

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

Description of the Information Collection

The United States (U.S.), 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 U.S. 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 (*Agreement Between the United States of America and the Agency for the Application of Safeguards in the United States of America*) contains provisions which parallel agreements between the IAEA and non-nuclear-weapon States, the principal difference being the exclusion of national security activities. Title 10 of the *Code of Federal Regulations* (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 265 persons licensed or certified by the U.S. Nuclear Regulatory Commission (NRC) or Agreement States who are defined to be facilities 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, four out of the 265 licensees have been chosen to participate in the US/IAEA Agreement. NRC expects two or three 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.

Section 75.11(a) requires each licensee subject to the provisions of Part 75 to submit installation information to the Commission in response to a written request. IAEA Form N-71 (and the appropriate associated IAEA Form) or

IAEA Form N-91 is used to collect this information. The use of IAEA Form N-71 (and the appropriate associated IAEA Form) or IAEA Form N-91 has

previously been approved by the Office of Management and Budget (OMB) under clearance number 3150-0056, which should be referred to for information collection burden and supporting data.

Section 75.11(b) requires each licensee to identify the installation information which includes: 1) labeling its general character, purpose, nominal capacity (thermal power level), and geographic location, and the name and address to be used for routine purposes; 2) a description of the general arrangement and layout of equipment within the installation; 3) a description of features of the installation relating to material accounting, containment, and surveillance; and 4) a description of the existing and proposed procedures at the installation for nuclear material accounting and control, with special reference to material balance areas established by the licensee, measurement of flow, and procedures for physical inventory taking. (See OMB clearance number 3150-0056 for information collection burden and supporting data.)

Section 75.11(c) requires each licensee to submit to the Commission information with respect to any modification or change at the installation affecting the information given under Section 75.11(a). This information is required in order to ensure that the current information is provided to IAEA. (See OMB clearance number 3150-0056 for information collection burden and supporting data.)

Section 75.11(d) specifies that the information required by (a) and (c) above, submitted on IAEA Form N-71 (and the appropriate associated IAEA Form), IAEA Form N-91, or other forms, must include identification of features of installation and nuclear material in sufficient detail to facilitate verification, determination of material balance areas and key measurement points, establishment of nominal timing and procedures for physical inventory, record and report requirements and evaluation procedures, requirements and procedures for verification of the quantity and location of nuclear material, and selection of containment and surveillance methods and techniques at the strategic points at which they are to be applied. This information is collected by NRC and forwarded to the IAEA. (See OMB clearance number 3150-0056 for information collection burden and supporting data.)

Section 75.11(e) specifies that the licensee's detailed security measures for the physical protection of an installation shall be included in the installation information only when and to the extent specifically requested by the Commission. This information, when requested, is necessary for IAEA to safeguard nuclear material. (See OMB clearance number 3150-0056 for information collection burden and supporting data.)

Section 75.14 Section 75.14 requires that, at the time information is submitted under Section 75.11 (Form N-71 and the appropriate associated IAEA Form or Form N-91), and promptly whenever changes are made, the

licensee must submit to the Commission information on organizational responsibility for material control and accounting and on health and safety rules to be observed by the IAEA inspectors at the installation. IAEA Form N-71 (and the appropriate associated IAEA Form) or IAEA Form N-91 are used to collect this information. The use of IAEA Form N-71 (and the appropriate associated IAEA Form) or IAEA Form N-91 has previously been approved by OMB under clearance number 3150-0056, which should be referred to for information collection burden and supporting data.

Section 75.31 requires that a licensee which has been informed in writing that its installation has been identified under the IAEA Agreement must make an initial inventory report on DOE/NRC Form 742, and must thereafter make accounting reports. In addition, a licensee who has been given notice pursuant to Section 75.41 that its installation is subject to the application of IAEA safeguards must make the special reports described in Section 75.36, based on the records kept in accordance with Section 75.21. At the request of the Commission, the licensee must amplify or clarify in writing, within 20 days, any report relevant to implementation of the Agreement. This information is necessary to provide required information to IAEA in accordance with the Agreement.

Section 75.32 requires that the initial inventory report, on DOE/NRC Form 742, in accordance with printed instructions for completing the form, must show the quantities of nuclear material contained in or at an installation as of the initial inventory reporting date. That date is the last day of the calendar month in which the Commission gives the licensee notice that an initial inventory report is required. The initial inventory report must be dispatched within 20 days after the initial inventory reporting period. DOE/NRC Form 742 is used to collect this information. The use of DOE/NRC Form 742 has previously been approved by OMB under clearance number 3150-0004, which should be referred to for information collection burden and supporting data. This form is now required to be submitted in computer-readable format, as more fully described below and in OMB Clearance 3150-0004.

Section 75.33 requires that the accounting reports for each IAEA material balance area shall consist of inventory change reports on DOE/NRC Form 741 and material status reports on DOE/NRC Form 742. The use of DOE/NRC Forms 741 and 742 has previously been approved by OMB under clearance numbers 3150-0003 and 3150-0004, which should be referred to for information collection burden and supporting data. These forms are now required to be submitted in computer-readable format, as more fully described below and in OMB Clearances 3150-0003 and 3150-0004.

Section 75.34 requires that inventory change reports be submitted on DOE/NRC Form 741, in accordance with printed instructions for completing the form. Form 741 serves as a shipping and transfer document for special nuclear material and source material as required of NRC and Agreement State licensees. This requirement is needed to enable the U.S. to fulfill its

responsibilities as an IAEA participant. DOE/NRC Form 741 is used to collect this information. The use of DOE/NRC Form 741 has previously been approved by OMB under clearance number 3150-0003, which should be referred to for information collection burden and supporting data. This form is now required to be submitted in computer-readable format, as more fully described below and in OMB Clearance 3150-0003.

Section 75.35 requires that material status reports must be submitted and must include a material balance report on DOE/NRC Form 742, and attached thereto a physical inventory listing on DOE/NRC Form 742C listing all batches separately and specifying material identification and batch data for each batch, accompanied by a DOE/NRC Form 740M, Concise Note, in accordance with printed instructions for completing the forms. The material status reports must be dispatched as soon as possible and in any event within 30 days after the start of the physical inventory. The use of those forms has previously been approved by OMB under the following clearance numbers, which should be referred to for information collection burden and supporting data:

|                   |                   |
|-------------------|-------------------|
| DOE/NRC Form 742  | OMB No. 3150-0004 |
| DOE/NRC Form 742C | OMB No. 3150-0058 |
| DOE/NRC Form 740M | OMB No. 3150-0057 |

Those forms are now required to be submitted in computer-readable format, as more fully described below and in the OMB clearances cited.

## 2. Agency Use of Information

In order to fulfill U.S. 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 U.S. 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 approximately 90% 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 US/IAEA 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 US/IAEA Agreement.
- Licensees that have been given notice pursuant to Section 75.36 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 was published in the Federal Register on May 23, 2011 (76 FR 29804). 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, four out of the 265 licensees have been chosen to participate in the US/IAEA Agreement. NRC expects two or three 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.

Approximately 10 licensees are required to report information required by the U.S.-IAEA Additional Protocol Treaty (*Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America*), resulting in an additional 48 reports.

The estimated annual cost to licensees to respond to the collection requirements is \$621,703.60 (2,400.4 hours x \$259/hour). The cost is calculated at a rate of \$259 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



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 2,400 hours, the storage cost for this clearance is \$248.64 (2,400 hours x 0.0004 x \$259/hour).

14. Estimated Annualized Cost to the Federal Government

The cost for NRC professional review is estimated to be 60 professional staff hours at \$259 per hour, or \$15,540. 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

There is no change in burden. There has been an increase in the overall cost as a result of an increase in the NRC's fee recovery rate from \$258 per hour to \$259 per hour.

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)**

| <b>Section</b> | <b>No. of Respondents</b> | <b>Annual Responses</b> | <b>Hours Per Response</b> | <b>Total Annual Burden</b> | <b>Comments</b>                                 |
|----------------|---------------------------|-------------------------|---------------------------|----------------------------|---|
| 75.3(a)        | 6                         | 0                       | 12                        | 0                          |   |
| 75.7           | 2                         | 2                       | 0.2                       | 0.4                        |   |
| 75.10(a)       |                           |                         |                           |                            | See OMB Clearance No. 3150-0056                 |
| 75.10(b)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.10(c)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.10(d)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.10(e)       |                           |                         |                           |                            | See OMB Clearance No. 0694-0135                 |
| 75.11(a)       |                           |                         |                           |                            | See OMB Clearance No. 0694-0135                 |
| 75.11(b)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.11(c)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.11(d)       |                           |                         |                           |                            | Included in 75.10(a)                            |
| 75.12(b)       | 6                         | 0                       | 12                        | 0                          | Included in 75.10(a)                            |
| 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)            |
| <b>TOTAL</b>   |                           | <b>2</b>                |                           | <b>0.4</b>                 |   |

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

| <b>Section</b> | <b>Number of Recordkeepers</b> | <b>Hours/Record</b> | <b>Total Annual Burden</b> | <b>Comments</b>   |
|----------------|--------------------------------|---------------------|----------------------------|-------------------|
| 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 |
| <b>TOTAL</b>   | 6                              |                     | 2,400                      |                   |

Total Overall Responses = 8 (2 responses for reporting + 6 recordkeepers)  
Reporting + Recordkeeping hours = 2,400 (0.4 total reporting hours + 2,400 total recordkeeping)

**Total Cost to Respondent = \$621,703.60 (2400.4 hours x \$259/hr).**