

DRAFT OMB SUPPORTING STATEMENT
FOR
10 CFR PART 150
EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY
IN AGREEMENT STATES AND IN OFFSHORE WATERS
UNDER SECTION 274
(3150-0032)

EXTENSION REQUEST

Description of the Information Collection

NRC Regulations in 10 CFR Part 150 provide certain exemptions to persons in Agreement States from the licensing requirements contained in Chapters 6, 7, and 8 of the Atomic Energy Act of 1954, as amended, and certain regulations of the Commission. The regulations in Part 150 also define activities in Agreement States over which the regulatory authority of the Commission continues. Information concerning the application, recordkeeping, and reporting requirements imposed by specific sections is provided below.

A. JUSTIFICATION

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

10 CFR Section 150.16(a) requires each Agreement State licensee who transfers or receives special nuclear material to complete and submit a DOE/NRC Form 741, "Nuclear Material Transaction Report," whenever he transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. This report is required in order for the United States to fulfill its responsibilities under the United States/International Atomic Energy Agency (US/IAEA) Safeguards Agreement. Accounting reports for each IAEA material balance area must include inventory change reports showing all changes in the inventory of nuclear material.

The use of DOE/NRC Form 741, is approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

10 CFR Section 150.16(b)(1) requires that each person who, pursuant to an Agreement State license, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the appropriate NRC Regional Office by telephone, any incident in which any theft or unlawful diversion of special nuclear material which he is licensed to possess has been made or is believed to have been made.

10 CFR Section 150.16(b)(2) Within 15 days, the licensee shall follow the initial report with a written report that sets forth the details of the incident. The report must be sent by an appropriate method listed in § 150.4 of this part to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, with a copy to the appropriate NRC Regional Office, shown in appendix A to part 73.

10 CFR Section 150.16(b)(3) Subsequent to the submission of the written report required by this paragraph, each licensee shall promptly inform the Regional Administrator of the appropriate NRC Regional Office by means of a written report of any substantive additional information which becomes available to the license concerning an attempted or apparent theft or unlawful diversion of special nuclear material.

The information submitted by licensees under this requirement is evaluated and maintained by NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

10 CFR Section 150.17(a) requires each person who, pursuant to an Agreement State specific license, transfers or receives or adjust the inventory in any manner by 1 kilogram or more of uranium or thorium source material with foreign obligations or who imports or exports 1 kilogram or more of uranium or thorium source material of any origin shall complete and submit DOE/NRC Form 741.

This report is required in order for the United States to fulfill its responsibilities under the US/IAEA Safeguards Agreement. Accounting reports for each IAEA material balance area must include inventory change reports showing all changes in the inventory of nuclear material.

The use of DOE/NRC Form 741 is approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

10 CFR Section 150.17(b) requires each person who is authorized to possess at any one time and location under an Agreement State license, more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, to submit to NRC within 30 days after September 30 of each year a statement of his foreign obligated source material inventory.

The information contained in the statement is placed in and maintained by the Nuclear Materials Management and Safeguards System (NMMSS)¹, pursuant to the Commission's responsibility under Section 161 of the Atomic Energy Act of 1954, as amended, to establish such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct

¹ NRC and DOE share the cost of operating the Nuclear Materials Management and Safeguards System (NMMSS). Current NRC cost of the system is \$1,850,000 for FY 06. This cost is attributable to these nuclear materials transaction and accounting report forms. This includes the cost of ADP, record holding, and clerical processing of all forms (DOE/NRC Forms 741, 740M, 742, 742C).

material, as it deems necessary or desirable to promote the common defense and security.

10 CFR Section 150.17(c)(1) requires each licensee who is authorized to possess uranium or thorium pursuant to a specific license to report promptly to the appropriate NRC Headquarters Operations Center any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year.

10 CFR Section 150.17(c)(2) The licensee shall notify the NRC as soon as possible, but within 4 hours, of discovery of 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.

10 CFR Section 150.17(c)(3) The licensee is required to submit a written report to the appropriate NRC Regional Office within 60 days of the initial report.

10 CFR Section 150.17(c)(4) The licensee shall promptly update the written followup notification with any substantive additional information which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of source material.

The information submitted by licensees under this requirement is evaluated and maintained by NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

The NRC staff will review the information submitted by applicants to determine if it is complete and meets the requirements set out in 10 CFR Section 75.11

10 CFR Section 150.17a(c) An applicant for an Agreement State License authorizing possession of source material in amounts greater than one effective kilogram (except in ore processing) shall notify the Commission at least 9 months prior to the date when the applicant desires to receive the source material.

10 CFR Section 150.17a(d) In response to a written request by the Commission, an applicant for an Agreement State License authorizing possession of source material in amounts greater than one effective kilogram (except in ore processing) shall file with the Commission the installation information described in § 75.11 of this chapter. The applicant shall also permit verification of such installation information by the International Atomic Energy Agency and take such other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth in § 75.6 and §§ 75.11 through 75.14.

This report is required in order for the United States to fulfill its responsibilities under the US/IAEA Safeguards Agreement. Accounting reports for each IAEA material balance area must include inventory change reports showing all changes in the inventory of nuclear material.

The use of DOE/NRC Form 741 is approved under OMB Clearance No. 3150-0003, which should be referred to for the information collection burden and supporting data.

10 CFR Section 150.19(c) requires that each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office by telephone and telegraph, mailgram, or facsimile any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The licensee is required to submit a written report to the appropriate NRC Regional Office within 15 days of the initial report.

The information submitted by licensees under this requirement is evaluated and maintained by NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

10 CFR Section 150.20(b)(1) requires that any Agreement State licensee engaging in activities in non-Agreement States under the general license established in Section 150.20(a) shall, at least 3 days prior to engaging in such activity for the first time, file a submittal containing an NRC Form 241 and a copy of his Agreement State specific license and the appropriate fee with the appropriate NRC Regional Office. If a submittal cannot be filed 3 days before engaging in activities under reciprocity, the Regional Administrator may waive the 3-day time requirement provided the licensee:

(i) Informs the Region by telephone, facsimile, and NRC Form 241, or letter of initial activities or revisions to the information submitted on the initial NRC Form 241;

(iii) Within 3 days after the notification, files an NRC Form 241, a copy of the Agreement State license, and the fee payment.

10 CFR Section 150.20(b)(2) Shall file an amended NRC Form 241 or letter with the Regional Administrator to request approval for changes in work locations, radioactive material, or work activities different from the information contained on the initial NRC Form 241.

The use of NRC Form 241 is approved under OMB Clearance No. 3150-0013, which should be referred to for the information collection burden and supporting data.

10 CFR Section 150.31(a) requires that, in the licensing and regulation of byproduct material, or any activity which results in the production of such byproduct material, Agreement States shall require compliance with the provisions of Appendix A of 10 CFR Part 40 pertaining to ownership of such byproduct material and disposal sites for such material.

10 CFR Section 150.31(b) requires that, in the licensing and regulation of byproduct material, or any activity which results in the production of such byproduct material, an Agreement State shall require.

10 CFR Section 150.31(b)(1) Compliance with requirements in appendix A of 10 CFR part 40 of this chapter established by the Commission pertaining to ownership of such byproduct material and disposal sites for such material.

The compliance burden for Section 150.31(b)(1) is attributable to Appendix A of 10 CFR Part 40, NRC Form 484, which is approved under OMB Clearance No. 3150-0020, and should be referred to for the information collection burden and supporting data.

10 CFR Section 150.31(b)(2) Compliance with standards which shall be adopted by the Agreement State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards in appendix A of 10 CFR Part 40 adopted and enforced by the Commission for the same purpose, including requirements and standards subsequently promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to the Uranium Mill Tailing Radiation Control Act of 1978.

10 CFR Section 150.31(b)(3)(C)(iii) Require for each licensing action which has a significant impact on the human environment a written analysis by the appropriate State agency (which shall be available to the public before the commencement of any such proceedings) of the impact of such licensing action, including any activities conducted pursuant thereto, on the environment. Such analysis shall include:

(A) An assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such licenses;

(B) An assessment of any impact on any waterway and groundwater resulting from such activities;

(C) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(D) Consideration of the long term impacts, including decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined in § 150.3(c)(2) of this part; and

(iv) Prohibit any major construction activity with respect to such material prior to complying with the provisions of paragraph (c)(3) of this section. As used in this paragraph the term *major construction activity* means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

10 CFR Section 150.31(d) In adopting requirements pursuant to paragraph (b)(2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety and the environment from radiological and nonradiological hazards associated with sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

2. Agency Use of the Information

The reports described in 150.16(a), 150.17(a), 150.17(b), and 150.17a contain data that are used to generate reports to provide to several other Governments in accordance with Bilateral Agreements and the International Atomic Energy Agency (IAEA) in accordance with the US/IAEA Safeguards Agreement. Information collected is also necessary to the domestic inspection program.

The reports described in 150.16(b), 150.17(c), and 150.19(c) are evaluated and maintained by NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation 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. It is estimated that 99% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

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

5. Effort to Reduce Small Business Burden

The burden on licensees will vary with size and type of licensed operation. The burden on small business represents approximately five percent of the total burden. Further reduction would not enable the NRC to fulfill its international or domestic responsibilities.

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

If the requested information is collected less frequently, the NRC would be unable to have current knowledge of the location of nuclear materials as is required by the Atomic Energy Act of 1954, as amended.

If licensees are not required to submit these reports, NRC will not be able to maintain material accountability under its statutory responsibilities of the Atomic Energy Act.

7. Circumstances which Justify Variation from OMB Guidance

Contrary to OMB guidelines in 5 CFR 1320.5(d), respondents are required to submit more than three copies of certain reports.

Section 150.20(b)(1) requires four copies of NRC Form 241 and four copies of the Agreement State license. Multiple copies are required to report proposed activities in non-Agreement States to one or more NRC Regional Offices, the NRC State Program Office, and the State Health Department.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.16(b) requires that each person who, pursuant to an Agreement State license, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the appropriate NRC Regional Office any incident in which any theft or unlawful diversion of special nuclear material which he is licensed to possess has been made or is believed to have been made. The initial report must be followed within 15 days by a written report which sets forth the details of the incident. These reports in less than 30 days are necessary to permit the Regional Office to determine whether there has been a diversion or other loss of material and to initiate prompt action in the event of such diversion or loss.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.17(c) requires each Agreement State licensee who is authorized to possess uranium or thorium pursuant to a specific license to report promptly to the appropriate NRC Regional Office any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year.

The initial report must be followed within 15 days by a written report which sets forth the details of the incident and its consequences. These reports in less than 30 days are necessary to permit the Regional Office to determine whether there has been a diversion or other loss of material and to initiate prompt action in the event of such diversion or loss.

Contrary to OMB guidelines in 5 CFR 1320.5(d), Section 150.19(c) requires that each person who, pursuant to an Agreement State license, is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 10 curies of such material at any one time or 100 curies of such material in any one calendar year. The initial report must be followed within 15 days by a written report which sets forth the details of the incident and its consequences. These reports in less than 30 days are necessary to permit the Regional Office to determine whether there has been a diversion or other loss of material and to initiate prompt action in the event of such diversion or loss.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements has been published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Some proprietary information may be included when necessary to provide an adequate response. An application to withhold such information from public disclosure may be made, and would be disposed of, in accordance with the provisions of 10 CFR 2.790. If any of this information is particularly sensitive, a request may be made that such information not be transmitted to the IAEA; such a request must refer to, and conform with, 10 CFR 74.12.

11. Justification for Sensitive Questions

This information collection does not involve sensitive questions.

12. Estimated Burden and Burden Hour Cost

The burden estimates for the 10 CFR Part 150 information collection requirements are based on submittals to NRC in past years. The cost to the licensees is calculated at a rate of \$197 per hour for preparation of the reports prepared in response to the 10 CFR Part 150 reporting requirements. This rate is based on NRC's fully recoverable fee rate.

The total annual burden is estimated to be about 50.5 hours per year, or approximately 6 hours per licensee, for the licensees covered under 10 CFR Part 150. The details are shown in Table 1. The total burden hour cost for the licensees would be 50.5 hours x \$197/hour, or approximately \$9,949/year.

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The collection of information requires a total of 30 minutes (20 minutes for the initial report + 10 minutes for the follow-up report) of NRC staff time. For approximately 12 reports the collection requires approximately 6 hours annually $([0.33 \text{ hr/report} + 0.17 \text{ hr/report}] \times 12 \text{ reports})$. Annual labor costs at \$197/hour is \$1,182 (6 hours x \$197/hour). These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171. Other costs are attributed to operating NMMSS.

15. Reasons for Change in Burden or Cost

There is no change in the overall burden. However, the professional hourly rate was changed from \$152 to \$197 to reflect the current rate.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The 10 CFR Part 150 requirements are contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

N/A.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

N/A.

Table 1: NRC Reporting Burden

Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hrs per Response	Total Annual Reporting Burden (Hrs)	Cost @ \$197/Hr
150.16(a) Burden covered under OMB Clearance No. 3150-0003						
150.16(b)(1) Initial Report	1	1	1	0.5	0.5	99
150.16(b)(2) 15-day Written Report	1*	1	1	9.5	9.5	1872
150.16(b)(3)	1	0	0	3	0	0
150.17(a) Burden covered under OMB Clearance No. 3150-0003						
150.17(b)	6	1	6	0.75	4.5	887
150.17(c)(1) Initial Report	1	1	1	0.5	0.5	99
150.17(c)(2)	1	0	0	0.5	0	0
150.17(c)(3) Written Report	1*	1	1	9.5	9.5	1872
150.17(c)(4)	1	0	0	3	0	0
150.17a(c) No reports are expected for the next clearance because, although eligible, no A/S licensees have been selected by the IAEA for inspection of their source material inventory Burden covered under OMB Clearance No. 3150-0056						
150.17a(d) Burden covered under OMB Clearance No. 3150-0056						
150.19(c) Initial Report	1	1	1	0.5	0.5	99
150.19(c) 15-day Written Follow-up Report	1*	1	1	9.5	9.5	1872

150.20(b)(1) Burden covered under OMB Clearance No.3150-0013						
150.20(b)(2) Burden covered under OMB Clearance No.3150-0013						
150.31(a) Burden covered under OMB Clearance No. 3150-0020						
Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hrs per Response	Total Annual Reporting Burden (Hrs)	Cost @ \$197/Hr
150.31(b) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(1) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(2) Burden covered under OMB Clearance No. 3150-0020						
150.31(b)(3)(C)(iii)	1	0	0	9.5	0	0
150.31(d) Burden covered under OMB Clearance No. 3150-0020						
TOTALS	10		12		34.5	\$6,800

* The same respondent will provide the initial report and any substantive additional information.