

DRAFT OMB SUPPORTING STATEMENT FOR
10 CFR PART 70
DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

(3150-0009)
EXTENSION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) regulations in Title 10 of the Code of Federal Regulations (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). "Special nuclear material" (SNM) is defined by Title I of the [Atomic Energy Act of 1954](#) as plutonium, or uranium enriched in the isotopes uranium-233 or uranium-235, but does not include source material. The definition includes any other material that the Commission determines to be special nuclear material; however, the NRC has not declared any other material as special nuclear material. The regulations are issued pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended.

Under Part 70, applicants and licensees provide the following information:

- Applications, including descriptions of activities, facilities, equipment, procedures, material (amounts, forms, and quantities), staff qualifications (experience and training),
- Plans, including emergency plan, physical protection plan, material control plan
- Reports on unplanned contamination, equipment failures, unplanned fire or explosion, accidental criticality, and acute chemical exposure.

Licensees maintain records of any changes to the license application, site, procedures, programs and plans. In addition, they must track and label their sources.

A. Justification

1. Need for and Practical Utility of the Information Collection

The information included in the applications, reports and records is reviewed by the NRC staff to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures and plans for protection of public health and safety and the common defense and security.

Special nuclear material includes several isotopes of uranium and plutonium that are defined as "strategic special nuclear material" (SSNM) due to their potential use. To ensure the safety of the public and the security of the Nation, the NRC regulates Material Control and Accounting programs that are maintained by facilities licensed to possess these materials.

The NRC review and the findings derived there from form the basis for the NRC licensing

decisions related to SNM. Information concerning the requirements imposed by specific sections is provided below.

2. Agency Use of the Information

The records that Part 70 requires the licensees to maintain are reviewed during inspections, license renewals, and license amendment reviews to evaluate compliance with the NRC safety and safeguards requirements for possession and use of SNM.

The records of receipt, transfer, and disposal of SNM are reviewed by the NRC inspectors to determine that licensees have confined their possession and use of SNM to the locations, purposes, receipt, and quantities authorized in their licenses.

Reports of significant safety or safeguards events and theft of radioactive material are used by the agency in evaluating the protective actions required to maintain control of fissionable material and to avoid exposures to radiation or releases of radioactive materials that could exceed regulatory limits and, therefore, impact public health and safety, the common defense and security, and the environment.

Bankruptcy reports, decommissioning plans, decommissioning funding plans, and certifications of financial assurance for decommissioning are reviewed by the NRC to ensure that a licensee has adequate procedures and funds for any necessary cleanup efforts before a licensee's responsibility for SNMs is terminated and the site is released for unrestricted use.

3. Reduction of Burden Through Information Technology

The NRC has issued [Guidance for Electronic Submissions to the NRC](#) which provides direction for the electronic transmission and submittal of documents to the NRC. Electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange (EIE) process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail. Electronic submissions under Part 70 are transmitted through the EIE process.

Certain reports, such as transaction reports and inventory reports, are produced by some licensees using automated information technology. However, because of the types of information and the infrequency of submission, the applications and other reports may not lend themselves readily to the use of automated information technology for submission. It is estimated that 10 percent of the responses are filed electronically.

Approximately 95% of annual updates to the licensees' integrated safety analysis are submitted electronically. Security plan updates are submitted in hard copy form for security reasons.

It is estimated that approximately **90%** of the overall responses to Part 70 information collections 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.

5. Effort to Reduce Small Business Burden

The NRC staff estimates that approximately one percent of respondents are small businesses; however, since the health and safety consequences of improper handling or use of SNM 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 reporting, recordkeeping, or accounting and control procedures.

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

If the information included in the applications, reports and records were not collected, the NRC staff would not be able to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures and plans for protection of public health and safety and the common defense and security in order to make licensing and other regulatory decisions related to SNM.

Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments are submitted only once. Applications for renewal of licenses are submitted every 5 years, or every 10 years for fuel cycle facilities. Information submitted in previous applications may be referenced without being resubmitted. The schedule for collecting the information is the minimum frequency necessary to assure that licensees will continue to conduct programs in a manner that will assure adequate protection of the public health and safety.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), Section 70.9(b) requires that licensees submit a notification to the NRC in less than 30 days from the date of identifying information having significant implications for the public health and safety or the common defense and security and which is not covered by other reporting requirements. The requirement to provide notification within two working days following the identification of the information is necessary to ensure that the NRC is made aware of the significant safety information so as to take prompt effective action to protect the public health and safety.

Section 70.20b(f) requires that licensees notify the NRC in writing using a method identified in Section 70.5(a) concerning transient shipments with scheduled stops at U.S. ports. Licensees shall also notify the NRC Headquarters Operations Center by telephone within at least two days before commencement of the shipment or by telephone of scheduled changes greater than six hours. This prompt notification is needed to enable the NRC to ensure that sufficient protection will be provided for the material being transported.

Section 70.20b(g) requires that persons generally licensed under Section 70.20b making

unscheduled stops at U.S. ports must immediately provide to the NRC the information required under Section 70.20b(f). This immediate notification is needed to permit the NRC staff to ensure that the transportation plan for transient shipments of formula quantities of SNM with unscheduled stops at U.S. ports is sufficient to protect the material being transported.

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), Section 70.32(a)(9) requires that licensees submit a notification to the NRC in less than 30 days from the date of filing of a petition in bankruptcy. The requirement to provide notification promptly following the filing of the petition is necessary to ensure that the NRC is made aware of the bankruptcy so as to take effective action to protect the public health and safety.

Section 70.50(a) requires each licensee to notify the NRC as soon as possible but not more than four hours after discovery of an event that prevents immediate protective actions necessary to avoid exposure to radiation or radioactive material. This immediate notification is necessary to inform the NRC of serious incidents in licensed facilities or activities. The information will be used by the NRC to determine whether immediate response or corrective action is needed to protect public health and safety.

Section 70.50(b) requires each licensee to notify the NRC within 24 hours after the discovery of an event involving unplanned contamination, safety equipment failures, personal injury to an individual with radioactive contamination of clothing or body, or fire or explosion. This immediate notification is necessary to inform the NRC of serious incidents in licensed facilities or activities. The information will be used by the NRC to determine whether immediate response or corrective action is needed to protect public health and safety.

Section 70.52(a) requires that a licensee report an accidental criticality to the NRC Operations Center within one hour of discovery. This immediate notification is necessary to promptly inform the NRC of particularly serious accidents at licensed facilities or activities. The information is evaluated by the NRC to determine whether any immediate response or corrective action may be necessary.

Section 70.52(b) requires that notifications for accidental criticality must be reported to the NRC Operations Center via the Emergency Notification System if the licensee is a party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any method that will ensure that a report is received by the NRC Operations Center within one hour. This immediate notification is necessary to permit the NRC staff to implement prompt action to determine whether to initiate prompt action in the event of accidental criticality.

Section 70.74 and Appendix A to Part 70 require each licensee to notify the NRC within one hour of discovery of certain events, this immediate notification is necessary to inform the NRC of incidents with potentially severe consequences in licensed facilities or activities. The information will be used by NRC to determine whether immediate response or corrective action is needed to protect public health and safety and to be prepared to respond to inquiries from the public and its representatives, the same justification applies to requiring licensees to notify the NRC as soon as possible but not more than 24 hours after discovery

of certain events defined in Appendix A. This notification is necessary to inform the NRC of incidents with serious but less than severe consequences, or of the potential for serious consequences, in licensed facilities or activities. The information will be used by the NRC to determine whether immediate response or corrective action is needed to protect public health and safety and to be prepared to respond to inquiries from the public and its representatives. One hour and 24 hour reports are to be followed by a written report within 30 days.

Retention periods for records range from three years to length of license, and retention periods are specified on Table 3. For example, the records in Section 70.32 permit the NRC regulatory staff to evaluate changes which a licensee has made, or proposes to make, in the material control and accounting and measurement control programs, the plan for physical protection of SNM in transit, and the physical security plan at a fixed site. They also provide a means of determining whether such changes involve a significant decrease in the effectiveness of the program or plan. Section 70.61 requires that each licensee establish and maintain records that demonstrate that its safety program satisfies performance requirements of Section 70.61 and that sufficient records of failure are maintained. This record is needed to facilitate inspection of items relied on for safety and to confirm the licensee's assumptions regarding the availability and reliability of items relied on for safety as originally evaluated in their safety program. Because a long performance history is needed to accurately evaluate reliability and maintenance performance and trends, these records are retained for the life of the facility.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

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

11. Sensitive Questions

None.

12. Estimated Burden and Burden Hour Cost

There are a total of 606 licensees responding to the information collection requirements in Part 70. All 606 respondents will engage in third party disclosures during the three year clearance period; however, only a subset of these licensees will participate in reporting (72 licenses) and recordkeeping (240 licensees) activities during this time period.

The total burden and costs are summarized below. Detailed burden estimates are shown in Supplemental Document #1, Burden worksheet for Part 70.

	Responses	Burden	Cost @\$265/hr
Reporting	774.0	81,781.0	\$21,671,965
Recordkeeping	240.0	7,371.0	\$1,953,315
Third Party Disclosure	606.0	70.1	\$18,577
TOTAL	1,620.0	89,222.1	\$23,643,857

13. Estimate of Other Additional Costs

The NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden and, therefore, can be used to calculate approximate records storage costs. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost. Because the recordkeeping burden is estimated to be 7,379.4 hours, the storage cost for this clearance is \$781 (7,371 hrs. x 0.0004 x \$265/hr.).

14. Estimate of Cost to the Federal Government

The estimated cost of NRC professional review and other efforts associated with the information collections in this clearance is \$9,646,000 (36,400 staff hours x \$265/hr.). This cost is fully recovered through fee assessments to the NRC licensees pursuant to Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost

The overall burden has decreased from 89,240.6 hours to 89,222.1 hours, a decrease of 18.4 hours. The change in the overall burden estimate is due to an adjustment in burden estimates for one reporting requirement and three recordkeeping requirements. These estimates were adjusted to more standard increments (for example, the estimate for 70.59 was updated from 0.2 to 0.25 hours and the estimate for 5.1 hours was updated to 5.0 hours). The overall change in burden was not substantial in light of overall Part 70 burden totals. The number of Part 70 licensees has not changed. The number of respondents and the number of responses remain unchanged from the previous submission.

In addition, there was an increase in professional cost from \$272/hr. to \$265/hr.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying Expiration Date

The recordkeeping and reporting requirement for this information collection are associated with regulations and are not submitted on instruments such as forms or surveys. For this reason, there are no data instruments on which to display an OMB expiration date. Further, amending the regulatory text of the CFR to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

None.

B. Collection of Information Employing Statistical Methods

Statistical methods are not used in this collection of information.

APPENDIX A
DESCRIPTION OF INFORMATION COLLECTION REQUIREMENTS CONTAINED IN
10 CFR PART 70
DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

(3150-0009)

Section 70.9(b) requires that an applicant or licensee notify the Commission of information which the licensee recognizes as having significant implications for the public health and safety or the common defense and security. This requirement applies only to information which is not covered by other reporting or updating requirements. The information must be provided within two working days.

This requirement is necessary because there may be some circumstances in which a licensee possesses some information which could be important to the protection of public health and safety or the common defense and security but which is not otherwise required to be reported. The codification of this full disclosure requirement should not result in significant additional burdens on applicants or licensees. No formal program is required. What is expected is that licensees will maintain a professional attitude toward safety and that if some potential safety information is identified by the licensee, the information will be provided freely and promptly to the NRC so that the agency can evaluate it and act on it if necessary.

Section 70.17(a) provides that the Commission may grant exemptions from the requirements of the regulations in Part 70 under specified conditions, upon the application of any interested person or on its own initiative. Applications under this section are examined by the NRC staff to determine whether the requested exemption is authorized by law and whether it will not endanger life or property or the common defense and security, and to determine if it is otherwise in the public interest.

Section 70.19(c)(2) requires that a calibration or reference source, or the storage container, bear a label containing the model number, serial number, name of manufacturer or initial transferor, and a statement that the source is subject to a general license and the regulations of the NRC or an Agreement State, as well as a caution statement warning of the radioactive contents. This information needs to be available on the device so that in the event it is lost, anyone finding it will be aware of its hazards and whom to contact or, if there is an accident, the appropriate party may be contacted for vital information to determine the degree of possible hazard.

Section 70.20a(d) requires that any person who possesses formula quantities of strategic SNM under the general license established in Section 70.20a submit and receive NRC approval of a transportation security plan. The plan must outline the procedures that will be used to meet the requirements of specified sections of Part 73, including a plan for the selection, qualification, and training of armed escorts, or the specification and design of a specially designed truck or trailer as appropriate. This information will be reviewed by the NRC staff to ensure that the transportation plan is sufficient to protect the material being transported.

Section 70.20a(e) requires that any person who possesses irradiated reactor fuel under the general license of Section 70.20a must comply with the reporting requirements of Section 73.71. The reports will be used by the staff in the Regional Office to ensure appropriate physical protection of irradiated reactor fuel in transport. In addition, in the event of an unaccounted-for shipment, suspected theft, unlawful diversion, radiological sabotage or event which significantly threatens or lessens the effectiveness of the physical protection of irradiated reactor fuel in transport, the NRC Operations Center must be notified so that appropriate contingency plans can be put into operation. The reporting requirements of Section 73.71 have been previously cleared under the Office of Management and Budget (OMB) No. 3150-0002, which should be referred to for burden, cost, and further supporting data.

Section 70.20b(f) requires that persons generally licensed under Section 70.20b who plan to carry transient shipments with scheduled stops at U.S. ports must notify the NRC in writing, 10 days in advance of shipment, of all scheduled stops in U.S. territory, arrival and departure times, the type of transport vehicle, the SNM contained in the shipment, the number and types of containers, the name and telephone number of the carrier's representative at each stopover location in U.S. territory, assurance of protection for shipments between countries that are not party to the Convention on Physical Protection of Nuclear Material, and a physical protection plan for implementing the requirements of Section 70.20b(c), including use of armed personnel to protect the shipment while in a U.S. port. Licensees must also notify the NRC by telephone that such a notification has been sent, and must provide any changes to shipment itinerary. This information will be reviewed by the NRC staff to ensure that the transportation plan is sufficient to protect the material being transported.

Section 70.20b(g) requires that persons generally licensed under Section 70.20b making unscheduled stops at U.S. ports must immediately provide to NRC the information required under Section 70.20b(f). This information will be reviewed by the Safeguards staff to ensure that the transportation plan for transient shipments of formula quantities of SNM with unscheduled stops at U.S. ports is sufficient to protect the material being transported.

Sections 70.21(a), 70.22, 70.33, and 70.34 sets forth the requirements for filing a license application. Section 70.21(a) specifies the methods for filing applications, the places to file the applications and the number of copies required. Section 70.22 specifies the information that each license application must contain. Section 70.22(a) applies to all licenses and requires that applicants submit basic information such as their organizational structure, the quantity of SNM to be used, the use of the material, and a description of the equipment, facilities and procedures to be used to protect the public health and safety. Sections 70.22(b) and 70.22(f) through (k) require additional information from applicants for major licenses related to control and accounting for SNM, design for natural phenomena, quality assurance, physical protection for the plant and during transportation of material, and emergency plan. The NRC does not provide a license application form or other specific format to licensees submitting license applications.

Section 70.22(d) provides that the NRC may require further statements after the filing of the application and before expiration of the license to enable the NRC to determine whether the application should be granted or denied or whether a license should be modified or revoked. Such additional information is sometimes needed to clarify information submitted in the application, or to rectify deficiencies in proposed or existing programs for protection of the public health and safety, the common defense and security, or the environment. Sections 70.33 and 70.34 state the requirements for license renewals and amendments. Part 70 licenses are issued for a period of up to forty years. Thus, prior to expiration an application for renewal of the license must be submitted by each licensee. Major fuel cycle facility licensees are required to provide updates of the Integrated Safety Analysis (ISA) every year. Because Part 70 licenses cover a very broad range of uses, license applications vary from simple to complex. The information collection requirements in Section 70.22 reflect the differences in needed information for the various types of licenses.

The information submitted is reviewed by various NRC organizational units to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures and plans for protection of the public health and safety, common defense and security, and the environment. The NRC review and the findings derived therefrom form the basis for the NRC decisions concerning the issuance, modification or revocation of licenses for SNM.

Section 70.21(f) requires that an application for a license to possess and use SNM material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the human environment, must be filed nine months prior to construction and must be accompanied by an Environmental Report required under Part 51. The Environmental Report is reviewed by the NRC staff, and serves as a basis for the preparation by the NRC of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA), which gives detailed consideration to the environmental impacts associated with construction and operation of a proposed facility or conduct of the activity and assesses impacts in terms of the available alternatives. This information is necessary to permit the NRC to comply with the requirements of the National Environmental Policy Act of 1969. The burden and cost associated with this requirement are attributable to and have been previously cleared by OMB under Part 51, OMB No. 3150-0021, which should be referred to for further supporting information, burden and cost data.

Section 70.21(g) requires that, in response to a written request from the Commission, an applicant for a license to possess and use more than one effective kilogram of SNM shall file with the Commission the installation information described in Section 75.11. This information is required by the NRC in order for the United States to comply with the United States/International Atomic Energy Agency (IAEA) Safeguards Agreement. IAEA Form N-71, "Design Information Questionnaire," is used to collect this information. Section 75.11 has been previously cleared under OMB No. 3150-0055. IAEA Form N-71 has been previously cleared under OMB No. 3150-0056. Those clearances should be referred to for further supporting information, burden and cost data.

Section 70.21(h) requires that an application for a uranium enrichment facility contain

an environmental report in accordance with Part 51.

Section 70.22 sets forth the requirements for the contents of applications. Section 70.20(a) specifies the information each application must contain name, address, age, citizenship of applicant; need for SNM; period of time license requested; name, amount and specifications of SNM; technical qualifications; description of equipment and facilities; proposed procedures and contain a proposed decommissioning funding plan or a certification of financial assurance. The records and reports required are necessary for the Commission to determine whether an applicant has planned for and will be able to ensure that appropriate decontamination efforts will be taken to minimize exposure of workers to radioactive materials and to reduce the residual radioactive contamination sufficiently to protect the public health and safety and the environment. Section 70.22(b) must contain a full description of the applicants program for control and accounting of SNM to show compliance with requirements of Part 74. Section 70.22(e) each application shall contain complete and accurate disclosure of all things required to be disclosed. Section 70.22(f) requires each application to contain a description of safety assessment of design bases, quality assurance program, etc. Section 70.22(g) requires that the licensee retain the description of the plan for physical protection of SNM in transit and the safeguards contingency plan or safeguards response procedures, and each change to the plan or procedures, as a record for three years. Section 70.22(h) requires that the licensee retain a copy of the physical security plan and each change to it as a record for three years after the licensee last possessed the material. Section 70.22(i) requires that the licensee retain a copy of the plans for coping with emergencies as a record until the Commission terminates the license, and retain each change for three years. Section 70.22(j) requires that the licensee retain a copy of the safeguards contingency plan as a record until the Commission terminates the license, and retain each change for three years. Section 70.22(k) requires that the licensee retain a copy of the physical security plan as a record as long as the licensee possesses the material, and retain each change for three years. Section 70.22(m) requires that an application for a uranium enrichment facility involving the use of SNM include the applicant's provisions for public liability. This requirement allows the NRC to determine that the applicant meets the provisions of Public Law 101-575.

Section 70.24(a)(3) requires that licensees maintain emergency procedures for those areas subject to the criticality monitoring requirements of Section 70.24(a). These procedures are designed to assure that all personnel will withdraw to an area of safety upon the sounding of a criticality alarm. Further, the procedures include requirements for periodic drills to familiarize personnel with the evacuation plans, designation of responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in an emergency.

Section 70.25 sets forth the requirements for financial assurance and recordkeeping for decommissioning. Sections 70.25 (a) and (b) specify which licensees are required to submit a certification or funding plan. Sections 70.25(c) and (d) specify the criteria for financial assurance and the prescribed amounts required for certification of financial assurance for decommissioning, which increased the certification amounts in the final rule on Financial Assurance approve on October 3, 2004. Section 70.25(e) specifies that each decommissioning funding plan contain cost estimates which must be updated every three years. Section 70.25(f) specifies acceptable methods for

providing for financial assurance either through a certification or funding plan. Section 70.25(g) requires that licensees keep records important to the safe and effective decommissioning of the facility until the license is terminated by the Commission. Section 70.25(g)(1) requires that licensees keep records of spills or other unusual occurrences involving the spread of contamination that remains after cleanup, including information on involved nuclides, quantities, forms, and concentrations. Section 70.25(g)(2) requires that licensees keep records of as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes. Section 70.25(g)(3) requires that licensees list in a single document (to be held by the licensee and updated once every two years) identification of all restricted areas where licensed materials were used or stored, all areas outside of restricted areas where documentation is required under Section 70.25(g)(1) for unusual occurrences or spills, and all areas outside of restricted areas where waste has been buried or containing material such that, if the license expired, the licensee would be required to decontaminate the area or seek special approval for disposal. This listing must be updated and maintained for the life of the license. Section 70.25(g)(4) requires that licensees keep records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used.

The records and reports required by Section 70.25 are necessary for the Commission to determine whether an applicant will be able to decontaminate licensed premises to a level suitable for release for unrestricted use before the license may be terminated. The NRC will review the information to ensure that adequate funds will be available to ensure that the applicant will conduct decontamination efforts in a timely manner and minimize exposure of workers to radioactive materials. The information will also be used to ensure that the decontamination efforts will reduce the residual radioactive contamination sufficiently to protect the public health and safety after the license is terminated.

Section 70.32(a)(9) requires each licensee to notify the NRC by mail immediately following the commencement of a bankruptcy proceeding by or against the licensee. No action is required of a licensee unless and until a bankruptcy petition is filed.

Notification of the NRC in cases of bankruptcy would alert the Commission so that it may deal with potential hazards to the public health and safety posed by a licensee that does not have the resources to properly secure the licensed material or clean up possible contamination. The information provided by the required notification would be used by the inspection and licensing staff, in consultation with legal and program staff, to initiate a determination of the need for prompt NRC response or regulatory action. In addition, prompt notification would allow the NRC to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of site cleanup before funds are disbursed and become unavailable for cleanup.

Sections 70.32(c), (d), (e), (g), and (i)

The application, record keeping, and reporting requirements in Section 70.32 permit the NRC regulatory staff to evaluate changes which a licensee has made, or proposes to

make, in the material control and accounting and measurement control programs, the plan for physical protection of SNM in transit, and the physical security plan at a fixed site. They also provide a means of determining whether such changes involve a significant decrease in the effectiveness of the program or plan.

Section 70.32(c) requires that each licensee authorized at any one time and location to possess and use a quantity exceeding one effective kilogram of SNM maintain and follow: (1) a program for the control of and accounting for SNM meeting the requirements in specified Sections of Parts 70 and 74; (2) a measurement control program meeting the requirements contained in specific sections of Parts 70 and 74; and (3) such other material control procedures as the Commission determines to be essential for the safeguarding of SNM. This section also provides that a licensee shall make no change to these plans which would decrease the effectiveness of the material control and accounting program or the measurement control program without the prior approval of the Commission. A licensee desiring to make such changes is required to submit an application for amendment to the license. A licensee is required to maintain records of changes to these programs made without prior Commission approval and to inform the Commission of each change within a specified period of time after the change is made. Burden for records maintained under 70.32(c) are captured under the clearance for Part 74 (OMB clearance #3150-0123).

Section 70.32(d) provides that a licensee making shipments of SNM shall make no change which would decrease the effectiveness of the plan for physical protection of the material without prior approval of the Commission. A licensee desiring to make such changes is required to submit an application to the Commission. A licensee is required to inform the Commission of each change within a specified period of time after the change is made. The licensee must retain a copy of the plan as a record as long as the licensee possesses the material and must retain changes to the plan for three years.

Section 70.32(e) provides that a licensee who possesses or uses SNM at any given site shall make no change which would decrease the effectiveness of its physical security plan without prior approval of the Commission. A licensee desiring to make such a change is required to submit an application to the Commission. A licensee is required to maintain records of changes to the plan made without prior Commission approval and to inform the Commission of each change within a specified period of time after the change is made.

Section 70.32(g) requires a licensee to prepare and maintain safeguards contingency plan procedures in order to effect the actions and decisions contained in the safeguards contingency plan and to make no changes which decrease the effectiveness of the plan without prior approval of the Commission. A licensee desiring to make such changes is required to submit an application to the Commission. A licensee is required to maintain records of changes to the plan made without prior Commission approval and to inform the Commission of each change within a specified period of time after the change is made.

Section 70.32(i) requires those licensees engaged in fuel processing and fabrication, scrap recovery, or conversion of uranium hexafluoride, to follow and maintain in effect an emergency plan approved by the Commission. Licensees may make changes to the

approved plan without prior Commission approval only if such changes do not decrease the effectiveness of the plan and the plan as changed continues to meet specified requirements. Licensees are required to submit a report to the Commission which describes each change made to the plan within six months after the change is made. Licensees desiring to make changes that would decrease the effectiveness of the approved emergency plan are required to submit an application to the Commission for approval.

Section 70.33(a) requires that licensees notify the Commission for filing of license renewal applications in accordance with Sections 70.21 and 70.22. Information contained in previous applications, statements or reports filed with the Commission maybe incorporated by reference.

Section 70.34 requires that licensees notify the Commission to amend license applications in accordance with Section 70.21(a) and shall specify how the license will be amended and the grounds for the amendment.

Section 70.36 requires that no license that is granted under Part 70 and no right to possess or utilize SNM granted by any license issued pursuant to Part 70 shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall after securing full information, find that the transfer is in accordance with the Atomic Energy Act of 1954 (68 Stat 919), including any amendments thereto, and shall give its consent in writing. 70.36(b) provides the requirements for an application for a transfer of license. The burden for this requirement is included in the burden for Section 70.21(a).

Section 70.38(d) requires that each licensee notify the Commission in writing within 60 days if: (1) the license has expired, (2) the licensee decides to cease principal activities, (3) no principal activities have been conducted for 24 months at the site or, (4) no principal activities have been conducted for 24 months in any separate building or outdoor area suitable for unrestricted used. If the licensee is required to have a decommissioning plan, such plan must be submitted within 12 months of notification.

This information is needed to enable the Commission to ensure that plans for decommissioning adequately protect the environment and the health and safety of the public.

Section 70.38(e) permits the licensee, following approval of the decommissioning plan, to reduce the amount of financial assurance as decommissioning proceeds. The NRC reviews any request for reduction of the amount of financial assurance to verify that the licensee will have adequate funds to ensure that its facility will be clear of all radioactive material and, consequently, suitable for unrestricted use.

Section 70.38(f) permits the NRC to grant a request to delay or postpone initiation of a licensee's decommissioning process. Licensees are required to submit such requests no later than 30 days before notification of decommissioning actions and plans required by Section 70.38(d) so that the NRC can review the request to determine if such relief is not detrimental to public health and safety.

Section 70.38(g)(1) requires that licensees submit a decommissioning plan if required by license condition or the decommissioning procedures and activities have not previously been approved by the NRC and the procedures could increase potential health and safety impacts to workers or the public. Submittal of the decommissioning plan is necessary for the NRC to evaluate any health and safety impacts.

Section 70.38(g)(2) provides for the NRC approval of an alternate schedule for submittal of a decommissioning plan. The NRC will review the alternate schedule to determine if it is necessary for the effective conduct of decommissioning operations and presents no undue risk from radiation to public health and safety.

Section 70.38(g)(4) requires that the decommissioning plan include: (1) a description of the current conditions of the site, building, or outdoor area to be decommissioned, (2) a description of planned decommissioning activities, (3) a description of methods to protect workers and the environment against radiation hazards during decommissioning, (4) a description of the planned final radiation survey, (5) an updated detailed cost estimate for decommissioning, comparison of that estimate with current funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning, and (6) a justification for a delay in completing decommissioning later than 24 months after plan approval.

This information is needed by the Commission to more fully assess the risk of the environmental impact of decommissioning activities and to plan its involvement in decommissioning oversight and ultimate termination of the license or modification of the license to exclude the decommissioned areas. It is also needed to determine whether a delay in decommissioning warrants relief and is in the public interest. The burden for this requirement is included in the burden for Section 70.38(g)(1) above.

Section 70.38(i) provides for the NRC approval of an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate. The NRC will review the alternate schedule to determine if it is necessary for the effective conduct of decommissioning operations and presents no undue risk from radiation to public health and safety. Any burden associated with this

section has been previously cleared by OMB under OMB 3150-0028.

Section 70.38(j) contains the information that licensees must submit to the NRC as the final step in decommissioning. This includes certifying the disposition of all licensed material, on NRC Form 314 or equivalent, and submitting a report on the results of a survey of the premises. This information is necessary for the NRC to evaluate whether the license is suitable for termination. This requirement has been approved by OMB under clearance number 3140-0028.

Section 70.39(a) requires that an applicant for a specific license to manufacture or initially transfer calibration or reference sources containing plutonium, for distribution to general licensees, must submit information concerning the form and quantity of the plutonium, details of construction and design, method of incorporation and binding of the plutonium in the source, procedures for and results of prototype testing of sources, quality control procedures for manufacture of sources, description of labeling of sources or storage containers, and any additional information, including experimental studies and tests conducted. The information will be used by the NRC to determine the safety of the source.

Section 70.39(b) requires that licensees affix a label to each source or storage container which must provide information as to safe use and storage, a statement that the source contains radioactive material and is subject to a general license and regulations of NRC or an Agreement State, and the model number, serial number, and name of the manufacturer or initial transferor of the source. This information is necessary to put persons handling the device on notice that it contains radioactive material and is subject to regulation, and so that if the source is lost or there is an accident, the appropriate party may be contacted for vital information to determine the degree of possible hazard.

Section 70.42(c) requires that, before transferring SNM to a specific licensee or a general licensee who is required to register prior to receipt, the transferor must verify that the transferee's license authorizes receipt of the type, form, and quantity of SNM to be transferred.

Section 70.42(d) specifies methods acceptable to the Commission for accomplishing the required verification, including:

- (1) The transferor may have in his possession, and read, a copy of the transferee's specific license or registration certificate.
- (2) The transferor may have a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of SNM to be transferred, specifying the license or registration number, issuing agency, and expiration date.
- (3) For emergency shipments, the transferor may accept oral certification from the transferee, provided it is confirmed in writing within 10 days.
- (4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or Agreement State licensing

agency.

- (5) When other methods are not available, the transferor may obtain and record confirmation from the Commission or Agreement State licensing agency.

The information required by Sections 70.42(c) and (d) is used by transferring licensees to provide assurance that the licensed SNM is being transferred to a person who is authorized to receive it. This verification serves as an additional check to prevent transfer of SNM to persons who may not have the facilities, training, experience, equipment or procedures necessary for the safe handling of the material. Records of these certifications will be reviewed by the NRC inspectors during periodic inspections to ensure that licensees have been complying with verification requirements.

Section 70.50(a) requires each licensee to notify the NRC as soon as possible but not more than four hours after discovery of an event that prevents immediate protective actions necessary to avoid overexposure to or release of radioactive material. The information will be used by the NRC to determine whether immediate response or corrective action is needed to protect public health and safety.

Section 70.50(b) requires each licensee to notify the NRC within 24 hours after the discovery of an event involving unplanned contamination, safety equipment failures, personal injury to an individual with radioactive contamination of clothing or body, or fire or explosion. The information will be used by the NRC to determine whether immediate response or corrective action is needed to protect public health and safety.

Section 70.50(c) requires each licensee to provide information to the NRC by telephone and written reports. This information derives from Subpart H such as sequence of events and whether the event was evaluated in the ISA.

Section 70.50(c)(1) requires such information as: caller's name, position title and call back telephone number; description of the event; external conditions affecting the event; actions taken by the licensee; status of the event; notifications related to the event; status of any press release related to the event; the probable cause of the event; corrective actions taken or planned; and, for licensees subject to Subpart H of the part, whether the event was identified and evaluated in the ISA.

Section 70.50(c)(2) requires each licensee to submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if they contain the necessary information. These reports are used by the NRC to determine whether additional measures are necessary to protect the public health and safety and to determine whether patterns exist that might indicate poor design, fabrication, or operation requiring corrective action.

Section 70.51(a) requires that before license termination, licensees shall forward to the NRC Regional Office records of waste disposal of licensed material, results of measurements and calibrations used to evaluate radioactive effluents and records

important to decommissioning a facility.

Section 70.51(b) requires that if records identified in 70.51(a) are transferred or assigned in accordance with 70.32(a)(3), the licensee shall transfer the records to the new licensee and the new licensee becomes responsible for maintaining these records until license termination.

Section 70.52(a) requires that a licensee shall notify the NRC Operations Center within one hour of discovery of any case of accidental criticality.

Section 70.52(b) requires that a licensee must notify the NRC Operations Center via the Emergency Notification System if the licensee is a party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the require notification via commercial telephonic service or other method to ensure that a report is received by the NRC Operations Center within one hour.

Section 70.59 requires that each licensee authorized to possess and use SNM for processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or in a uranium enrichment facility, must submit semiannual reports to the NRC specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and gaseous effluents during the previous six months of operation, and such other information as the Commission may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. The reports will be reviewed by the NRC and, if releases are significantly above design objectives, a determination will be made as to whether it may be necessary to direct the licensee to take action to reduce such effluents to protect public health and safety.

Section 70.61(a) requires each licensee or applicant subject to Subpart H to evaluate, based on its ISA, whether it meets the safety performance criteria of Section 70.61 paragraphs (b), (c), and (d).

Section 70.61(f) requires each licensee to establish a controlled area within which the licensee may permit persons to perform work not subject to the NRC licensing, in addition to radiation workers, provided the licensee either: (1) evaluates the risk to those persons and determines that it is no greater than the criterion for members of the general public, or (2) ensures that those person are aware of the risks to them from the potential accidents at the nuclear facility and have received appropriate training and access to the information.

Section 70.62(a) requires that each licensee establish and maintain records that demonstrate that its safety program satisfies performance requirements of Section 70.61 and that sufficient records of failure are maintained. This record is needed to facilitate inspection of items relied on for safety and to confirm the licensees assumptions regarding the availability and reliability of items relied on for safety as originally evaluated in their safety program. Because a long performance history is needed to accurately evaluate reliability and maintenance performance and trends, these records should be retained for the life of the facility.

Section 70.62(b) requires each licensee to complete and maintain a set of process safety information. This information is needed to enable the licensee to perform a proper ISA. Although not explicitly stated in the regulations, the process safety information used to support an ISA should be retained as long as the ISA that it supports is still valid.

Section 70.62(c)(3)(i) requires existing licensees to submit for NRC approval a plan that describes the ISA approach that will be used, the processes that will be analyzed, and the schedule for completing the analysis of each process. This requirement is needed to ensure, in the early stages of development, that the licensees will develop ISAs that are compatible with the rule requirements. All existing licensees have submitted a plan to the NRC for approval by the date required, April 18, 2001.

Section 70.62(c)(3)(ii) requires existing licensees to perform an ISA, correct all unacceptable deficiencies identified in the ISA, and submit a summary of the ISA. All licensees have or will have submitted their ISA Summary (ISAS) by October 2004. The predicted effort remaining is that of the licensee's response to the NRC's Requests for Additional Information.

Section 70.62(d) requires each applicant or licensee to establish management measures to provide continuing assurance of compliance with the performance requirements of Section 70.61. Management measures include: 1) configuration management; 2) maintenance; 3) training and qualifications; 4) procedures; 5) audits and assessments; 6) incident investigations; 7) records management; and 8) other quality assurance elements.

Section 70.64(a) requires all applicants for licenses for new facilities to address baseline design criteria in the design of those facilities. Existing licensees must address these criteria in the design of new processes at existing facilities that require a license amendment, but are not required to retrofit existing facilities or processes. Licensees must maintain the application of these criteria unless an evaluation demonstrates that a given item is not relied on for safety or does not require adherence to the specified criteria. Quality assurance records of items relied on for safety must be maintained for the life of the facility.

Section 70.65(a) states that in addition to the contents of license applications required by Section 70.22, each application for a license to possess a critical mass of SNM for use in the activities described in Section 70.60, must contain a description of the applicant's safety program established under Section 70.62, including the integrated safety analysis summary and a description of management measures that ensure items relied on for safety will be available and reliable when needed to perform their safety function.

Section 70.65(b) requires that the ISAS be submitted to the NRC, with a license or renewal or amendment application, and prescribes the content of the summary.

Section 70.72(a) requires the licensee to establish a configuration management system to evaluate, implement and track changes. It also requires the licensee to

develop written procedures that assure each change is adequately analyzed. The purpose of this requirement is to cause the impact of changes on health and safety to be properly considered and to cause licensee personnel to get the information about changes needed for them to conduct their work safely.

Section 70.72(d)(1) requires that for any changes that affect the ISAS and that require the NRC pre-approval, the licensee shall submit to the NRC revised pages to the ISAS in the form of an amendment request per Section 70.34.

Section 70.72(d)(2) requires that for any change that does not require pre-approval, the licensee shall submit a brief summary of all the changes within 30 days after the end of the calendar year during which the changes occurred.

Section 70.72(d)(3) requires licensees to submit to the NRC every 12 months a brief summary of all changes to the records that demonstrate compliance with the requirements of Sections 70.62(b)-(d) that did not require prior NRC approval. This would allow the NRC staff to review the changes being made to the facility in enough time to ensure that the licensee's evaluations of potential impacts to health and safety were accurate.

Section 70.72(e) requires that on-site documentation be promptly updated for changes covered by Section 70.72.

Section 70.72(f) requires that each licensee maintain records of changes to its facility carried out under Section 70.72. These records must include a written evaluation that provides the bases for the determination that the changes do not require prior Commission approval. These records must be maintained until termination of the license in order that they be available to support any incident investigations that may arise in the future.

Section 70.73 lists the regulations that apply to license renewal applications.

Section 70.74(a) requires each licensee to report all events described in Part 70, Appendix A, to the NRC Operations Center, including supplemental information as it becomes available. This information is needed to allow the NRC oversight of ongoing incidents and to allow the NRC to be able to respond to public inquiries about the incident. The provided information must include a description of the event and other information specified in Section 70.50(c)(1). Each licensee also must provide reasonable assurance that reliable communication with the NRC Operations Center is available during each event.

Section 70.74(b) requires each licensee who makes a report required by Section 70.74(a)(1) to provide a written report within 30 days of the initial report. The written report must contain the information prescribed in Section 70.50(c)(2). This information is needed to permit future NRC review of the effectiveness of licensee actions and history of incidents.

Part 70, Appendix A specifies the events requiring reporting through one-hour and 24-hour reports, as required by Section 70.74.

APPENDIX B

PRIMARY GUIDANCE DOCUMENTS ASSOCIATED WITH INFORMATION COLLECTIONS
CONTAINED IN
10 CFR PART 70
DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

(3150-0009)

Guidance Document	Link
NUREG-1520: "Standard Review Plan for Fuel Cycle Facilities License Applications"	https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1520/
NUREG-1556: "Consolidated Guidance About Materials Licenses"	https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/
NUREG 1065: "Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Facilities."	https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1065/
Regulatory Guide 5.70: "Guidance for the Application of the Theft & Diversion Design Basis Threat in the Design, Development, and Implementation of a Physical Security Program that Meets CFR 73.45 and 73.46"	RG 5.70 contains classified information. Therefore, this RG is being withheld from public disclosure, but is available to those affected licensees and cleared stakeholders who qualify for access and have a demonstrated need to know.