

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

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) regulations in Part 150 of Title 10 of the Code of Federal Regulations (10 CFR), 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 10 CFR Part 150 also define the Commission's continued regulatory authority over certain Agreement State activities. Information concerning the application, recordkeeping, and reporting requirements imposed by specific sections of 10 CFR Part 150 is provided below.

A. JUSTIFICATION

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

10 CFR 150.16(a)(1) requires that each person who transfers or receives special nuclear material in a quantity of one gram or more of contained uranium-235, uranium-233, or plutonium under an Agreement State license to complete and submit Nuclear Material Transaction Reports in computer-readable format. In addition, each person who adjusts the inventory in any manner, other than for transfers and receipts, is required to submit Nuclear Material Transaction Reports in computer-readable format. These prescribed computer-readable formats replace the DOE/NRC Form 741 which has previously been submitted in paper form.

These reports are required in order for the U.S. 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 and its computer-readable format are approved under OMB control number 3150-0003 which should be referred to for the information collection burden and supporting data.

10 CFR 150.16(a)(2) requires each person who, pursuant to an Agreement State specific license, transfers, 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; or uses one kilogram or more of any uranium or thorium source material in enrichment

services, downblending uranium that has an initial enrichment of the uranium-235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels; to complete and submit Nuclear Material Transaction Reports in computer-readable format. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has previously been submitted in paper form.

These reports are required in order for the U.S. 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 and its computer-readable format are approved under OMB control number 3150-0003 which should be referred to for the information collection burden and supporting data.

10 CFR 150.16(b)(1) requires each person who, pursuant to an Agreement State License, possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium to report immediately to the Regional Administrator of the appropriate NRC Regional Office by telephone, any theft or other unlawful diversion of special nuclear material which the licensee is licensed to possess 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 special nuclear material.

10 CFR 150.16(b)(2) requires the licensee to follow the initial report made under 150.16(b)(1) with a written report that sets forth the details of the incident within 15 days. The report must be sent by an appropriate method listed in §150.4 to the Director, Office of Nuclear Material Safety and Safeguards, with a copy to the appropriate NRC Regional Office.

10 CFR 150.16(b)(3) requires each licensee, subsequent to the submission of the written reports required by 150.16(b), to 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 licensee 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 the 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 150.17(a) requires each person possessing, or who had possessed in the previous reporting period, at any one time and location, under an Agreement State license, special nuclear material in a quantity totaling one gram or more of contained uranium-235, uranium-233, or plutonium, to complete and submit Material Balance Reports in computer-readable format concerning special nuclear material that the licensee has received, produced, possessed, transferred, consumed,

disposed of, or lost. A Physical Inventory Listing Report must also be submitted with each Material Balance Report. Each person subject to this requirement is required to submit a report no later than March 31 of each year. Each licensee required to report material balance, and inventory information, as described in this part, is required to resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by NRC.

The prescribed computer-readable reports above replace DOE/NRC Form 742 and DOE/NRC Form 742C respectively, which have previously been submitted in paper form.

DOE/NRC Form 742 and its computer-readable format and DOE/NRC Form 742C and its computer-readable format are approved under OMB control number 3150-0004 and 3150-0058, respectively, and they should be referred to for the information collection burden and supporting data.

10 CFR Section 150.17(b)(1) requires each person, who possesses or had possessed in the previous reporting period, at any one time and location, under an Agreement State license, one kilogram or more of uranium or thorium source material with foreign obligations, to document holdings as of September 30 each year and submit to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under 10 CFR Part 72 or 74.

10 CFR Section 150.17(b)(2) requires each person, who possesses or had possessed in the previous reporting period, at any one time and location, one kilogram or more of uranium or thorium source material in the operation of enrichment services, downblending uranium that has an initial enrichment of the uranium-235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels shall complete and submit Material Balance and Physical Inventory Listing Reports in computer-readable format concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost. These reports must document holdings as of September 30 of each year and be submitted to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under 10 CFR Part 72 or 74.

The prescribed computer-readable reports above replace DOE/NRC Form 742 and DOE/NRC Form 742C respectively, which have previously been submitted in paper form.

DOE/NRC Form 742 and its computer-readable format and DOE/NRC Form 742C and its computer-readable format are approved under OMB control number 3150-0004 and 3150-0058, respectively, and they should be referred to for the information collection burden and supporting data.

The information contained in the Material Balance Report is placed in and maintained by the Nuclear Materials Management and Safeguards System (NMMSS), pursuant to the Commission's responsibility under Section 161 of the Atomic Energy Act of 1954, as amended, to establish such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material, as it deems necessary or desirable to promote the common defense and security.

10 CFR 150.17(c)(1) requires each licensee who is authorized to possess uranium or thorium pursuant to a specific license to notify the NRC Headquarters Operations Center by telephone 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 more than 6.8 kilograms (kg) [15 pounds] of such material at any one time or more than 68 kg [150 pounds] of such material in any one calendar year.

10 CFR 150.17(c)(2) requires the licensee to 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 150.17(c)(3) requires that the initial notification be followed, within a period of sixty (60) days, by a written followup notification. A copy of the written follow up notification is required to be sent to the appropriate NRC Regional Office and to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission.

10 CFR 150.17(c)(4) requires the licensee to promptly update the written follow up 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.

10 CFR 150.17a(c)(1) requires an applicant for an Agreement State license or certificate, and each recipient of any Agreement State license or certificate to submit facility information in response to a written request by the Commission, as described in 10 CFR 75.10, on IAEA Form N-71, "IAEA Design Information Questionnaire All Facilities," and associated forms, and site information on DOC/NRC Form AP-A and associated forms.

Form N-71 and associated forms and DOC/NRC Forms AP-1 or AP-A and associated forms are approved under OMB control numbers 3150-0056 and 0694-0135 respectively, and they should be referred to for the information collection burden and supporting data.

10 CFR 150.17a(c)(2) states that the Additional Protocol requires each applicant for an Agreement State license or certificate, and each recipient of any Agreement State license or certificate to submit location information described in 10 CFR 75.11 of this chapter, on DOC/NRC Form AP-1 and associated forms.

DOC/NRC Forms AP-1 or AP-A and associated forms are approved under OMB control number 0694-0135 which should be referred to for the information collection burden and supporting data.

10 CFR 150.17a(d) requires each applicant for an Agreement State License or certificate, and each recipient of any Agreement State license or certificate to submit facility information in response to a written request by the Commission, as described in 10 CFR 75.10, on IAEA Form N-71 and associated forms, site information on DOC/NRC Form AP-A and associated forms, and to submit location information described in 10 CFR 75.11, on DOC/NRC Form AP-1 and associated forms; to permit verification thereof by the IAEA and take other action that might be necessary to implement the US/IAEA Safeguards Agreement, and the Additional Protocol.

Form N-71 and associated forms and DOC/NRC Forms AP-1 or AP-A and associated forms are approved under OMB control numbers 3150-0056 and 0694-0135 respectively, and they should be referred to for the information collection burden and supporting data.

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

10 CFR 150.19(c) requires that each person who, pursuant to an Agreement State license, is authorized to possess tritium reports 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 initial report must be followed within a period of fifteen days by a written report that sets forth the details of the incident and its consequences. The report must be submitted to the Director, Office of Nuclear material Safety and Safeguards, using an appropriate method listed in 10 CFR 150.4, with a copy to the appropriate NRC Regional. Subsequent to the submission of the written report, each person is required to promptly inform the appropriate NRC Regional Office by means of a written report of any substantive additional information, which becomes available to such person, concerning an attempted or apparent theft or unlawful diversion of tritium.

The information submitted by the licensees under this requirement is evaluated and maintained by the 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 150.20(b)(1) requires any Agreement State licensee engaging in activities in non-Agreement States under the general license established in Section 150.20(a) to, at least 3 days prior to engaging in such activity for the first time in a calendar year, file a submittal containing an NRC Form 241, Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters, and a copy of this 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; and (ii) Within 3 days after the notification, files an NRC Form 241, a copy of the Agreement State license, and the fee payment.

NRC Form 241 is approved under OMB control number 3150-0013 which should be referred to for the information collection burden and supporting data.

10 CFR 150.20(b)(2) requires any person engaging in activities in non-Agreement States, in areas of exclusive Federal jurisdiction to 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.

NRC Form 241 is approved under OMB control number 3150-0013 which should be referred to for the information collection burden and supporting data.

10 CFR 150.31(a) requires that prior to November 8, 1981, in the licensing and regulation of byproduct material, or any activity which results in the production of such byproduct material, Agreement States 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 150.31(b)(1) requires that after November 8, 1981, in the licensing and regulation of byproduct material, as defined in §150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require compliance with the requirements in appendix A of 10 CFR part 40 pertaining to ownership of such byproduct material and disposal sites for such material.

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

10 CFR 150.31(b)(2) requires that after November 8, 1981, in the licensing and regulation of byproduct material, as defined in §150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require 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 of this chapter adopted and enforced by the Commission for the same purposes, 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 150.31(b)(3)(iii) requires that after November 8, 1981, in the licensing and regulation of byproduct material, as defined in §150.3(c)(2) of this part, or of any activity which results in the production of such byproduct material, an Agreement State shall require compliance with procedures which require for each licensing action which has a significant impact on the human environment, a written analysis by the appropriate State agency 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 non-radiological 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 10 CFR 150.3(c)(2).

10 CFR 150.31(d) requires that in adopting requirements pursuant to paragraph (b)(2) of this section, 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 non-radiological hazards associated with the 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 10 CFR 150.16(a), 10 CFR 150.17(a), 10 CFR 150.17(b), and 10 CFR 150.17a contain data that are used to generate reports to provide to several other Governments in accordance with Bilateral Agreements and the IAEA in accordance with the US/IAEA Safeguards Agreement. Information collected is also necessary to the domestic inspection program.

The reports described in 10 CFR 150.16(b), 10 CFR 150.17(c), and 10 CFR 150.19(c) are evaluated and maintained by the 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 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. It is estimated that approximately 99 percent of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. 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, the NRC will not be able to maintain material accountability under its statutory responsibilities of the Atomic Energy Act of 1954, as amended.

7. Circumstances which Justify Variation from OMB Guidance

Contrary to OMB guidelines in 5 CFR 1320.5(d), section 150.16(b)(2) requires licensees to follow an initial report made under 150.16(b)(1) with a written report that sets forth the details of the incident within 15 days. The reports are required in less than 30 days in order to permit the Regional Office to determine whether a diversion or other loss of material had occurred 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 licensees to follow an initial report made under 150.19(c) with a written report that sets forth the details of the incident within 15 days. The reports are required in less than 30 days in order to permit the Regional Office to determine whether a diversion or other losses of material had occurred 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 for this clearance package has been published in the *Federal Register*.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

This information collection does not involve sensitive questions.

12. Estimated Burden and Burden Hour Cost

The total annual burden is estimated to be approximately 190 hours per year, or 23.75 hours per licensee (190 total annual reporting burden hours ÷ 8 total number of respondents = 23.75), for the licensees covered under 10 CFR Part 150. The details are shown in Table 1. The total burden hour cost for the licensees is estimated to be \$53,010/year (190 total annual reporting burden hours x \$279/hour).

The burden estimates for the 10 CFR Part 150 information collection requirements are based on submittals to the NRC in past years. The cost to the licensees is calculated at a rate of \$279 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.

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

The collection of information requires a total of 30 minutes of NRC staff time to review the initial reports required by 10 CFR 150.16(b)(1), 10 CFR 150.17(c)(1) and (2) and 10 CFR 150.19(c). For approximately 3 reports per year, the collection requires approximately 1.5 hours annually (0.5 hours/initial report x 3 reports). The total annual cost to review the initial reports is estimated to be \$419 (1.5 hours x \$279/hour).

The collection of information requires a total of 9.5 hrs of NRC staff time to review the follow-up written reports required by 150.16(b)(2), 10 CFR 150.17(c)(3), and 10 CFR 150.19(c). For approximately 3 reports per year the collection requires approximately 28.5 hours total annually (9.5 hour/follow-up report x 3 reports). The total annual cost to review the follow-up/written reports is estimated to be \$7,952 (28.5 hours x \$279/hour).

The collection of information requires a total of 80 hours for the review of an environmental assessment as specified in 10 CFR 150.31 (b)(3)(C)(iii) of Agreement State staff time. For an estimated two reports per year, the total annual cost for the Agreement States is estimated to be \$44,640 (\$279/hour x 160 hours).

The total annual burden for government is 190 hours which result in an annual cost of \$53,010 (190 hours x \$279/hour). These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171.

15. Reasons for Change in Burden or Cost

There is no change in burden since the last renewal. The professional hourly rate increased from \$274/hour to \$279/hour.

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

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

Table 1: NRC Licensee and Agreement State Reporting Burden

Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hours per Response	Total Annual Reporting Burden (Hours)	Cost @ \$279/Hour
150.16(a)(1) Burden covered under OMB Clearance No. 3150-0003	0	0	0	0	0	\$0
150.16 (a)(2) Burden covered under OMB Clearance No. 3150-0003	0	0	0	0	0	\$0
150.16(b)(1) Initial Report	1	1	1	0.5	0.5	\$140
150.16(b)(2) 15-day Written Report	1	1	1	9.5	9.5	\$2,651
150.16(b)(3) None Expected	0	0	0	3	0	\$0
150.17(a) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	\$0
150.17(b)(1) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	\$0
150.17 (b)(2) Burden covered under OMB Clearance No. 3150-0004	0	0	0	0	0	\$0
150.17(c)(1) Initial Report	1	1	1	0.5	0.5	\$140
150.17(c)(2) None Expected	0	0	0	0.5	0	\$0
150.17(c)(3) Written Report	1	1	1	9.5	9.5	\$2,651
150.17(c)(4) None Expected	0	0	0	3	0	\$0
150.17a(c)(1) Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	\$0
150.17a(c)(2) Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	\$0

Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Burden Hours per Response	Total Annual Reporting Burden (Hours)	Cost @ \$279/Hour
150.17a(d) Burden covered under OMB Clearance No. 0694-0135	0	0	0	0	0	\$0
150.19(c) Initial Report	1	1	1	0.5	0.5	\$140
150.19(c) 15-day Written Follow-up Report	1	1	1	9.5	9.5	\$2,651
150.20(b)(1) Burden covered under OMB Clearance No.3150-0013	0	0	0	0	0	\$0
150.20(b)(2) Burden covered under OMB Clearance No.3150-0013	0	0	0	0	0	\$0
150.31(a) Burden covered under OMB Clearance No. 3150-0020	0	0	0	0	0	\$0
150.31(b) Burden covered under OMB Clearance No. 3150-0020	0	0	0	0	0	\$0
150.31(b)(1) Burden covered under OMB Clearance No. 3150-0020	0	0	0	0	0	\$0
150.31(b)(2) Burden covered under OMB Clearance No. 3150-0020	0	0	0	0	0	\$0
150.31(b)(3)(C)(iii)	2	1	2	80	160	\$44,640
150.31(d) Burden covered under OMB Clearance No. 3150-0020	0	0	0	0	0	\$0
TOTALS	8	N/A	8	N/A	190	\$53,013