

FINAL OMB SUPPORTING STATEMENT
FOR
10 CFR PART 75
SAFEGUARDS ON NUCLEAR MATERIAL -
IMPLEMENTATION OF US/IAEA AGREEMENT
(3150-0055)

EXTENSION WITH BURDEN REVISION

Description of the Information Collection

The United States, as a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), has joined with other nations in an effort to limit the spread of nuclear weapons. To encourage widespread adherence to the NPT by non-nuclear-weapon States, in 1967 President Johnson announced that the United States would permit the International Atomic Energy Agency (IAEA) to apply its safeguards to nuclear activities in this country. This policy has been reaffirmed by each succeeding President. The US/IAEA Agreement contains provisions which parallel agreements between the IAEA and non-nuclear-weapon States, the principal difference being the exclusion of national security activities. 10 CFR Part 75 establishes requirements to implement the US/IAEA Agreement for the application of safeguards in the U.S. The requirements of Part 75 apply to all 226 persons licensed or certified by the Nuclear Regulatory NRC (NRC) or Agreement States who are defined to be installations under Section 75.4 and specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the NRC. Currently, five out of the 226 licensees have been chosen to participate in the US/IAEA Agreement. NRC expects two licensees will be added over the next three years.

A. Justification

1. Need for and Practical Utility of the Information Collection

Regulations that implement the US/IAEA agreement are found in 10 CFR Part 75. As covered by the present clearance and described below, 10 CFR Part 75 requires selected licensees to permit inspections by IAEA representatives, follow written material accounting and control procedures, give immediate notice to the NRC in specified situations involving the possibility of loss of nuclear material, and give notice for imports and exports of nuclear material. In addition, the regulations allow licensees to request an exemption from Part 75 requirements. (See supplemental information for a specific description of the requirements under 10 CFR Part 75.)

2. Agency Use of Information

In order to fulfill United States responsibilities under the US/IAEA Agreement, the NRC is required to collect the information and make it available to the IAEA. The NRC would not be able to fulfill its responsibilities without the information.

Licensees must notify the NRC promptly, by telephone, whenever an IAEA inspector arrives at an installation without advance notification. The NRC uses this information to verify the credentials of the visitor.

Information on material control and accounting operations is reviewed by NRC and IAEA to evaluate the licensee's material control and accounting programs. In addition, accounting records are used by the IAEA to determine whether there has been a diversion of material. The NRC uses information about the possibility of loss of nuclear material to determine whether any immediate response or corrective action is necessary.

Licensees may request an exemption to the requirements to submit information to the IAEA. The NRC uses information provided in these requests to determine whether the requested exemption is authorized by law. NRC staff ensures that granting the exemption will not endanger life or property or the common defense and security, and it determines if granting the request is in the public interest. If the licensee has requested that sensitive information be withheld from the IAEA, the NRC uses information in the request to attempt to achieve an effective balance between legitimate concerns of licensees (including protection of the competitive position of the owner of the information) and the United States responsibility to cooperate with the IAEA and implement the safeguards provided for in the US/IAEA Agreement.

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 95% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

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

5. Effort to Reduce Small Business Burden

NRC has determined that the affected entities are not small entities or businesses.

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

The data collection times are established by an international agreement and cannot be changed except by modifying the agreement. If the information were not collected, the United States would not be able to meet its obligations under the international agreement.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), licensees must submit certain information to NRC in less than 30 days:

- If the NRC requests that a licensee amplify or clarify a report relevant to the implementation of the US/IAEA Agreement, the licensee must submit the information within 20 days. These requirements are necessary in order to meet the time requirements for notification to IAEA under the Agreement.
- Licensees that have been given notice pursuant to Section 75.41 must make a special report to the NRC immediately by telephone and telegraph, mailgram or facsimile in certain specified situations involving the possibility of loss of nuclear material in excess of specified limits and in case of unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible. Requiring that this information be reported in less than 30 days is necessary so that the information may be promptly evaluated by NRC to determine whether any immediate response or corrective action may be necessary.
- Licensees must notify the NRC for exports, imports, and domestic transfers of nuclear material in less than 30 days. These requirements are necessary in order to meet the time requirements under the Agreement.

In addition, licensees must retain a number of records for longer than is specified in the OMB guidelines in 5 CFR 1320.5(d) in the following cases:

- Licensees who request that sensitive information not be submitted to the IAEA must retain this sensitive information as a record for examination by the IAEA until the NRC terminates the license or until the licensee is notified by the NRC that it is no longer covered by the agreement. This extended retention period is necessary so that the records are available and arrangements may be made for the IAEA to review them if circumstances require.
- A licensee notified in writing by the NRC that its installation has been identified under the Agreement must retain written material

accounting and control procedures as a record until the NRC terminates the license or until the NRC notifies the licensee that it is no longer selected under the Agreement. Superseded material must be retained for three years. It is necessary that the procedures be retained for more than three years so that they may be used by the licensee to carry out its material control and accounting operations. The procedures are also reviewed by NRC to ensure the adequacy of the licensee's material control and accounting programs.

- Material control and accounting records required by Sections 75.22 and 75.23 must be retained for five years. This requirement is necessary to comply with international agreements.

8. Consultations Outside the Agency

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register on January 28, 2008 (73 FR 5214). No comments were received.

9. Payment or Gifts to Respondents

Not applicable.

10. Confidentiality of 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

None.

12. Estimated Burden and Burden Hour Cost

Currently, five out of the 226 licensees have been chosen to participate in the US/IAEA Agreement. NRC expects two licensees will be added over the next three years for an average of six licensees per year (5 licensees during the first year, 6 during the second year, and 7 during the third year). It is estimated that two of the six participants will be required to perform reporting and recordkeeping activities while the remaining four participants will only be required to perform recordkeeping activities.

The estimated annual cost to licensees to respond to the collection requirements is \$619,200 (2,400 hours x \$258/hr). The cost is calculated at a rate of \$258 per hour, which is based on NRC's fee recovery rate. See Tables 1 and 2 for burden data.

13. Estimate of Other Additional Costs

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the recordkeeping storage cost has been determined to be equal to .0004 percent of the recordkeeping burden. Therefore, the recordkeeping storage cost is estimated to be \$247.68 (2,400 recordkeeping hours x \$258 x .0004).

14. Estimated Annualized Cost to the Federal Government

The cost for NRC professional review is estimated to be 60 professional staff hours at \$258 per hour, or \$15,480. These costs are fully recovered by fees to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost

Most of the burden for this collection is captured under §75.21(b) (material accounting and control procedure recordkeeping requirements) and is estimated to be 400 hours annually per licensee. The burden hours have decreased from 2,800 hours to 2,400 hours because the average number of licensees selected by IAEA to participate in the US/IAEA Safeguards Agreement will decrease from 7 to 6 (7 licensees x 400 hrs = 2,800 hrs to 6 licensees x 400 hrs = 2,400 hours).

There has been an increase in the overall cost as a result of an increase in the NRC's fee recovery rate from \$157/hr to \$258/hr.

16. Publication for Statistical Use

This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The requirement 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

None.

B. Collection of Information Employing Statistical Methods

Not applicable.

TABLE 1: ANNUAL REPORTING BURDEN FOR NRC LICENSEES (PART 75)

Section	No. of Respondents	Annual Responses	Hours Per Response	Total Annual Burden	Comments
75.3(a)	6	0	12	0	
75.7	2	2	0.2	0.4	
75.11(a)					See OMB Clearance No. 3150-0056
75.11(b)					Included in 75.11(a)
75.11(c)					Included in 75.11(a)
75.11(d)					Included in 75.11(a)
75.11(e)					Included in 75.11(a)
75.12(b)	6	0	12	0	
75.12(d)					Included in 75.12(b)
75.14					See OMB Clearance No 3150-0056
75.31					Included in 75.32 and 75.36
75.32					See OMB Clearance No. 3150-0004
75.33					See OMB Clearance Nos. 3150-0003 and -0004
75.34					See OMB Clearance No. 3150-0003
75.35					See OMB Clearance Nos. 3150-0004, -0057 & -0058
75.36	6	0	12	0	
75.42(h)					Included in 75.7
75.43(a)					Included in 75.43(b) and 75.43(c)(2)
75.43(b)	6	0	4	0	
75.43(c)(1)					Included in 75.43(c)(2)
75.43(c)(2)	6	0	4	0	
75.43(d)	6	0	4	0	
75.44(a)(1)					Included in 75.43(b)
75.44(a)(2)					Included in 75.43(c)
75.44(c)					Included in 75.43(b) and 75.43(c)(2)
75.45					Included in 75.43(b) and 75.43(c)(2)
TOTAL		2		.4	

TABLE 2: ANNUAL RECORDKEEPING BURDEN FOR NRC LICENSEES (PART 75)

Section	Number of Recordkeepers	Hours/Record	Total Annual Burden	Comments
75.12(b)(4)	2	0	0	
75.21(b)	6	400	2,400	
75.22				Included in 75.21
75.23				Included in 75.21
75.24				Included in 75.21
TOTAL	6	400	2,400	

Total Overall Responses = 8 (2 responses for reporting + 6 recordkeepers)

Reporting + Recordkeeping hours = 2,400 (.4 total reporting hours + 2,400 total recordkeeping)

Total Cost to Respondent = \$619,200 (2,400 burden hours x \$258/hr)