

DRAFT SUPPORTING STATEMENT
FOR
10 CFR PART 74
MATERIAL CONTROL AND ACCOUNTING
OF SPECIAL NUCLEAR MATERIAL
(3150-0123)

REVISION TO CLEARANCE EXTENSION

Description of the Information Collection.

NRC regulations in 10 CFR Part 70 establish procedures and criteria for the issuance of licenses to receive title to own, acquire, deliver, receive, possess, use, or transfer special nuclear material (SNM). NRC regulations in 10 CFR Part 74 establish requirements for material control and accounting (MC&A) of SNM applicable to licenses in general, and also specific performance based regulations for (1) licensees authorized to possess and use strategic special nuclear material (SSNM) and (2) licensees authorized to possess and use, or produce SNM, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended.

On May 30, 2003, the Office of Management and Budget (OMB) approved the information collections contained in the final rule, "Material Control and Accounting Amendments," published December 23, 2002 (67 FR 78130). The rule amended the MC&A requirements to reduce unnecessary regulatory burden and to provide additional flexibility to licensees required to submit Material Balance Reports and Inventory Composition Reports. This clearance renewal incorporates the sections revised by the rule (§§ 74.13, 74.17, 74.31, 74.51, 74.57, and 74.59) and those added by the final rule (§§ 74.19, §§ 74.41, 74.43, and 74.45.)

A. Justification.

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

Part 74 incorporates recordkeeping and reporting requirements for licensees that possess and use SNM. The records required to be reported or maintained pursuant to Sections 74.11, 74.13, 74.15, 74.17, 74.19, 74.31, 74.33, 74.41, 74.43, 74.45, 74.51, 74.57, and 74.59 are those deemed necessary for the timely discovery of inadvertent losses of SNM to the environment, or the theft or diversion of SNM by potentially hostile groups. Either of these events could endanger the public health and safety. The reporting requirements imposed on the licensee are intended to point up record anomalies which might indicate loss of material control, to provide necessary information to resolve identified anomalies, to alert the Commission to the condition, and to supply information that would assist in the recovery of SNM in the event of a confirmed loss. Certain of the requirements are necessary to satisfy obligations of the United States government under its agreement with the International Atomic Energy Agency.

The MC&A requirements applicable to licensees that possess and use formula quantities of SSNM are contained in §§ 74.51, .53, .55, .57, and .59. The recordkeeping and reporting requirements in the indicated sections of Part 74 provide timely detection and enhanced localization of anomalies that could be

potentially indicative of a theft or diversion of SSNM. The information aids the NRC to determine whether an MC&A alarm is due to a loss or theft of material. In the latter case, the probability of material recovery will be significantly enhanced.

Section 74.11 requires that each licensee who possesses 1 gram or more of contained uranium -235, uranium-233, or plutonium and each licensee who operates a uranium enrichment facility notify the NRC Operations Center within one hour of discovery of any loss, other than normal operating loss, or theft or other unlawful diversion of special nuclear material, or any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of such material, or any unauthorized production of enriched uranium. The information is used by the NRC staff to determine whether there has been a diversion or loss of material or any unauthorized production of enriched uranium and to initiate prompt action to recover the material or stop the unauthorized production in order to protect public health and safety. The NRC staff will respond according to the significance of the event. Response to a significant event is usually made by the regional staff and Headquarters staff within 24 hours.

Section 74.13(a) requires each licensee authorized to possess at any one time and location SNM in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, to submit DOE/NRC Form 742. This submission frequency coincides with a licensee's physical inventory. Therefore, Category III facilities file annually, Category II facilities file every 9 months, and Category I facilities file semiannually. These reports summarize the quantities of SNM received, produced, possessed, transferred, consumed, disposed of, or lost by the licensee. DOE/NRC Form 742C, which reflects the composition of the ending inventory, is also submitted. The information is required in order for the United States to fulfill its responsibilities as a participant in the US/IAEA Safeguards Agreement and to satisfy bilateral agreements, e.g., with Australia and Canada, and to fulfill its domestic safeguards responsibilities. These forms are submitted in computer readable format and have been previously cleared under the following OMB clearances:

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

The licensee reports are sent to a DOE contractor facility for recording in an SNM tracking system. NRC staff review these reports. Discrepancies between the reports and licensees' records are investigated and reconciled.

Since 1994, NRC has required submission of these forms in computer readable form. This change has eliminated the need for hard copy forms, thus reducing the burden on the NRC and licensees.

Section 74.13(b) requires each licensee subject to the requirements of § 75.35 who is required to submit routine Material Status Reports pertaining to implementation of the US/IAEA Safeguards Agreement shall prepare and submit those reports only as provided in § 75.35.

Section 74.15(a) requires each licensee who transfers and each licensee who receives special nuclear material to complete and distribute a Nuclear Material Transaction Report on DOE/NRC Form 741. This should be done in accordance with the printed instructions for completing the form whenever the licensee transfers or receives a quantity of SNM of 1 gram or more of contained uranium-235, uranium-233, or plutonium. DOE/NRC Form 741 has previously been approved under OMB clearance number 3150-0003, which should be referred to for further supporting information and burden data. Submission of this data on computer readable DOE/NRC Form 741 has eliminated the need for hard copy forms, thus reducing the burden on the NRC and licensees.

Prior to a site visit, the NRC inspection staff obtains a computer printout of nuclear material transactions from the DOE/NRC database. The inspectors review licensee records with the printout data to assure agreement between the record and the report and to assure that shipper-receiver differences have been reconciled.

Section 74.15(b) requires each licensee who receives 1 gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source shall complete in computer-readable format both the supplier's and receiver's portion of the Nuclear Material Transaction Report; perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and indicate the results of these tests on the receiver's portion of the form.

Section 74.15(c) requires that any licensee who is required to submit inventory change reports pursuant to §75.34 of this chapter (pertaining to implementation of the US/International Atomic Energy Agency (IAEA) Safeguards Agreement) shall prepare and submit those reports only as provided in that section (instead of as provided in paragraphs (a) and (b) of this section).

Section 74.17(a) requires that each licensee subject to the requirements of Sections 74.31 or 74.33 must submit a completed Special Nuclear Material Summary Report on NRC Form 327 not later than 60 calendar days from the start of each physical inventory required by §74.31(c)(5) or §74.33(c)(4). The report should be submitted to the Director, Office of Nuclear Material Safety and Safeguards.

Section 74.17(b) requires each licensee who is subject to the requirements of §74.41(a) to submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 60 calendar days from the start of each physical inventory required by § 74.43(c)(7). The licensee must report the inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards.

Section 74.17(c) requires that each licensee subject to the requirements of §74.51 shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 45 calendar days from the start of each physical inventory required by § 74.59(f). The licensee must report the physical inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards.

The reporting period for Section 74.17 corresponds to the required inventory frequency. Special nuclear material is required to be controlled and accounted for because of the government's national security obligation to prevent or detect loss, diversion or theft, or the appearance thereof, of quantities of SNM that could be used for clandestine nuclear devices. To meet this obligation, NRC's safeguards material control and accounting regulations for fuel facilities require the conduct of physical inventories of SNM on a periodic basis by licensees. Section 74.17 requires the reporting of physical inventory results on NRC Form 327 each time a physical inventory is conducted by a major fuel facility. NRC Form 327 is approved under clearance number 3150-0139.

Section 74.19(a) exempts licensees subject to the requirements of Sections 74.31, 74.33, 74.43, or 74.59 from the requirements of paragraphs (a)(1) through (a)(4) of this section. Otherwise:

(a)(1) Each licensee shall keep records showing the receipt, inventory, acquisition, transfer, and disposal of all special nuclear material in its possession regardless of its origin or method of acquisition.

(a)(2) Each record required by the regulations in this chapter or by license condition must be maintained and retained for the period specified by the appropriate regulation or license condition, or if not specified by the appropriate regulation or license condition, the licensee must retain the record until the Commission terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

(a)(3) Each record of receipt, acquisition, or physical inventory of special nuclear material that must be maintained pursuant to paragraph (a)(1) of this section must be retained as long as the licensee retains possession of the material and for 3 years following transfer or disposal of the material.

(a)(4) Each record of transfer of special nuclear material to other persons must be retained by the licensee who transferred the material until the Commission terminates the license authorizing the licensee's possession of the material.

The activities in this section are reviewed by NRC inspectors to detect diversion of special nuclear material and to implement prompt action in the event of a diversion.

Section 74.19(b) requires that each licensee that is authorized to possess special nuclear material in a quantity exceeding 1 effective kilogram at any one time shall establish, maintain, and follow written material control and accounting procedures that are sufficient to enable the licensee to account for the special nuclear material in its possession under license. The procedures will be reviewed by the NRC licensing and inspection staff in order to determine whether the procedures are adequate to prevent diversion of the nuclear material and to implement prompt action in the event of a diversion. The licensee shall retain these procedures until the Commission terminates the license that authorizes possession of the material and retain any superseded portion of the procedures for 3 years after the portion is superseded.

Section 74.19(c) requires that licensees other than those subject to §§74.31, 74.33, 74.41, or 74.51 authorized to possess special nuclear material at any one time and site location in a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall conduct a physical inventory of all special nuclear material in its possession under license at intervals not to exceed 12 months. The results of the physical inventories need not be reported to the Commission, but the licensee must retain the records associated with each physical inventory until the Commission terminates the license that authorized the possession of special nuclear material. The information is used by the licensee and the NRC staff to detect diversion of the special nuclear material and to initiate prompt action in the event of a diversion.

Section 74.31 contains the following requirements for licensees that possess and use SNM of low strategic significance:

Section 74.31(a) requires that licensees authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, other than a production or utilization facility licensed pursuant to part 50 or 70 of this chapter, or operations involved in waste disposal, must implement and maintain an NRC approved MC&A system that will confirm the presence of SNM at the licensee facility, resolve indications of potentially missing material, and aid in investigation and recovery of material that is determined to be actually missing.

Section 74.31(b) requires each applicant for a license, and each licensee that, upon application for modification of its license, would become newly subject to the performance objectives of paragraph (a) of this section, shall submit a fundamental nuclear material control (FNMC) plan describing how the requirements of §74.31(c) will be met. The plan must be implemented when a license is issued or modified to authorize the activities being addressed in §74.31(a), or by the date specified in a license condition. The objectives of the plan are to confirm the presence of special nuclear materials at the licensee facility, resolve indications of potentially missing material, and aid in investigation and recovery of material that is determined to be actually missing.

Section 74.31(c) describes the system capabilities that must be addressed in the plan in order to meet the general performance objectives of §74.31(a). Guidance for preparing the plan is provided in the Acceptance Criteria document (NUREG-1065). The plan is reviewed by the NRC staff to determine whether the performance criteria have been satisfied. Initial NRC response to the plan is usually sent to the licensee within 60 days of receipt and docketing. The approved plan will be used by the appropriate NRC staff to monitor actual licensee performance in reaching the performance objectives.

Section 74.31(d) requires each licensee to establish records that will demonstrate that the requirements of 74.31(c) have been met and to maintain those records for three years, unless a longer retention time is required by Part 75 of this chapter. The records to be maintained are selected by the licensee. The 3-year retention period is the shortest time span which assures the NRC that all data is available for inspection. Only new licensees and those modifying their license such that they are subject to the requirements of § 74.31(a) will be

required to submit an FNMC Plan.

Section 74.33 - Enrichment facilities - contains the following requirements for licensees that possess equipment capable of enriching uranium or who operate an enrichment facility and produce, possess, or use SNM of low strategic significance.

Section 74.33(a) requires that each licensee authorized to possess equipment capable of enriching uranium or authorized to operate an enrichment facility and produce, possess, or use more than one effective kilogram of special nuclear material at any site or contiguous sites subject to control by the licensee, establish, and submit for NRC approval, an MC&A system that will maintain current knowledge of source, material, and special nuclear material, prevent and detect the production of uranium enriched to 10 percent or more U^{235} , prevent and detect undeclared production of enriched uranium of low strategic significance, resolve any indications of missing uranium, resolve indications of production of uranium enriched to 10 percent or more U^{235} , and resolve indications of undeclared production of uranium of low strategic significance. The licensee must also provide information to aid in the investigation of missing uranium and the production of enriched uranium of 10 percent or greater enrichment of U^{235} , and the undeclared production of SNM of low strategic significance. This information is used by the licensee to keep track of how much uranium is processed and its location, to prevent the illicit production of higher than authorized enrichment of uranium which could include weapons-grade material, and to protect against the unauthorized production of enriched uranium of low strategic significance. These objectives are designed to protect the health and safety of the public against possible diversion of material for illicit purposes.

Guidance for preparing the plan is provided in the Acceptance Criteria document (NUREG/CR-5734).

Section 74.33(b) requires that no later than two years prior to uranium enrichment facility startup, a "Fundamental Nuclear Material Control Plan" (FNMC) must be submitted to NRC describing how the performance objectives of § 74.33(a) and the system features and capabilities of §74.33(c), and the recordkeeping requirements of § 74.33(d) will be met.

Section 74.33(c) describes the system capabilities that must be addressed in the plan in order to meet the general performance objectives of §74.33(a). The licensee must have a physical inventory program that ensures accurate, current, and reliable knowledge of source material and SNM. Such a program is maintained by performing a dynamic (non-shutdown) physical inventory at specified intervals, and by adjusting the book inventory to the physical inventory and resolving, or reporting within 60 days the inability to resolve, any inventory difference exceeding a quantity set by the NRC. The licensee must also have a detection program that will provide a high assurance of detection of unauthorized production of enriched uranium of low strategic significance or uranium enriched to 10 percent or more, an item control program that provides knowledge of the identify and location of source material items kept for 14 days or more in inventory to deter and detect any loss or theft of 500 grams or more of U^{235} , a resolution program for shipper-receiver differences that will resolve any

statistically significant differences in excess of 500 grams U²³⁵, and an assessment program that independently reviews and documents the effectiveness of the MC&A program at least every 24 months.

Section 74.33(d) requires each licensee to establish records that will demonstrate that the requirements of §§ 74.33(a) and (c) have been met and to maintain those records for three years, unless a longer retention time is required by Part 75 of this chapter. The records are needed for inspection by NRC to ascertain the continued effectiveness of the MC&A system

Subpart D Sections 74.41-74.45: SNM of Moderate Strategic Significance.

Section 74.41(a) requires that licensees authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, other than as sealed sources and to use such material at any site, other than a production or utilization facility licensed pursuant to part 50 or 70, an irradiated fuel reprocessing plant, or an operation involved in waste disposal, to establish, implement and maintain an NRC-approved material control and accounting system that will confirm the presence of special nuclear material at the licensee facility, resolve any indications of potentially missing material, and aid in investigation and recovery of material that is determined to be actually missing.

Section 74.41(b) establishes a time requirement for the submission and implementation of FNMC plans for licensees authorized to possess and use special nuclear material of moderate significance. This is a one-time submittal. There are no currently affected licensees and none anticipated in the next several years to submit a new FNMC Plan. The submittal would be required, however, for any new facility that were to come on line in the future. Changes to the FNMC Plan can be through license amendments (licensing process). The plan is reviewed by the NRC staff to determine whether the performance criteria have been satisfied. Initial NRC response to the plans is usually sent to the licensee within 60 days of receipt and docketing. The approved plan will be used by the appropriate NRC staff to monitor actual licensee performance in reaching the performance objectives.

Section 74.41(c) describes the system capabilities that must be addressed in the FNMC Plan in order to be the general performance objectives of § 74.41(a). It must include the capabilities described in §§ 74.43 and 74.45 and must incorporate sufficient checks and balances to ensure that falsification of data which conceals diversion of SNM by a single individual or collusion between two individuals could be detected. The approved plan will be used by the appropriated NRC staff to monitor licensee performance in reaching the performance objectives.

Section 74.43 - Internal controls, inventory, and records.

Section 74.43(a) requires licensees subject to § 74.41 to maintain internal control, inventory, and recordkeeping capabilities imposed by paragraphs (b), (c), and (d) of this section.

Section 74.43(b) requires each licensee to establish and maintain a management structure, policies, and written procedures; provide for personnel training and qualification; establish and maintain an item control program and to conduct and document shipper-receiver differences; and perform independent assessments of the total MC&A system every 18 months. The burden for maintenance of these procedures is captured by § 74.43(d).

Section 74.43(c) requires each licensee to perform a physical inventory every nine months and perform inventory difference/standard error of inventory difference (ID/SEID) calculations, and ID/SEID investigations. Licensees must investigate and report the failure to resolve any excessive inventory differences. The report is used to alert the NRC staff to a potential “out of control situation” at a licensee site. If the size of the inventory difference is significant, an inspector from the NRC Headquarters usually visits the site to oversee and review the resolution of the inventory difference and the corrective action to be taken. Each licensee must reconcile and adjust the plant and book records to the results of physical inventory. Each licensee is required to maintain and follow procedures for tamper-safing, for confirming the validity of prior measurements associated with unencapsulated and unsealed items on ending inventory, and for the physical inventory. The maintenance of these procedures is captured under §74.43(d). Each licensee is also required to provide unique identification for each item on inventory and to document all transfers between internal control areas.

Section 74.43(d) requires licensees to maintain records of the receipt, shipment, disposal, inventory, SNM added to and removed from process, and shipper-receiver evaluations. Records pertaining to receipt and disposal of SNM are to be retained until the license is terminated. Each licensee is required to establish auditable records sufficient to demonstrate the performance requirements of §§ 74.41, 74.43, and 74.45 have been met and maintain these records for at least three years. The MC&A procedures are required to be kept until the license is terminated and superceded portions must be retained for 3 years after the portion is superceded. Unless otherwise stated, records are maintained for 3 years.

The records in this section are needed for inspection by NRC to ascertain the continued effectiveness of the MC&A system.

Section 74.45 - Measurements and measurement control.

Sections 74.45(a) and (b) require each licensee subject to § 74.41 to establish, maintain, and implement a program for the measurement of all special nuclear material (with specified exemptions) received, produced, transferred between internal control areas, on inventory, or shipped, discarded, or otherwise removed from inventory. Each licensee would be required to develop and use written procedures for preparing, acquiring, maintaining, storing, and using reference standards; calibrating measurement systems and conducting measurements; and recording, reviewing and reporting measurements. The burden for maintenance of these procedures is captured under Section 74.43(d). These records are needed for inspection by NRC to ascertain the continued effectiveness of the MC&A system.

Section 74.45(c) requires each licensee to maintain measurement quality and to estimate measurement uncertainty values. Each licensee is to establish and maintain a measurement control program so that the SEID is less than 0.125 percent of the active inventory, generate data on the performance of each measurement system utilized, conduct control measurements to provide data for the determination of random error behavior, evaluate all measurement system data to determine significant contributors to the measurement uncertainties associated with inventory difference and shipper-receiver differences, and establish and maintain a statistical control system designed to monitor the quality of each measurement device or system. Each licensee must promptly investigate and take corrective action whenever a control datum exceeds certain limits. Each licensee must assign responsibility for the measurement program and ensure that any contractor conforms with the applicable requirements.

Subpart E Sections 74.51-74.59: HEU facilities.

Section 74.51(a) requires licensees authorized to possess and use five or more formula kilograms of SSNM to establish, implement, and maintain a Commission-approved MC&A system that meets specified objectives.

Section 74.51(c) requires licensees authorized to possess and use five or more formula kilograms of SSNM to submit a FNMC plan that describes how the licensee intends to comply with Section 74.51(b) in order to achieve the general performance objectives of Section 74.51(a). Guidance for preparing the plan is provided in the Standard Format and Content Acceptance Criteria document (NUREG-1280). Review of the FNMC plan enables the NRC to make a judgement on each licensee's capabilities to meet regulatory requirements. After approval, the plans are used by NRC inspectors to monitor licensee performance. This was a one-time submittal. All currently affected licensees have submitted the required plans. Future changes can be made through license amendments (licensing process). After approval, the plans are used by NRC inspectors to monitor licensee performance. Only new licensees and those modifying their licensee such that they are subject to the requirements of §74.51(a) are required to submit an FNMC plan.

Section 74.57(c) requires that a licensee must notify NRC immediately any time the licensee is unable to resolve a loss detection alarm within the time limit specified in its FNMC plan. In the case of a five formula kilogram loss, the maximum time for resolution is 24 hours. The early notification puts the NRC on alert to a potential loss of SSNM and thus allows for contingency planning in the event a diversion or theft is indicated. NRC and possibly other federal agency involvement at an early stage will enhance the likelihood of material recovery.

Section 74.57(d) requires that once an anomaly has been resolved, records must be updated and corrected to enable the licensee to maintain continuing compliance with detection and response requirements and permit NRC inspectors to evaluate adequacy of the licensee's resolution procedures. A key factor in the resolution of alarms is the availability of auditable records that provide a history of the processing and storage of SSNM in bulk and item form. The majority of occurrences which cause false alarms are expected to be identifiable from a review of pertinent records. The involved records will have

been generated in the process of complying with the requirements of §§ 74.53, .55, or .59.

Section 74.57(f)(2) requires that licensees notify NRC within 24 hours if an abrupt loss detection estimate exceeds five formula kilograms of strategic special nuclear material. The early notification puts the NRC on alert to a potential loss of SSNM and thus allows for contingency planning in the event a diversion or theft is indicated. NRC and possibly other federal agency involvement at an early stage will enhance the likelihood of material recovery.

Section 74.59 contains the quality assurance and accounting requirements for HEU facilities.

Section 74.59(b) requires that licensees establish and maintain management structure, policies and procedures.

Section 74.59(c) requires that licensees provide for personnel training and qualification.

Section 74.59(d) requires that licensees establish and maintain a system of measurements for material control and accounting.

Section 74.59(e) requires that licensees establish and maintain a system of measurement quality control, perform statistical analyses and process and engineering tests, and generate data on the performance of measurement processes.

Section 74.59(f) requires that licensees perform a physical inventory every six months and perform inventory difference/standard error of inventory difference (ID/SEID) calculations, and ID/SEID investigations. Licensees must investigate and report the failure to resolve any excessive inventory difference. They must reconcile and adjust the plant and subsidiary book records to the results of the physical inventory. Licensees must maintain records and procedures to ensure the quality of physical inventories.

Section 74.59(g) stipulates that licenses shall establish auditable records sufficient to demonstrate that the requirements of §§ 74.53, .55, .57, and .59 have been met and retain those records for at least three years.

Section 74.59(h) requires that licensees establish procedures for shipper-receiver difference evaluations and investigations, and establish a scrap control program.

Information recorded and reported in accordance with the requirements in this subpart will enable NRC inspectors and licensing personnel to assess licensees' ongoing capabilities to control and account for SSNM in their possession. As indicated previously, these records and reports will be invaluable to the licensees and the NRC in the event of an attempted diversion or theft since they will permit localization of losses in space and time.

2. Agency Use of Information.

Fundamental Nuclear Material Control (FNMC) Plans that describe how licensees intend to comply with the requirements of the regulations are required to be submitted for review and approval. Approved plans are the basis for inspections by NRC inspectors who must verify that the licensee is in compliance with the performance objectives specified in the regulations. Plan reviews are initiated within 30 days after submittal. The availability of supporting acceptance criteria contributes to expeditious plan reviews. Reports of unresolved inventory differences and abnormalities identified through physical inventories, material control tests, and item monitoring are reviewed by NRC as soon as possible after receipt. Records of material control tests and anomaly investigation are required to be maintained by the licensees in order that inspectors may determine that performance objectives and commitments have been met.

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, and the NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. Licensees have had the option of preparing certain of the reports on a computer generated facsimile of the report form and transmitting the information electronically. Since 1994, NRC has required those licensees using DOE/NRC Forms 741, 741A, 740M, 742, and 742C to submit those reports in computer readable form. This change eliminated the need for hard copy forms, thus reducing the burden on NRC and the licensees through the use of current information technology. Almost 100 percent of the forms are now submitted electronically. However, they are accounted for under other clearances. Other submittals under Part 74, such as the NRC form 327 and the FNMC Plans are submitted in paper copy to NRC.

The overall rate of electronic submittal for these forms and other submittals is approximately 90 percent.

4. Effort to Identify Duplication and Use Similar Information.

In an effort to minimize duplication and licensee burden, NRC and the Department of Energy (DOE) jointly utilize a Nuclear Materials Management and Safeguards System (NMMSS). Common reporting forms are used to minimize the reporting burden on industry members required to provide nuclear materials data to one or both agencies in accordance with prevailing regulations or contractual obligations. The licensee is thus able to file one report to meet the requirements of both agencies.

There is no duplication of requirements. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication

and/or unnecessary information collections.

To the extent possible, the information collection requirements have been structured to permit licensees to use information already generated for other purposes such as production control, quality control, product certification, etc. Where new information must be generated, there is no other source that could be used.

5. Effort to Reduce Small Business Burden.

A number of licensees who use special nuclear material are small businesses. Since the consequences to the common defense and security or to the health and safety of the public of the improper control or use of a given quantity of special nuclear 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 accounting or control procedures.

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

If the information collection is not conducted, NRC will have no way to assess whether licensees are operating within the material control and accounting requirements and certain other requirements applicable to the possession, use, and transfer of special nuclear material.

Applications for new licenses and amendments may be submitted at any time. Applications for renewal of licenses are submitted every five years. Information submitted in previous applications may be referenced without being resubmitted. The Loss of Material Report required by §74.11 is submitted on the average of five times per year. In four out of five occurrences, the cause is usually found in less than 1 week and is a result of measurement error, accounting error, number transposition, or failure to list all inventory items.

Approximately once a year the quantity of material which is reported as lost requires further evaluation and a submission of a detailed report and proposed action plan to the NRC. Less frequent reporting would preclude the NRC from being notified in time to provide rapid response and quick assistance in achieving timely resolution.

7. Circumstances Which Justify Variation from OMB Guidelines.

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), section 74.11 requires that licensees submit reports to the NRC in less than thirty days.

Section 74.11 requires that reports of loss or theft or unauthorized production of SNM must be made within one hour of discovery. This requirement is needed to permit NRC to determine whether there has been a loss or diversion of special nuclear material or unauthorized production of material and to assist in initiating prompt action for recovery of such material.

8. Consultations Outside the Agency.

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

9. Payments or Gifts to Respondents.

Not applicable.

10. Confidentiality of the Information.

None, except for proprietary or safeguards information.

11. Justification for Sensitive Questions.

There are no sensitive questions.

12. Estimated Burden and Burden Hour Cost.

Table 1 - Reporting Requirements

Section	Number of Respondents	Responses per Respondent	Total No. of Responses	Burden per Response	Total Annual Burden Hours	Cost @ \$201/Hr
74.11	3	1	3	15	45	9,045
74.13 (a)	See OMB Clearance Nos. 3150-0004 & 3150-0058		0		0	0
74.13(b)	See OMB Clearance No. 3150-0055		0		0	0
74.15(a)	See OMB Clearance No. 3150-0003		0		0	0
74.15(b)	See OMB Clearance No. 3150-0003		0		0	0
74.15(c)	See OMB Clearance No. 3150-0055		0		0	0
74.17	See OMB Clearance No. 3150-0139		0		0	0
74.31(b)	7	1	7	80	560	112,560
74.33 (a),(b), (c)	2	1	2	80	160	32,160
74.41(b)	No Currently Operating Category II Facilities		0		0	0
74.43(c)	No Currently Operating Category II Facilities		0		0	0
74.51(c)	4	1	4	100	400	80,400
74.57(c)	2	1	2	8	16	3,216
74.57(f)(2)	2	1	2	4	8	1,608
74.59(f)	2	2	4	20	80	16,080
Totals	22		24		1,269	255,069

Recordkeeping Requirements

Section	Number of Recordkeepers	Average Annual Burden per Recordkeeper	Total Annual Burden (Hrs)	Cost @ \$201/Hr	Retention Period
74.19	110	40	4,400	884,400	Varies - 3 years to duration of license
74.31(a), (c), & (d)	7	195	1,365	274,365	3 years
74.33 (d)	2	415	830	166,830	3 years
74.41(a) and (c) - included in 74.43(d)	No Currently Operating Category II Facilities	0	0	0	Duration of license
74.43(a) - Covered under 74.43 (b) & (d)					
74.43(b)	No Currently Operating Category II Facilities	0	0	0	3 years
74.43(d)	No Currently Operating Category II Facilities	0	0	0	Varies - 3 years to duration of license
74.45	No Currently Operating Category II Facilities	0	0	0	Varies - 3 years to duration of license
74.51(a)	2	200	400	80,400	3 years
74.43(b)	No Currently Operating Category II Facilities	0	0	0	
74.57(d)	Covered under §74.59(g)				
74.59(b), (c), (d), (e), & (h)	Covered under §74.59(g)				
74.59(f)	2	200	400	80,400	3 years
74.59(g)	2	200	400	80,400	3 years
Totals	110		7,795	1,566,795	

Total Number of Recordkeepers: 110
 Total Recordkeeping Hours: 7,795

TOTAL ANNUAL BURDEN HOURS FOR PART 74:
 9,064 (7,795 recordkeeping hrs + 1,269 reporting hrs)

Estimated Cost to the Public to Respond to the Collection

The estimated annual cost to licensees to respond to the collection requirements is \$1,821,864 (1,269 reporting and 7,795 recordkeeping hrs X \$201/hr).

13. Estimate of Other Additional Costs.

NRC has determined that the records storage costs is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the records storage cost has been determined to be equal to 0.04 percent of the recordkeeping burden cost. Therefore, the records storage cost for this clearance is \$627 (7,795 recordkeeping hours x \$201/hr. x 0.0004).

14. Estimated Annualized Cost to the Federal Government.

A. Review of Licensee Reports

Section	No. Of Licensee Responses Annually	NRC Staff Time to Review Responses	Total Annual Hours	Comments
74.11	3	20	60	
74.13(a)				See OMB Clearance Nos. 3150-0004, 3150-0058
74.13(b)	1	40	40	
74.15(a) & (b)				See OMB Clearance No. 3150-0003
74.17				See OMB Clearance No. 3150-0139
74.31(b)	7	100	700	
74.33(a),(b),(c)	2	100	200	
74.41(b)				No Currently Operating Category II Facilities
74.43(c)				No Currently Operating Category II Facilities
74.51(c)	4	150	600	
74.57(c)	2	10	20	
74.57(f)(2)	2	10	20	

74.59(f)	4	30	120	
TOTALS	25		1,760	

B. Review of Licensee Records

<u>Avg No. of Inspections/Year</u>	<u>No. of MC&A Inspectors</u>	<u>Record Reviews Hours Per Inspector</u>	<u>Total NRC Inspection Hours</u>
10	2	90	1,800

The annual cost for NRC licensing and inspection staff to review the records and reports required by 10 CFR Part 74 is estimated to be 3,560 hrs (i.e., 1,760 + 1,800) @ \$201/hr or \$715,560.

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

15. Reasons for Changes in Burden or Cost.

The burden has increased for this information collection by 1,014 hours, from 8,050 to 9,064 hours. On May 30, 2003, the Office of Management and Budget (OMB) approved the information collections contained in the final rule, "Material Control and Accounting Amendments," published December 23, 2002 (67 FR 78130). In the rule, the Commission amended the MC&A requirements to reduce unnecessary regulatory burden and to provide additional flexibility to licensees required to submit Material Balance Reports and Inventory Composition Reports. This information collection incorporates sections revised and added by the final rule.

The total overall increase in burden hours is 1,014 hours, which is calculated by:

(1) The reduction of 100 reporting burden hours from Section 74.43(c), because there are no currently operating Category II Facilities.

(2) The addition of 2,800 recordkeeping burden hours for § 74.19 (from 1,600 in the final rule to an estimated 4,400 burden hours.) While the overall number of recordkeepers has decreased from 200 in the final rule to 110 with this extension package, the amount of time devoted to recordkeeping has increased from 8 to 40 hours per recordkeeper annually, based on the staff's recalculation of the estimate that respondents will require 40 hours per response under this section. This estimate was based on actual reports received and a reevaluation of the licensee recordkeeping requirements for this section. The 110 recordkeepers are licensees who must maintain records for small quantities of nuclear materials.

(3) The reduction of 120 hours for § 74.43(d), because there are no currently operating Category II Facilities.

(4) The reduction of 16 hours for § 74.45, as no responses are estimated for this period.

(5) The reduction of 2,350 recordkeeping burden hours for § 74.51(a). The original burden was estimated to be 1,375 hours per respondent to maintain records, but it has since been recalculated to be 200 hours per respondent, due to a miscalculation for 2 facilities. The present burden estimate is based on actual reports submitted to NRC which established that it took approximately 200 hours to perform recordkeeping duties for this section. The total burden for this section is now 400 hours, which is 2,350 hours less than the original recordkeeping burden of 2,750 hours.

(6) The addition of 400 recordkeeping burden hours each for §§ 74.59(f) and 74.59(g) (a total of 800 hours), which require HEU facility licensees to perform a physical inventory and reconciliation every six months and establish auditable records and maintain them for at least 3 years. This burden was inadvertently left off out of the previous clearance package. However, based on actual reports received, the staff has estimated that respondents will require 200 hours per respondent to perform a physical inventory and reconciliation under § 74.59(f), and 200 hours per respondent to establish auditable records to demonstrate that the requirements of Sections 74.53, .55, .57, and .59 have been met.

Therefore, the burden for this clearance renewal is estimated to be 9,064 hours, which is: 8,050 - 100 + 2,800 - 120 - 16 - 2,350 + 800 hours.

There has also been an increase in the cost because the hourly rate has increased from \$157 to \$201/hr.

16. Publication for Statistical Use.

None.

17. Reason for Not Displaying the Expiration Date.

For requirements contained in 10 CFR 74, amending the Code of Federal Regulations to display information that, in an annual publication, could become out of date would confuse the public. Additionally, for the information collections contained in the guidance documents NUREG-1065, NUREG/CR-5734, and NUREG-1280, revising the guidance documents merely to update the expiration date unnecessarily expends scarce agency resources.

18. Exemptions to the Certification Statement.

There are no exemptions.

B. Collection of Information Employing Statistical Methods.

Statistical methods are not used in this collection of information.