

DRAFT SUPPORTING STATEMENT
FOR
10 CFR PART 110
EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL
(3150-0036)

EXTENSION

DESCRIPTION OF THE INFORMATION COLLECTION

All persons who wish to export or import nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a must provide certain information collection elements to enable the U.S. Nuclear Regulatory Commission (NRC) and the Executive Branch to make required export and import licensing determinations to ensure compliance with NRC regulations and to satisfy statutory requirements of the AEA.

Some of the information collected is pre-shipment notification data including:

- license number (as appropriate) being used,
- shipper name and contact information,
- the radionuclide(s) being shipped,
- the destination address,
- the end use,
- the proposed date of shipment, and
- documentation that demonstrates authority to receive/possess the material being shipped.

To assist the respondent in generating and submitting the advanced notification, NRC developed optional NRC Forms 830 and 830A, "Report of Import and Continuation Sheet," and NRC Forms 831 and 831A, "Report of Export and Continuation Sheet." Use of the NRC forms is optional, as many respondents have developed their own forms. However, submitting timely and accurate notifications is not optional.

In instances where data is missing or incorrect, staff will attempt to contact respondents to obtain the data. In some instances, enforcement action is taken to bring the respondent into compliance with the notification requirement.

A. JUSTIFICATION

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

The NRC, under the Atomic Energy Act of 1954, as amended (AEA), and Title II of the Energy Reorganization Act of 1974, as amended, has authority for exercising export and import controls over nuclear equipment and material as specified in Title 10 of the *Code of Federal Regulations* (10 CFR), §§ 110.8, 110.9, and 110.9a. Any person who wishes to export or import nuclear equipment and material under the provisions in 10 CFR Part 110 must provide certain information collection elements to enable the NRC and the Executive Branch to make required export and import licensing determinations.

For specific information collection requirements, see Appendix A.

2. Agency Use of Information

The information submitted pursuant to 10 CFR Part 110 is necessary to ensure that nuclear equipment and material are being exported/imported to licensed entities, and only to the entities listed on the license. The NRC ensures the information is complete, accurate and timely. If not, staff often contact the licensee and asks that they correct the information. A failure of any of these criteria can lead to Enforcement action. Each record is reviewed for accuracy and filed by the licensee. In addition, all import records subject to this requirement are reviewed and logged into an electronic spreadsheet.

The requirement of § 110.7a (a), that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects is essential to ensure that licensees not withhold or misrepresent material facts which could impact a license determination.

The notification requirement in § 110.7a (b) enhances the capability of the Commission to respond rapidly and effectively if such a threat were to materialize on a regulated activity.

The requirement in § 110.50(b)(3) states that unless a license specifically authorizes the export of certain foreign-obligated nuclear material or equipment, a licensee may not ship such material or equipment until the licensee has requested and the Commission has issued an amendment to the license authorizing such shipment; or the licensee has given at least 40 days advance notice of the intended shipment in writing to the Deputy Director, Office of International Programs (OIP); and the Deputy Director, OIP has obtained confirmation, through either the Department of Energy or State, that the foreign government in question has given its consent to the intended shipment pursuant to its agreement for cooperation with the United States; and communicated this in writing to the licensee.

Prior notification of shipments of radioactive materials listed in Appendix P required by § 110.50(c) is used to track this material within the U.S. and to detect any diversions of the material.

Shipment records required by § 110.53(b) are used for NRC inspection to ensure compliance with regulations and are necessary in connection with prospective enforcement actions against possible violators of 10 CFR Part 110.

The requirement in § 110.54(b) to submit annual reports of americium and neptunium exported under general license provide the NRC with data which the U.S. Government must report to the International Atomic Energy Agency (IAEA).

The requirement in Section 110.54(c) to submit annual reports of components exported under general license provide NRC with additional assurance against the improper accumulation of sensitive components in the country of import.

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 facsimile or by e-mail. It is estimated that approximately 95% of the responses are filed electronically. The mandatory prior notifications under § 110.50(c) can be submitted electronically, and optional reporting forms for import and export notifications are now available from the NRC web site. All of these notifications are now being transmitted to the NRC either by telefax or e-mail.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements.

The U.S. Department of Energy's (DOE) reporting requirements under 10 CFR Part 810 and the NRC's reporting requirements under 10 CFR Part 110 are for entirely separate purposes and there is no overlap in the information that must be reported to DOE or NRC. The DOE regulations at 10 CFR Part 810, "Assistance to Foreign Atomic Energy Activities" pertain to the export of unclassified nuclear technology and assistance (provision of information or technical services) to foreign destinations. The NRC's 10 CFR Part 110 regulates the export of actual nuclear materials, radioactive sources and/or nuclear facilities/equipment (physical commodities) to foreign destinations. NRC reporting records come from private companies that use radioactive materials. DOE's records are derived from government-funded and licensed entities.

5. Effort to Reduce Small Business Burden

The requirements specified in 10 CFR Part 110 are the same for large and small businesses, because the proliferation and policy concerns are the same; thus, all businesses must provide the same data. The NRC staff estimates that less than 10% of all businesses subject to the information collections in this Part are small businesses.

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

Failure to provide complete and accurate information on all applications as specified in § 110.7a could result in an unreliable applicant obtaining an import or export authorization.

Failure to fully comply with § 110.7a(b) could result in a licensee not providing information that has significant implications for public health and safety or common defense and security.

Failure to fully comply with §§ 110.8, 110.9, and 110.9(a) could result in unauthorized and unregulated import or export of material and equipment subject to NRC licensing jurisdiction.

If the collection in § 110.50(a)(8) is less frequent, the licensee could possibly ship improperly packaged nuclear materials which may endanger the health and safety of the public.

If the collection in § 110.50(b)(3) is less frequent, the U.S. Government might violate the provisions of U.S. bilateral agreements with other Governments. The report is not frequently required because the origin of the material is normally identified before the export license is issued, and, accordingly, is authorized for export on the face of the license.

The records maintained in § 110.53 are largely common business records and do not contain any special requirements; therefore, the regulatory impact is minimal. If the information is provided less frequently, the NRC would be unable to verify compliance with requirements in a timely manner.

The reporting requirements in § 110.54 provide trade statistics for strategic exports and support international obligations to report certain exports under general license authorizations. The information requested in § 110.54(b) must be collected on a yearly basis to comply with a U.S. Government reporting commitment to the IAEA. The reporting requirement in § 110.54(c) is reasonable and less burdensome on exporters than submitting specific license applications.

7. Circumstances Which Justify Variation from OMB Guidelines

The reason for retaining records for five years for each export or import except for byproduct material, where records shall be retained for three years, is that these exports or imports are relatively more important with respect to nuclear nonproliferation.

Requiring the applicant or licensee to notify the Commission within two days of identifying information having a significant implication for public health and safety or common defense and security on a regulated activity enables the Commission to respond rapidly and effectively to a threat to the public health and safety or the common defense and security. This collection requirement is contained in other parts of NRC's regulations. No notifications are expected.

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

Not applicable.

12. Estimated Burden and Burden Hour Cost

There are approximately 86 record keepers for exporters/importers of nuclear material and equipment. The following table illustrates how many burden hours are used for reporting and recordkeeping:

Activity	Reg Section	No. of Respondents	Responses	Hrs per response	Total Hrs
Public health and safety or common defense and security notifications within two working days	110.7a	1	1	0.5	0.5
Importing formula quantities of strategic special nuclear material under this general license	110.27(d)	1	0	0	0
Preparing pertinent documentation for exports of Category 1 and Category 2 quantities of Byproduct material listed in Table 1 To Appendix P	110.32(g)	19	3,000	0.1	300
Notification that Package requirements have not been met	110.50(a)(8)	1	1	0.5	0.5
Submitting an amendment authorizing a shipment; submitting an advanced notice and filing the written confirmation	110.50(b)(3)	1	15	1	15
Preparing an Advanced Shipment notification using Custom form	110.50(c)	10	1,500	0.4	600
Preparing an Advanced Shipment notification using NRC Form 830, 830A, 831, or 831A	110.50(c)	9	1,500	0.4	600

Time spent conferring with licensing staff and possibly responding to an Enforcement allegation	110.50(c)	20	20	5	100
Additional information from licensee to determine if license should be suspended or revoked	110.52(b)	1	1	0.5	0.5
Annual report of Americium and Neptunium shipments	110.54(b)	24	24	2	48
Annual report of nuclear component shipments	110.54(c)	20	20	2	40
TOTAL		107	6,082		1,705

The estimated annual burden for this collection is 1,812 hours (1,705 hours reporting and 107 hours recordkeeping). The total cost for the collection is \$498,300 (1,812 hours x \$275.00/hr). See tables 1 – 3 for a detailed breakdown of licensee burden for each requirement under Part 110.

The \$275 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission’s fee for hourly rates as noted in 10 CFR 170.20 “Average cost per professional staff-hour.” For more information on the basis of this rate, see the Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018 (83 FR 29622, June 25, 2018).

13. Estimate of Other Additional Costs

For licensees subject to 10 CFR Part 110, it is most likely that any purchases of equipment and services were made before October 1, 1995, in order to achieve regulatory compliance with requirements not associated with this information collection, for reasons other than to provide information or keep records for the government, or as part of customary and usual business or private practices.

NRC estimates that the storage and equipment costs for licensees subject to this information collection are approximately \$22.50 per license, based on a rate of \$45.00 per square foot of filing space. The recordkeeping burden is roughly proportional to the quantity of records to be maintained. Based on the number of active licenses issued annually, the total annual records storage cost is estimated to be equal to the per license rate of (\$22.50) x (86 record keepers) x (an average of 1.16 licenses issued per year per record keeper) x (5 years of required record retention) or \$11,223.00.

14. Estimated Annualized Cost to the Federal Government

The staff has developed estimates of annualized costs to the Federal Government related to the conduct of this collection of information. These estimates are based on

staff experience and subject matter expertise and include the burden needed to review, analyze, and process the collected information and any relevant operational expenses.

The staff has recently completed a biennial review of the actual hours expended in the review and issuance of all import and export licenses processed during the past two years. According to timekeeper data compiled for this activity, OIP charged 319 hours annually. In addition, an estimated 249 hours were expended reviewing advanced notifications of shipments. Therefore, the annualized cost to the Federal Government related to the conduct of this collection of information is \$156,200 (319 + 249 x \$275/hour).

Table 4 summarizes costs to the NRC for processing information under this collection.

15. Reasons for Changes in Burden or Cost

The estimated annual public burden increased by 883 hours from 929 hours up to 1,812 hours. The annual responses increased by 3,244 responses, from 2,945 responses to 6,189 responses. There have been no changes to the requirements under 10 CFR Part 110 that would affect public burden. One change was made to the table listing the estimated hours per response. The category for responses using no forms was removed and those records were combined with responses sent in either on NRC forms or custom forms. The NRC also increased the estimated number of annual responses in the table to reflect an increase in annual activity subject to the notification requirement. The number of individual respondents decreased by 29, from 136 to 107 from the previous review cycle. The main reason for the reduction in respondents is the expanded use of x-ray devices in place of cesium-137 irradiators in the US, and the resulting reduction in export authorizations needed to return disused cesium-137 sources to the supplier in Canada.

The primary reason for the modest increase in responses is due to a different method of estimating the total number of annual responses. The actual number of advanced notifications required in 110.50(c) and submitted by respondents for the most recent yearly quarter was aggregated and then multiplied by four to represent annual responses. The method used previously resulted in less reliable estimates.

Use of the NRC notification forms continues to increase as new respondents are encouraged to use the standard form and not to develop their own forms. Respondents who ship radioisotopes with shorter half-lives must submit many more notifications than respondents who ship radioisotopes with longer half-lives and benefit the most from development of custom forms or other automated notification capabilities. The NRC notification forms only became available years after the notification requirement was implemented. As a result, some respondents are reluctant to adopt use of the form as it would be of no benefit to their operations. However, new respondents prefer to use NRC forms, as they serve as a template for the required data elements and therefore reduces errors.

The cost increase also reflects an increase in the annual labor cost for reactor and materials licensees from \$263 to \$275 per hour.

There have been no regulatory changes made that would result in a change in the information being collected. In light of a recent change to eliminate processing fees for

licenses, minor changes will be made to the instructions on the NRC Form 7. There are no changes needed to the other NRC forms used to obtain information.

16. Publication for Statistical Use

NRC does not perform statistical analysis of the submissions. The records are reviewed for accuracy and compliance with the regulation. The records are not published or made public.

17. Reason for Not Displaying the Expiration Date

The NRC displays the expiration date of the collection of information on the forms used for submitting notifications of exports and imports subject to this requirement. The annual reporting requirement has no forms and is contained in a regulation. Amending the *Code of Federal Regulations* to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

APPENDIX A

Information Collections Requirements in 10 CFR Part 110 as follows:

Section 110.7a(b) requires that each applicant or licensee notify the Administrator of the appropriate NRC Regional Office within two working days of identifying any information that has a significant implication for public health and safety or common defense and security on a regulated activity.

Section 110.27(d) requires notification by a person importing formula quantities of strategic special nuclear material under this general license.

Section 110.32(g) states that a licensee prepares pertinent documentation for exports of Category 1 and Category 2 quantities of Byproduct material listed in Table 1 To Appendix P.

Section 110.50(b)(3) states that unless a license specifically authorizes the export of certain foreign-obligated nuclear material or equipment, a licensee may not ship such material or equipment until the licensee has requested and the Commission has issued an amendment to the license authorizing such shipment; or the licensee has given at least 40 days advance notice of the intended shipment in writing to the Deputy Director, Office of International Programs (OIP); and the Deputy Director, OIP has obtained confirmation, through either the U.S. Department of Energy or State, that the foreign government in question has given its consent to the intended shipment pursuant to its agreement for cooperation with the United States; and communicated this in writing to the licensee.

Section 110.50(c) states that a licensee authorized to export or import the radioactive material listed in Appendix P to 10 CFR Part 110 is responsible for notifying NRC and, in cases of exports, the government of the importing country in advance of each shipment. A list of points of contact in importing countries is available at NRC's OIP Web site, accessible on the NRC Public Web site at <http://www.nrc.gov>.

NRC Form 830 "Report of Import" (and continuation sheet 830A) is a voluntary form that licensees may use to comply with the requirements of § 110.50(c) and report the import of radioactive material. NRC Form 831 "Report of Export" (and continuation sheet 831A) is a voluntary form that licensees may use to report the export of radioactive material. These forms are designed to assist licensees in complying with the reporting requirement.

Section 110.52(b) states that the Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

Section 110.53(b)(1) states that each license applicant or licensee (general or specific) shall maintain records concerning its exports or imports. The licensee shall retain these records for five years after each export or import except that byproduct material records must be retained for three years after the date of each export or import shipment.

Section 110.53(b)(2) states that records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. The record may also be stored in electronic media with the capability for producing legible, accurate, and

complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Section 110.54(a) states that reports of exports of nuclear facilities and equipment, nuclear grade graphite for nuclear end use, and deuterium shipped during the previous quarter must be submitted by licensees making exports under the general license or specific license of this part by January 15, April 15, July 15, and October 15 of each year on Forms AP–M, “Exports of specified equipment and non-nuclear material” or AP–13, “Exports of specified equipment and non-nuclear material”, and associated forms, submitted to OMB by U.S. Department of Commerce, Bureau of Industry and Security, and cleared under #0694-0135. The reports must contain information on all nuclear facilities, equipment, and non-nuclear materials (nuclear grade graphite for nuclear end use and deuterium) listed in Annex II of the Additional Protocol.

Section 110.54(b) states that persons making exports under the general license established by § 110.23(a) or under a specific license shall submit by February 1 of each year one copy of a report of all americium and neptunium shipments during the previous calendar year. This report shall be submitted to the Deputy Director, Office of International Programs, at the address provided in § 110.4. The report must include a description of the material, including quantity in terabecquerels and grams, approximate shipment dates and a list of recipient countries, end users, and intended use keyed to the items shipped.

Section 110.54(c) states that persons making exports under the general license established by § 110.26(a) shall submit by February 1 of each year one copy of a report of all components shipped during the previous calendar year. This report shall be submitted to the Deputy Director, Office of International Programs, at the address provided in § 110.4. This report must include a description of the components keyed to the categories listed in Appendix A to 10 CFR Part 110, approximate shipment dates, and a list of recipient countries and end users keyed to the items shipped.

**TABLE 1.
ANNUAL REPORTING BURDEN**

Section	Description	Number of Respondents	Responses	Burden Per Response	Burden Hours	Cost at \$275/hr
110.07(a)	Public health and safety or common defense and security notifications within two working days	1	1	0.5	0.5	138
11027(d)	Importing formula quantities of strategic special nuclear material under this general license	1	0	0	0	0
110.32(g)	Preparing pertinent documentation for exports of Category 1 and Category 2 quantities of Byproduct material listed in Table 1 To Appendix P	19	3,000	0.1	300	82,500
110.50(a)(8)	Requirement to notify the Commission if they believe packaging requirements of part 71 have not been met	1	1	0.5	0.5	\$138
110.50(b)(3)	Procedures for exports with foreign obligations attached to the material	1	15	1	15	\$ 4,125
110.50(c) - Custom form	Identifies the data elements and timing of submitting advanced	10	1,500	0.4	600	165,000

110.50(c) - with NRC forms ¹	notifications of shipments, either using custom forms or NRC forms	9	1,500	0.4	600	\$165,000
110.50(c) - add'l follow-up	Identifies addition time needed to correct incomplete notifications or to take enforcement action	20	20	5	100	\$27,500
110.52(b)	For instances when respondents must provide additional information in order to determine if a license should be suspended or revoked.	1	1	0.5	0.5	\$138
110.54(b)	Describes data elements required and due date of the annual reporting requirement for shipments of americium and neptunium	24	24	2	48	\$13,200
110.54(c)	Describes data elements required and due date of the annual reporting requirement for shipments of nuclear components and equipment	20	20	2	40	\$11,000
TOTAL		107	6,082		1,705	\$468,739

¹ 110.50(c) requires licensees exporting radioactive material listed in Appendix P to notify both the NRC and the government of the importing country in advance of each shipment. The licensee fulfills this responsibility by emailing the NRC and copying the importing country on the message. Because this is a single notification sent to two entities, no additional third party burden has been included in this collection. All burden for these notifications is captured as reporting burden under 110.50(c).

**TABLE 2.
ANNUAL RECORDKEEPING BURDEN**

Section	Description	Number of Record keepers	Hours per Record keeper	Burden Hours	Cost at \$275/hr
110.53(b)(1)&(2)	(1)- Describes record retention periods, and (2)- describes record storage methods and reproduction capabilities	107	1	107	\$29,425

**TABLE 3
ANNUAL LICENSEE BURDEN TOTALS**

	Responses	Hours	Cost at \$275/hr
Reporting	6,082	1,705.	\$ 468,875
Recordkeeping	107	107	\$ 29,425
TOTAL	6,189	1,812.	\$ 498,300

**TABLE 4.
COSTS TO THE FEDERAL GOVERNMENT**

Section	Description	Number of Respondents	Responses	Time Per Response	Hours	Cost at \$275/hr
110.7a(a)&(b)	(a)- Time required to evaluate completeness of an application; (b)- Time required to evaluate information provided by a respondent as having a significant implication for public health and safety or common defense and security.	80	80	0.1	8	\$2,200
110.50(a)(8)	Time required to investigate licensee's claim that packaging requirements of Part 71 have not been met.	1	1	0.25	0.25	\$69
110.50(b)(3)(i)	Time required to obtain interagency confirmation that the foreign government of import has given its consent to the intended shipment pursuant to its agreement for cooperation with the U.S. and communicate this in writing to the licensee	15	1	15	15	\$4,125
110.50(c)- Custom form	Time required to evaluate advanced notification of shipment submitted by a licensee who provides the information on a form of their own design	10	1,500	0.0666	100	\$27,500
110.50(c)- with NRC forms	Time required to evaluate advanced notification of shipment submitted by a licensee who provides the information using an NRC	9	1,500	0.0032	4.8	\$1,320

	notification Form 830 or 831					
110.50(c)- add'l follow-up	Time required to evaluate advanced notification of shipment submitted by a licensee who provides incomplete or conflicting information. Some of these result in enforcement action.	10	100	0.2	20	\$5,500
110.52(b)	Time required to request and evaluate additional information to determine whether a license should be revoked, suspended or modified	1	1	1	1	\$275
110.54(b)	Time required to review an annual report of exports of americium and neptunium made under the general license in 10 CFR 110.23 compliance with this requirement.	28	28	0.2	5.6	\$1,540
110.54(c)	Time required to review an annual report of exports of nuclear reactor components made under the general license in 10 CFR 110.26 for compliance with this requirement.	29	29	0.2	.5.8	\$1,595
	Time required to develop, review and issue the license	50	80	5.15	412	\$113,300
TOTAL		233			572.45	\$157,424