

OMB SUPPORTING STATEMENT FOR
FINAL RULE AMENDING 10 CFR PARTS 40, 72, 74, and 150,
REGULATORY IMPROVEMENTS TO THE NUCLEAR MATERIALS MANAGEMENT AND
SAFEGUARDS SYSTEM
(3150-0003, 3150-0004, and 3150-0058)

DESCRIPTION OF THE INFORMATION COLLECTION

The NMMSS is the national database used in the United States by the NRC licensees, the Agreement State licensees, and the Department of Energy (DOE) contractors to report the possession of certain special nuclear material (SNM) and source material. The NRC reporting requirements related to the NMMSS are primarily contained in 10 CFR Parts 40, 72, 74, 75, 76, and 150.

This clearance package covers the revised burden for the final rule changes to Parts 40, 72, 74, and 150. The revised information collection requirements contained in these parts are currently cleared under OMB clearance numbers 3150-0020, 3150-0132, 3150-0123, and 3150-0032 for 10 CFR Parts 40, 72, 74, and 150, respectively, and 3150-0003, for DOE/NRC Form 741 and 741A; 3150-0004, for DOE/NRC Form 742; and 3150-0058, for DOE/NRC Form 742C. The burden for the rule change is captured against DOE/NRC Form 741 (clearance 3150-0003), DOE/NRC Form 742 (clearance 3150-0004) and DOE/ NRC Form 742C (clearance 3150-0058).

DOE/NRC Form 741, "Nuclear Material Transaction Report" is used for the collection of information from licensees to document the receipt, transfer, or adjustment to the inventory of licensed material. This form is also used by licensees, selected by the International Atomic Energy Agency (IAEA), to document changes in the inventory of nuclear material at the licensee site. Forms and instructions are provided to all affected licensees by the NRC. Reports are required to be submitted in computer readable format. Reports are collected on a continuing basis as transactions occur. The instructions for completing DOE/NRC Form 741 are in NUREG/BR-0006, "Instructions for Completing Nuclear Material Transaction Reports (DOE/NRC Form 741 and 740M). This form is cleared under OMB Clearance No. 3150-0003.

NRC regulations require each licensee who is authorized to possess at any one time and location special nuclear material (SNM) in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, to prepare and submit reports concerning SNM received, produced, possessed, transferred, consumed, disposed of, or lost. Also, each licensee, Federal or State, who is authorized to possess, at any one time or location, 1,000 kilograms of source material, is required to file with the NRC an annual statement of source material inventory which is foreign obligated. Reports are required to be submitted in computer readable format. The instructions for completing DOE/NRC Form 742 are in NUREG/BR-0007, "Instructions for the Preparation and Distribution of Material Status Reports." This form is cleared under OMB Clearance No. 3150-0004.

A computer-readable DOE/NRC Form 742C is used for the collection of the information on the physical inventory of nuclear material. Reports are required to be submitted in computer readable format. This form is cleared under OMB Clearance No. 3150-0058.

NRC's final regulations would require each licensee who is authorized to possess at any one time and location special nuclear material (SNM) in a quantity totaling 1 gram or more of contained uranium-235, uranium-233, or plutonium, or any combination thereof, to prepare and

submit reports concerning SNM received, produced, possessed, transferred, consumed, disposed of, or lost. In addition, each licensee who possesses, at any one time and location, 1 kilogram or more of foreign obligated source material, would be required to file with the NRC an annual statement of source material inventory. The final regulations would also require licensees to submit nuclear material transaction reports when a licensee uses 1 kilogram of source material in uranium enrichment services, downblending material initially enriched in the isotope U-235 to 10 percent or more, and mixed-oxide fuel fabrication. The final amendments would also require licensees to submit a transaction report on NRC Form 741 when a licensee adjusts the inventory of SNM. The final regulations would eliminate the requirement that require licensees complete the foreign recipient's portion of the form when exporting SNM and source material is exported. Overall, the amendment would decrease licensee burden because fewer reports would be required to be submitted.

A. JUSTIFICATION

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

In order for the United States to fulfill its responsibilities as a participant in the US/IAEA Safeguards Agreement and to satisfy various bilateral agreements for nuclear cooperation with other countries and its domestic safeguards responsibilities, it is necessary for licensees affected by 10 CFR Part 75 and related sections of Parts 30, 40, 50, 70, 74, and 150 to submit accounting reports. The accounting reports for each IAEA material balance area must include material status reports based on a physical inventory of nuclear materials actually present. A computer-readable DOE/NRC Form 742 is used for the collection of the information on the material balance of nuclear material. A computer-readable DOE/NRC Form 742 is used for the collection of the information on the material balance of nuclear material.

Also, NRC regulations (10 CFR 40.64, 70.54, 74.15, 75.31, 75.34, 150.16, and 150.17) require NRC and Agreement State licensees to report special nuclear material (SNM) or source material inventory changes that meet certain criteria. DOE/NRC Form 741, "Nuclear Material Transaction Report" is used for the collection of this information.

Section 40.64(a) would be revised to require (1) licensees who utilize one kilogram or more of source material in enrichment services, downblending uranium that has an initial enrichment of the U²³⁵ isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to complete and submit a Nuclear Material Transaction Report; and (2) licensees who export source material to complete only the licensee portion of the transaction report unless there is an indication of loss, theft, or diversion of the source material, in which case two forms, one for the licensee information and one for the foreign facility's information, would have to be submitted. Some licensees use one form giving both shipper and receiver information and these are counted as two submittals entered into the NMMSS database. These information collections are covered in OMB clearance 3150-0003, DOE/NRC Form 741.

Section 40.64(b) would be revised to (1) require licensees who possess or had possessed in the previous reporting period, one kilogram, instead of the current 1000 kilograms of foreign obligated source material to report the inventory of source material, and (2) add the requirement for each licensee who possesses 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 U²³⁵ isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to complete and submit, in computer-readable format DOE/NRC Form 742, Material Balance Report, and DOE/NRC Form 742C, Physical Inventory Listing Reports, concerning all source material (both

foreign-obligated and non-obligated), including all holding accounts that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost in the previous reporting period and would require licensees to resolve any discrepancies identified during the report review and reconciliation process. These information collections are submitted on DOE/NRC Forms 742 and 742C (OMB clearances 3150-0004 and 3150-0058, respectively).

Section 72.72(a) would be revised to require licensees to keep records showing the receipt, inventory, disposal, acquisition, and transfer of source material in quantities as specified in section 40.64 in addition to the currently required records of special nuclear material (SNM) as specified in section 74.13(a). Licensees are currently keeping these records under section 40.64 and 74.13(a). The final rule provides a link to the requirements in Parts 40 and 74 but does not add any additional burden to the licensees.

Section 72.76(a) would be revised to require material status reports (DOE/NRC Forms 742 and 742C) on source material as specified in section 40.64 and SNM as specified in section 74.13; and would require licensees to resolve any discrepancies identified during the report review and reconciliation process. The burden is covered under sections 40.64 and 74.13.

Section 72.78(a) would be revised to add a requirement that whenever the licensee adjusts the inventory of SNM as specified by section 74.15 or source material as specified by section 40.64 to complete Form 741. The burden is covered under sections 40.64 and 74.15.

Section 74.13(a) would be revised to require licensees possessing one gram (currently 350 grams) or more of SNM in the inventory reporting period to make annual reports and would require amounts held in holding accounts to be reported. The rule would require licensees to resolve any discrepancies identified during the report review and reconciliation process. These information collections are covered in OMB clearances 3150-0004 and 3150-0058, DOE/NRC Forms 742 and 742C.

Section 74.15(a) would add a reporting requirement for the licensees to submit a nuclear material transaction report when the inventory of SNM is adjusted in a quantity of one gram or more. The burden is captured against NRC Form 741 (3150-0003).

Section 74.15(c) would be revised to require licensees who export one gram or more of SNM to complete only the supplier's portion of the form, instead of the current requirement of submitting two forms (one about the shipper and one about the receiver information, or providing shipper and receiver information on one form which for the NMMSS database is counted as two submittals), unless a significant shipper-receiver difference as described in sections 74.31, 74.43, or 74.59 is identified. The burden reduction is captured against NRC Form 741 (3150-0003).

Section 150.16(a)(1) would (1) add a requirement for licensees to submit a nuclear material transaction report when the inventory of SNM is adjusted in a quantity of one gram or more; and (2) require completion of only the licensee's portion of the form, instead of the current requirement of submitting receiver and shipper's information when exporting SNM, unless a significant shipper-receiver difference as described in sections 74.31, 74.43, or 74.59 is identified. The burden adjustments are captured against DOE/NRC Form 741 (3150-0003).

Section 150.16(a)(2) would add a requirement for Agreement State licensee (1) who use any uranium or thorium source material, regardless of obligation, in a quantity of one kilogram or more, in enrichment services, downblending uranium that has an initial enrichment of the U²³⁵

isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels, to submit source material transaction reports, and (2) to file only the licensee's portion of the form when exporting one kilogram or more of source material unless there is an indication of theft or diversion as described in section 40.64(c) of this chapter, in which case both receiver and shipper portion of the form must be completed. The burden increase is captured against NRC Form 741 (3150-0003).

Section 150.17(a) would be revised to require each licensee who is in possession of, or had possessed in the previous reporting period SNM in a quantity of one gram or more, to submit an annual report concerning SNM that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost. The burden increase is captured against DOE/NRC Form 742 (3150-0004) and DOE/NRC Form 742C (3150-0058).

Section 150.17(b)(1) would require annual inventory reporting for a licensee who possesses one kilogram or more of foreign obligated source material, instead of the current requirement of 1000 kilogram of any source material. The burden increase is captured against DOE/NRC Form 742 (3150-0004) and DOE/NRC Form 742C (3150-0058).

Section 150.17(b)(2) would (1) add a requirement for a licensee who uses one kilogram or more of any source material in enrichment services, downblend material initially enriched in U²³⁵ isotope to 10 percent or more, or mixed-oxide fuel fabrication to submit material balance and physical inventory listing reports concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost, including all holding accounts, and (2) require licensees to resolve any discrepancies identified during the report review and reconciliation process. The burden increase for the additional reports is captured in DOE/NRC Form 742 (3150-0004) and DOE/NRC Form 742C (3150-0058).

The final requirement in sections 40.64(b)(2), 74.13(a), 150.17(a) and 150.17(b) for licensees to resolve any discrepancies identified during the report review and reconciliation process does not add any new information collection burden on the affected licensees. The reconciliation process would not require licensees to prepare any additional reports, other than the reports required under these sections.

2. Agency Use of Information

In order for the United States to fulfill its responsibilities as a participant in the US/IAEA Safeguards Agreement and to satisfy various bilateral agreements for nuclear cooperation with other countries and its domestic safeguards responsibilities, it is necessary for licensees affected by Parts, 40, 72, 74, and 150 to submit accounting reports. The accounting reports for each IAEA material balance area must include material status reports based on a physical inventory of nuclear materials actually present.

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 99% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

In general, information required by NRC in reports or records concerning the transfer, receipt, or change in inventory of source or special nuclear material does not duplicate other Federal information collection requirements and is not available from any source other than applicants or licensees. Portions of the needed information might be contained in other information submittals to NRC or other Federal agencies. However, duplication, if any, is slight, and the collection of this information by use of specified forms and other required reports and records is the most effective and least burdensome means of obtaining the information.

Submission of similar information on the inventory of nuclear material to the Federal government has been minimized by NRC and the Department of Energy (DOE) jointly utilizing the Nuclear Materials Management and Safeguards System (NMMSS). Common reporting forms are used to minimize the reporting burden on industry members required to provide nuclear material data to one or both agencies in accordance with prevailing regulations or contractual obligations. The licensee is thus able to file one report to meet the requirements of both agencies. Compliance with specific reporting requirements is monitored by the agency for which the specific data is required.

5. Effort to Reduce Small Business Burden

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

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

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

If licensees are not required to submit these reports, NRC will not be able to maintain material accountability needed to satisfy various bilateral agreements for nuclear cooperation with other countries, and the U.S. Treaty with the International Atomic Energy Agency.

7. Circumstances Which Justify Variation from OMB Guidelines

The final rule does not introduce any new variances.

8. Consultations Outside the Agency

During the previous clearance renewals of DOE/NRC Forms 741, 742, and 742C, a cross-section of licensees were polled to estimate the burden per response.

The opportunity for public comment on the proposed rule's information collection requirements was published in the Federal Register on February 6, 2007 (72 FR 5348). A total of 5 commenters submitted comments on the proposed rule, of which none were in response to the information collections.

9. Payments or Gifts to Respondents

Not applicable.

10. Confidentiality of the Information

None, except for proprietary or safeguards information. Some proprietary information may be included when necessary to provide an adequate response. 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

There are no sensitive questions.

12. Estimated Burden and Burden Hour Cost

See attached chart, "Estimate of Compliance Burden for Final Rule," for the estimated burden and burden hour cost. The cost to licensees is calculated at a rate of \$258 per hour, based on NRC's fully recoverable fee rate.

DOE/NRC Form 741 (OMB clearance 3150-0003): The burden for preparation and submission of each report is estimated to be 1.25 hours per response. The final rule is expected to reduce the number of reports to NMMSS from 36,650 forms to 35,455 forms per year. The reduction in burden is due to a reduction in submittals for exporting nuclear materials. The reduction will result in a decrease in burden of 1495 hours (1195 fewer reports, times 1.25 hour/report), or a saving of \$385,710 (1495 hours X \$258/hour).

DOE/NRC Form 742 (OMB clearance 3150-0004): The annual burden for the current larger licensees for the preparation and submission of DOE/NRC Form 742 data is estimated to be 5 hours in the clearance renewal package. This burden estimate is based on the results of a survey conducted during the previous clearance renewal. The estimate, based on submittals to NRC in recent years, is that 180 licensees will each submit DOE/NRC Form 742 annually, for a total of 180 reports annually. The final rule estimates that, because of the lowered reporting threshold, there will be 200 additional licensees that will be required to make annual reports to

NMMSS, but the time needed to file the report will only be 2 hours per licensee for these smaller licensees. This is based on the assumption that the smaller licensees (those possessing 350 grams or less of SNM) make fewer transactions and have less material to inventory. Therefore, the increase in burden for the final rule is 400 hours (200 licensees x 2 hrs/report) for a total cost of \$103,200 (400 hrs x \$258/hr).

DOE/NRC Form 742C (OMB clearance 3150-0058): The annual burden for the current larger licensees for preparation and submission of DOE/NRC Form 742C data is estimated to be 6 hours. It is estimated, based on submittals to NRC in recent years, that 180 licensees will each submit DOE/NRC Form 742C annually, for a total of 180 reports annually. The final rule estimates that there will be 200 additional smaller licensees that will be required to make annual reports to NMMSS, but the time needed to file the report will be 2 hours each licensee. This is based on the assumption that the smaller licensees (those possessing 350 grams or less of SNM) make fewer transactions and have less material to inventory. Therefore, the increase in burden for the final rule is 400 hours (200 licensees x 2 hrs/report) for a total cost of \$103,200 (200 hrs x \$258/hr).

13. Estimate of Other Additional Costs

There are no other additional costs.

14. Estimated Annualized Cost to the Federal Government

DOE/NRC Form 741: The collected information is not submitted to the NRC. Licensees report directly to the DOE NMMSS contractor. The data contained in the NMMSS is available to various NRC staff who utilize it to perform their assigned job functions, but the individual submissions are not reviewed by NRC staff.

DOE/NRC Form 742: The collection of information requires an average of 5 minutes/form for NRC staff review. Therefore, for 200 additional respondents reporting annually, the estimated annualized cost to the Federal government will be 17 hours/year (5 minutes/report x 200 reports/year = 17 hours/year) for a cost of \$4,386 (17 hrs. x \$258/hr.). These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171. Other costs are attributed to operating the Nuclear Materials Management and Safeguards System (NMMSS).¹

DOE/NRC Form 742C: The collection of information requires an average of 5 minutes/form for NRC staff review. Therefore, for 200 additional respondents reporting annually, the estimated annualized cost to the Federal government will be 17 hours/year (5 minutes/report x 200 reports/year = 17 hours/year) for a cost of \$4,386 (17 hrs. X \$258/hr.). These costs are fully recovered through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171.

¹NRC and DOE share the cost of operating the Nuclear Materials Management and Safeguards System (NMMSS). Current NRC cost of the system for FY07 is projected to be approximately \$2,000,000. This cost is attributable to nuclear materials transaction and accounting report forms. This includes the cost of ADP, record holding, and clerical processing of all forms (DOE/NRC Forms 741, 740M, 742, and 742C).

15. Reasons for Changes in Burden or Cost

The revision is a net downward adjustment in burden for DOE/NRC Form 741 (OMB Clearance No. 3150-0003) of 1495 hours (1196 less reports, times 1.25 hour/report) as a result of requiring that for export of source material or special nuclear material, only one form (related to the shipper's information) be submitted to the NMMSS. Previously, a form was also completed for the receiver's information.

The revision is a new upward adjustment in annual burden for DOE/NRC Form 742 (OMB Clearance No. 3150-0004) of 400 hours (200 more reports, times 2 hours/report) per year as a result of lowering the annual reporting threshold to possession of 1 gram (previously 350 grams) or more of special nuclear material and/or 1 kilogram (previously 1000 kilograms) or more of foreign obligated source material.

The revision is a new upward adjustment in annual burden for DOE/NRC Form 742C (OMB Clearance No. 3150-0058) of 400 hours (200 more reports, times 2 hours/report) per year as a result of lowering the annual reporting threshold to possession of 1 gram (previously 350 grams) or more of special nuclear material and/or 1 kilogram (previously 1000 kilograms) or more of foreign obligated source material.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The expiration date is displayed on DOE/NRC Forms 741, 742 and 742C.

18. Exceptions to the Certification Statement

There are no exceptions. No statistical methods are used.

Estimate of Compliance Burden for Final Rule

Form 741 Reporting Requirements (3150-0003)

Section	Number of Licensee submittals annually	Licensee Staff Hours per Submittal	Total Licensee Burden Hours	Total cost at \$258 per hour
40.64(a) enrichment	200 (2 licensees, 200 reports total)	1.25	250	64,500
40.64(a) export	-270	1.25	-337.5	-87,075
74.15(a) adjustments	0	1.25	0	0
74.15(c) export	-1,070	1.25	-1,337.5	-345,075
150.16(a)(1) adjustments	4	1.25	5	1,290
150.16(a)(1) export	0	1.25	0	0
150.16(a)(2) export	-60	1.25	-75	-19,350
150.16(a)(2) enrichment	0	1.25	0	0
Total	-1196	1.25	-1495	-385,710

Form 742 (3150-0004)

Section	No. of Licensee Responses Annually	Licensee Staff Hours Per Submittal	Total Licensee Annual Burden Hours	Total Costs at \$258 per Hour
40.64(b) obligated (foreign source material)	0	2	0	0
74.13(a) annual reports	50	2	100	25,800
150.17(a) annual reports	150	2	300	77,400
150.17(b)(1) obligated (foreign source)	0	2	0	0
150.17(b)(2) enrichment	0	2	0	0
Total	200	2	400	103,200

Form 742C (3150-0058)

Section	No. of Licensee Responses Annually	Licensee Staff Hours Per Submittal	Total Licensee Annual Burden Hours	Total Costs at \$258 per Hour
40.64(b) obligated (foreign) source material	0	2	0	0
74.13(a) annual reports	50	2	100	25,800
150.17(a) annual reports	150	2	300	77,400
150.17(b)(1) obligated (foreign) source material	0	2	0	0
150.17(b)(2) enrichment	0	2	0	0
Total	200	2	400	103,200