

FINAL SUPPORTING STATEMENT
FOR

10 CFR Part 70
Domestic Licensing of Special Nuclear Material – Written Reports
and Clarifying Amendments

(3150-0009)

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations related to reportable safety events involving special nuclear material. In this action, the NRC is addressing the petition for rulemaking (PRM) PRM-70-8, filed by the Nuclear Energy Institute (the petitioner). The petitioner requested that the NRC amend its regulations to clarify safety event reporting requirements in Appendix A of 10 CFR Part 70. The NRC published the notice of resolution and closure of the petition in the *Federal Register* on October 18, 2010, (75 FR 63725) to inform the public that the NRC would consider five of the nine issues raised in the petition in the rulemaking process. One of the five issues has already been addressed in a miscellaneous administrative rulemaking that was published November 30, 2010, (75 FR 73935) and the remaining four issues are the subject of this rulemaking.

Two of the four issues (amending paragraphs (a) and (b) of Appendix A) involve revising the number of days that are allowed for a licensee to submit the written follow-up report after the initial report of an event described in the appendix. One issue involves removing paragraph (b) (5) of Appendix A as it is redundant with the requirements in paragraph (b)(1) of Appendix A. The final issue from the petition involves removing the reporting requirements in paragraph (a) (5) of Appendix A.

This rulemaking would affect an applicant or a licensee that is, or plan to be, authorized to possess greater than a critical mass of special nuclear material under the 10 CFR Part 70, subpart H requirements.

A. Justification

1. Need for and Practical Utility of the Information

The NRC would continue to require the same information as in the current regulations be submitted when an event occurs that requires notifications and follow-up written submissions. Only the time frame for the notification and written submissions would be affected.

The following sections of 10 CFR Part 70 would be amended by the direct final rule:

Section 70.50(c)(2) would be amended to conform to changes made to § 70.74. Specifically, § 70.50(c)(2) would be revised by removing its references to § 70.74 and Appendix A. As detailed below, licensees subject to § 70.74 and Appendix A would be given 60 days rather than 30 days to submit a follow-up written report following a reportable event. The § 70.50(c)(2) requirement to submit a follow-up written report within 30 days would remain unchanged.

Section 70.74(b) would be amended to change the time for a licensee that is subject to the subpart H requirements to submit a written report following a reportable event described in Appendix A from within 30 days to within 60 days. Clarifications for where to send the follow-up report as well as the information contained in the report would also be added. Lessons learned from industry and from reports the NRC has received since 2000 have shown that the written follow-up reports can be received within 60 days without impacting the regulatory performance requirements. Extending the time allowed to submit the written follow-up reports provides an opportunity for a licensee to complete a more thorough investigation without compromising the timely implementation of corrective actions. This change does not impact safety to the public, the environment, or to the workers. The requirement to notify the NRC Operations Center within 1 hour or 24 hours, as appropriate, after discovery of an event remains unchanged.

Appendix A to Part 70 would be amended to reflect the changes made to § 70.74 relating to the time for a licensee to submit a written report following a reportable event and delete two paragraphs. Specific changes would be made to the following paragraphs:

Paragraph (a) would be amended to reflect the change made to § 70.74 which changes the time for a licensee to submit a written report following a reportable event from within 30 days to within 60 days.

Paragraph (a)(5) would be deleted because it is not risk-informed and is overly restrictive. This amendment would update the regulatory framework for certain situations.

Paragraph (b) would be amended to reflect the change made to § 70.74 which changes the time for a licensee to submit a written report following a reportable event from within 30 days to within 60 days.

Paragraph (b)(5) would be deleted because it is redundant with the reporting requirements in paragraph (b)(1) of the Appendix A.

2. Agency Use of the Information

The information included in the applications, reports, and records for Part 70 is reviewed by the NRC staff to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures, and plans for protection of public health and safety and the common defense and security. The NRC review and the findings form the basis for NRC licensing decisions.

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. However, because of the types of information and the infrequency of submission, the applications and other reports may not lend themselves

readily to the use of automated information technology for submission. It is estimated that approximately 10% 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

Some of the licensees who use special nuclear material are small businesses. Since the consequences to the common defense and security or to the health and safety of the public of inadequate safeguards for special nuclear material are the same for large and small entities, it is not possible to reduce the burden on small businesses by less frequent or less complete reports, records, plans, and procedures.

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

Required reports are collected and evaluated on a continuing basis as events occur. An application for a new license or an amendment to an existing license is submitted only once. Applications for renewal of licenses are generally submitted every ten years. Information submitted in previous applications may be referenced without being resubmitted. The schedule for collecting the information is the minimum frequency necessary, currently not exceeding 10 years, to assure that licensees will continue to conduct programs in a manner that will assure adequate protection of the public health and safety.

7. Circumstances Which Justify Variation from OMB Guidelines

This direct final rulemaking does not have variations from the OMB Guidelines.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements was published in the Federal Register on September 26, 2014 (79 FR 57840). The NRC received one public comment (ADAMS No. ML14296A322) on the direct final and companion proposed rule.

The substantive changes being made in this rulemaking are to reporting provisions in 10 CFR 70.74 and Appendix A to Part 70. These changes increase the time -- from 30 to 60 days -- that licensees subject to Part 70, Subpart H (*Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material*) will have to submit a written follow-up report after the initial report of certain significant events to the NRC Operations Center.

Comment

The commenter agrees with the proposed changes, but the commenter requested that the NRC also revise a 10 CFR 70.50 reporting provision that is within Part 70, Subpart G (*Special Nuclear Material Control, Records, Reports and Inspections*). The commenter wants licensees subject to Subpart G to also be given 60 days rather than 30 days to submit a written follow-up report.

Response to Comment

The comment letter does not warrant the withdrawal of the DFR. The DFR is of limited scope, and arose from PRM-70-8 that did not seek changes to 10 CFR 70.50. The commenter has not provided a sufficient basis to expand the DFR's scope to include revising the 30-day reporting requirement in 10 CFR 70.50, and the NRC does not agree with the commenter's claim that his proposal meets the criteria for being a significant adverse comment.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

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

11. Justification for Sensitive Questions

The information collection does not include any sensitive questions.

12. Estimated Burden and Burden Hour Cost

If there was a change in burden then the cost to licensees and applicants would be calculated at a rate of \$274 per hour for professional staff for the technical reports, recordkeeping, and records prepared in response to the 10 CFR Part 70 information collection requirements. This rate is based on NRC's fully recoverable fee rate.

13. Estimate of Other Additional Costs

If there was a change in burden then the NRC would determine the records storage cost would be roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost.

14. Estimated Annualized Cost to Federal Government

There is no change in cost to the government because there is no change in burden.

15. Reason for Change in Burden or Cost

This direct final to 10 CFR Part 70 would not change the burden or cost. The rule increases the time to submit reports from 30 days to 60 days.

16. Publication for Statistical Use

None.

17. Reasons for Not Displaying the Expiration Date

The requirements are 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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.