information collection.

11. Justification for Sensitive Questions

Part 140 information collections do not involve sensitive or private information.

12. Estimated Industry Burden and Burden Hour Cost

The universe of respondents is 184. However, it is anticipated that only 91 of the respondent universe (34 power reactor licensees; 52 non-power licensees and 5 plutonium processing and fuel fabrication licensees) will participate in the information collections associated with this 10 CFR part.

Section 140.6(a)

Section 140.6(a) applies to about 184 licensees maintaining an indemnity agreement. There is no schedule for imposing the requirements specified in Part 140 since the information is only submitted when an accident occurs.

To date, five reports have been submitted by licensees under this section covering damages alleged to have occurred as a result of NRC-licensed activities. The reports are 3 to 5 pages in length. Approximately 8 to 15 hours of effort are needed to prepare these reports. No reports are anticipated during this clearance period.

Section 140.7(b)

There are no licensees under Section 140.7(b) to which this information collection requirement currently applies. The maximum number of licensees to which the requirement could apply has not and almost certainly will not exceed nine. As described above, an indication of the maximum number of reactors operating at any one time is the only requirement imposed under 140.7(b). Its purpose is to reduce the number of times a licensee is required to notify the NRC when a small reactor needs to be indemnified and, thus, when a fee is due. The report is due as required by the number of reactors being manufactured at one time. No more than three copies are submitted and are used by NRC's Office of Administration for establishing fees.

This paragraph has rarely been applied and no further use is foreseen. If used, three hours per report is estimated to be required.

Because only an estimate of number of reactors operating at one time is required, which would be readily available to the licensee, the only cost involved would be for preparing the report itself.

Section 140.8

No exemptions are expected during this clearance period. However, the Commission may, upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and are otherwise in the best interest of the public.

Sections 140.13 and 13a

At present, there are no construction permit holders required to comply with Section 140.13. Section 140.13a applies to five licensees who must have insurance providers provide necessary documentation of insurance coverage which requires approximately 1 hour per response to prepare, resulting in a burden of 5 hours (5 licensees X 1 hour = 5 burden hours), at a cost of \$780 (\$156 x 5 hours).

Requirements for submitting this information are not placed on the licensees but on the insurance pools providing insurance coverage. Costs are minimal.

Section 140.13b

One application is expected during this clearance period from applicants for uranium enrichment facilities. It is estimated to take approximately 2 hours to prepare and file proof of liability insurance, resulting in an estimated burden of 2 hours (1 licensee X 2 Hours = 2 burden hours), at a cost of \$312 (\$156 X 2 hours).

Sections 140.15(a)(1) and (2)

Sections 140.15(a)(1) and (2) apply to about 70 licensees.

Two hours are required for preparation of these records with an additional 8 hours to receive management approval for transmittal to NRC for a total of 10 hours. The costs for submitting these records are minimal, consisting of the clerical time and duplicating cost associated with copying the policies and endorsements. It is estimated to take approximately 10 hours to prepare proof of liability insurance, resulting in an estimated burden of 700 hours for 70 licensees at a cost of \$109,200 (70 licensees X 10 hours = 700 burden hours X \$156 = \$109,200).

Sections 140.15(b)(1) and (2)

Sections 140.15(b)(1) and (2) do not currently apply to any licensees.

The required information would be available as part of a firm's standard financial information system and would thus impose no costs other than nominal duplicating and clerical costs. The under-90-day statement would require no more than 8 or 16 staff hours of a professional accountant's time.

Section 140.15(c)

Section 140.15(c) could apply to about 70 licensees. Nominal, if any, burden is anticipated.

Section 140.15(e)

Section 140.15(e) applies to all licensees with whom an indemnity agreement is executed.

Since this section has never been utilized, no respondent time can be estimated.

Sections 140.17(a) and (b)

Sections 140.17(a) and (b) potentially apply to about 116 licensees.

All liability policies are issued by the existing nuclear insurance pools. The provisions of this section would become operable only if and when a new insurance carrier enters that market and would require only nominal reproducing and clerical effort.

Section 140.20(c)

Section 140.20(c) potentially applies to 75 licensees jointly.

This reporting requirement would be used only for those firms which cannot or will not pay the assessed retrospective premium. The required information

would be available as part of a firm's standard financial reporting system and would, thus, impose no costs other than nominal duplicating and clerical costs.

Section 140.21

Section 140.21 potentially applies to 75 licensees jointly.

Sections 140.21(a) through (d) would simply require a copy of the appropriate agreement between the licensee and the party providing the financial service. Cost would thus be nominal. Section 140.21(e), the annual certified financial statement, may require information in a format not normally produced by the licensee in the standardized financial reports. However, such information should be readily available from the licensee's internal records and should require no more than one day of effort by the licensee's accounting staff. No licensee who has utilized this method of guarantee (effective August 1, 1977) has indicated any difficulty or undue burden in compiling the needed information. It takes approximately 8 hours to prepare financial devices to guarantee a licensee's payment of a premium assessment, resulting in 600 burden hours for 75 licensees at a cost of \$93,600 (75 licensees X 8 hours = 600 burden hours X \$156 = \$93,600).

Summary of Industry Annual Burden

The table below summarizes the estimated annual burden on NRC licensees of preparing reports required under various sections of 10 CFR Part 140. No burden is given for reports required only after accidents. The total estimated burden is 1,307 hours.

<u>Section</u>	<u>No. of Rspndts</u>	<u>Rsp per Rspndt</u>	<u>No of Responses</u>	<u>Burden per Response</u>	<u>Total Annual Burden Hours</u>	<u>Cost@ \$156/Hr.</u>
140.6(a)	5	1	5	15 hrs	75	11,700
140.7(b)	0	1	0	3 hrs/rpt	0	0
140.8	0	1	0	5 hrs	0	0
140.13	0	1	0	1 hr*	0	0
140.13a	5	1	5	1 hr*	5	\$780
140.13b	1	1	1	2 hrs	2	\$312
140.15(a)	70	1	70	10 hrs	700	\$109,200
140.15(b)	0	0	0	10 hrs	0	0
140.15(c)	70	1	0	0	0	0
140.15(e)	0	1	0	N/A	0	0
140.17(a)&(b)	91	1	0	1 hr	0	0
140.20(c)	75	1	0	1 hr	0	0
140.21	75	1	75	8 hrs	600	\$93,600
<u>Total</u>			156		1,382	\$215,592

* Burden on Insurers

The total estimated burden for Part 140 is 1,382 hours, resulting in approximately 156 reports to be submitted annually to NRC. The estimated annual cost is expected to be approximately \$215,592 (1,382 hours x \$156/hour).

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The annual cost for the staff to review and analyze the data, provide follow-up, prepare reports and clerical support and typing is \$23,556. This is based on the following:

<u>Section</u>	<u>No. of Respondents</u>	<u>No. of Responses</u>	<u>Govt Burden Hrs</u>	<u>Govt Cost</u>
140.6(a)	184	15 (only in the event of an accident)	0	0
140.7(b)	0	1	0	0
140.8	0	5	0	0
140.13	0	1	0	0
140.13a	5	1	5	\$780
140.13b	1	1	1	\$156
140.15(a)	70	1	70	\$10,920
140.15(b)	0	4	0	0
140.15(c)	70	0	0	0
140.15(e)	0	2	0	0
140.17(a)&(b)	91	1 hr when required	0	0
140.20(c)	75	4 hrs when required	0	0
140.21	75	1	<u>75</u>	<u>\$11,700</u>
			151	\$23,556

This cost is fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Changes in Burden or Cost

The estimated burden has increased by 561 hours, from 821 hours to 1,382 hours primarily because of (1) under Section 140.15(a) the burden per response increased from 2 to 10 hours, requiring an additional 8 hours for internal utility approvals which increased the burden by 526 hours from 174 to 700 hours even though the number of respondents decreased from 87 to 70, and (2) under Section 140.6(a) the burden was inadvertently omitted for 5 damages reports (75 hours) that were received. The basis for the additional hours required for internal utility approval is based on consultation with a representative sample of licensees. Section 140.21 had a decrease of 40 burden hours from 640 hours to 600 hours because of the consolidation of licensees, resulting in a reduction in the number of respondents by 5 from 80 to 75 respondents. During this period, 5 licensees were bought by other licensees.

16. Publication for Statistical Use

The collected information is not published for statistical purposes.

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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

CONSULTATIONS OUTSIDE THE NRC

OMB CLEARANCE 3150-0039

“10 CFR Part 140, “Financial Protection Requirements and Indemnity Agreements”

The following question was asked:

“How long does it take you to prepare the information for the report required under 10 CFR Part 140.15(a)?”

	PERSON NRR SPOKE WITH	ACTUAL ESTIMATE OF RESPONSE TIME
1.	John Dosa - Constellation Nuclear	10 hours
2.	Paul Willoughby Dominion Nuclear	10 hours
3.		
4.		
5.		
6.		
7.		
8.		
9.		

NOTE: It is required to contact more than 1 but less than 10.