

DRAFT SUPPORTING STATEMENT  
FOR 10 CFR PART 40  
DOMESTIC LICENSING OF SOURCE MATERIAL  
(3150-0020)

REVISION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) regulations in Title 10 of the Code of Federal Regulations (10 CFR) Part 40 establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct material. Information concerning the application, recordkeeping, and reporting requirements imposed by specific sections is provided below. The types of information collection activities and records required by 10 CFR Part 40 include, but are not limited to, the following.

- Exemption requests
- Transfer reports of source material or industrial products or devices containing source material
- Financial assurance (FA) for decommissioning and decommissioning funding plans (DFP)
- Records of cost estimates for DFPs
- Decommissioning plans
- Alternate schedules for submittal of decommissioning plans
- Emergency plans
- Bankruptcy and transfer of control notifications
- Notifications after contamination events, overexposures, and equipment failures
- Records of spills or unusual occurrences involving spread of contamination
- Notifications regarding start of site decommissioning
- Certifications of disposition of materials and records of disposal of licensed material
- Final radiation survey of premises
- Labeling requirements
- Import and export notifications
- Uranium mill operating programs

A. Justification

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

The regulations were issued pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974, the National Environmental Policy Act of 1969 (NEPA), and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) (all as amended). The information is needed in order to determine licensee compliance with the regulations set forth in 10 CFR Part 40. Details of these regulations can be found at the end of this supporting statement in "Description of Requirements."

## 2. Agency Use of the Information

The records that 10 CFR Part 40 requires the licensees to maintain are reviewed to evaluate compliance with NRC radiation safety requirements for possession and use of source and byproduct material.

The records of receipt, transfer, and disposal of source and byproduct material are reviewed by the NRC inspectors to determine that licensees have confined their possession and use of source and byproduct material to the locations, purposes, receipt, and quantities authorized in their licenses.

Reports of significant safety events and theft of radioactive material are used by the agency in evaluating the protective actions required to mitigate exposures to radiation or releases of radioactive materials that could exceed regulatory limits.

Bankruptcy reports, decommissioning plans, decommissioning funding plans, and certifications of financial assurance for decommissioning are reviewed by the NRC to ensure that a licensee has adequate procedures and funds for any necessary cleanup efforts before a licensee's responsibility for source or byproduct materials is terminated and the site is released for unrestricted use.

## 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.

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 Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail. It is estimated that approximately 75% of the responses are filed electronically.

## 4. Effort to Identify Duplication and Use Similar Information

There is no duplication of requirements.

## 5. Effort to Reduce Small Business Burden

NRC staff estimate that approximately 27% of licensees who use source and byproduct material are small businesses. However, since the health and safety consequences of improper handling or use of radioactive source and byproduct 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 reporting, recordkeeping, or accounting and control procedures.

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

If the information is not collected, NRC will have no way to assess whether licensees are operating within the radiation safety requirements applicable to the possession, use, or transfer of source or byproduct material. Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses are submitted only once and amendments are submitted as necessary. Applications for renewal of licenses are submitted every 15 to 40 years. Information submitted in previous applications may be referenced without being resubmitted. The schedule for collecting the information is the minimum frequency necessary to assure that licensees will continue to conduct programs in a manner that will assure adequate protection of public health and safety.

7. Circumstances Which Justify Variation from OMB Guidelines

Section 40.9(b) requires that licensees submit a notification to NRC in less than 30 days from the date of identifying information having significant implications for public health and safety or the common defense and security and which is not covered by other reporting requirements. The requirement to provide notification within two working days following the identification of the information is necessary to ensure that NRC is made aware of the significant safety information so as to take prompt effective action to protect public health and safety.

Section 40.25(d)(4) requires persons to report in writing to the NRC, Director of NMSS, with a copy to the appropriate NRC Regional Administrator, within 30 days of any transfer of depleted uranium under the general license in Section 40.25(a), the name and address of the person receiving the source material pursuant to such transfer. This requirement is needed in order to inform the NRC staff of the persons who possess depleted uranium products so that inspections may be made of general licensees to determine compliance with the terms and conditions of the general license.

Section 40.26(c)(2) requires that persons receiving title to, owning, or possessing byproduct material (mill tailings or wastes) under the general license established in Section 40.26(a) document the daily inspections of tailings or waste retention systems and immediately notify the NRC Regional Office or the Director of NMSS at NRC Headquarters, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions which could lead to failure of the system and result in a release of tailings or waste into unrestricted areas. The immediate notification will be used to trigger the establishment of direct communications with the licensee to determine the need for follow-up emergency response, cleanup and decontamination activities and standards, and also later failure analysis.

Section 40.31(j)(3)(viii) provides that an emergency plan submitted under Section 40.31(j)(1), above, for responding to radiological or associated chemical hazards of an accidental release, must include a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, and a commitment to notify the NRC operations center immediately after making the above offsite notifications and not later than one hour after declaring an emergency. These

prompt notifications are necessary to permit the NRC to determine whether immediate assistance or other prompt action is necessary to ensure adequate protection of public health and safety.

Section 40.41(f) requires that licensees notify the NRC, in writing, immediately following the filing of a petition in bankruptcy. The requirement to provide notification promptly following the filing of the petition is necessary to ensure that NRC is made aware of the bankruptcy so as to take effective action to protect public health and safety. Allowing a period of thirty or more days to elapse might preclude NRC from becoming aware of the licensee's distressed financial circumstances in time to prevent the development or aggravation of a potential hazard to the public. Moreover, the United States Code contains requirements regarding notification of creditors in bankruptcy. Section 40.41(f) would require one additional notification. Notifying NRC promptly after the filing of the petition would in fact be less of a burden on the bankrupt than a separate notification later in the proceedings.

Section 40.60 requires licensees to notify NRC immediately (i.e., within four hours) by telephone of events or conditions that threaten the health and safety of individuals using licensed material or that prevent the performance of surveys or other safety-related duties necessary to maintain control over licensed material. It is important that NRC be notified in such cases because accidental contamination events increase radiation exposure and the risk of ingesting radioactive material. Immediate notification is needed so that such events may be promptly evaluated and measures taken to minimize any spread of contamination and determine the performance of features designed to control licensed material.

Section 40.61(a)(1) requires that records of receipt of source or byproduct material shall be retained as long as the licensee possesses the material and for three years following transfer or disposition.

Section 40.61(a)(2) requires that records of transfer be retained until the Commission terminates the license.

Section 40.61(a)(3) requires that records of disposal be retained until the Commission terminates the license.

The requirement that records be retained as long as the nuclear material is possessed or for the duration of the license is necessary to permit NRC inspectors to ensure that all material has been accounted for or, in the event of a discrepancy, to reconstruct the receipts and transfers to determine accountability.

Section 40.64(c) requires that licensees report promptly to the appropriate NRC Regional Office any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year. The initial report by telephone, telegraph, mailgram or facsimile must be followed up by a written report within 15 days. Any additional information which the licensee subsequently obtains must be reported in writing.

It is necessary to require these reports in less than 30 days in order to permit the NRC staff to implement prompt action to determine whether there has been a diversion or other loss of material and to initiate prompt action in the event of such diversion or loss.

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 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). However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

This information collection does not involve sensitive questions.

12. Estimated Burden and Burden Hour Cost

This supporting statement provides an estimate of the reporting and recordkeeping burden for 10 CFR Part 40 NRC and Agreement States licensees. Under Part 40, there are four different licensing programs: a) uranium recovery active, b) uranium recovery decommissioning, c) fuel cycle, and d) source materials.

Section 274 of the Atomic Energy Act of 1954 provides a statutory basis under which NRC relinquishes to the States portions of its regulatory authority to license and regulate byproduct materials (radioisotopes); source materials (uranium and thorium); and certain quantities of special nuclear materials. The mechanism for the transfer of NRC's authority to a State is an agreement signed by the Governor of the State and the Chairman of the Commission, in accordance with section 274b of the Act. Licensees operating in these "Agreement States" are referred to in this supporting statement as "Agreement State Licensees." A map of Agreement States and non-Agreement states is located on NRC's website at <https://scp.nrc.gov/rulemaking.html>. The NRC has established compatibility requirements for Agreement States to implement their own regulations in a manner consistent with NRC regulations. Therefore, there are certain information collections which may not be required by Agreement States. As an example, the NRC maintains exclusive regulatory authority over exempt distribution licenses. Therefore, these licensees are not required to report to Agreement States, only to the NRC. In addition, fuel cycle facilities are only found in NRC jurisdiction and the requirements and burdens related to the Fuel Cycle Program only apply to NRC licensees.

The following table shows the anticipated number of respondents (NRC licensees and Agreement state licensees) in each program:

<b>Respondents</b>	<b>NRC Licensees</b>	<b>AS Licensees</b>	<b>Total</b>
Uranium recovery (active)	1	16	<b>17</b>
Uranium recovery (decommissioning)	4	19	<b>23</b>
Fuel cycle	2	0	<b>2</b>
Materials	65	475	<b>540</b>
<b>Total</b>	<b>72</b>	<b>510</b>	<b>582</b>

For all programs except the materials program, the number of licensees is known. The number of licensees in uranium recovery (active), uranium recovery (decommissioning) program is known because there are very few of these sites, and they are historically known to the NRC staff. In addition, the NRC licenses all commercial fuel cycle facilities involved in conversion, enrichment, and fuel fabrication, therefore there are no Agreement State licensees for this program.

The NRC does not have data on the number of source materials licensees subject to Part 40 who operate in Agreement States; therefore, the number of these licensees must be estimated. Annually, the Agreement States provide the NRC with an estimate of the total number of radioactive materials licensees within their states (including both byproduct subject to Part 30 and source material licensees subject to Part 40). In the last survey, there were 16,040 Agreement State licensees (compared to 2,187 total NRC licensees). For this clearance, the total number of Agreement State licensees subject to Part 40 was estimated using the ratio of the total number of Agreement State materials licensees to the total of NRC materials licensees. The current ratio is 7.3 (7.3 Agreement State licensees: 1 NRC licensee). Because there are 65 known NRC materials licensees subject to Part 40, staff estimated there are currently 475 Agreement States materials licensees subject to Part 40 ( $66 \text{ NRC licenses} \times 7.3 = 474.5$ ).

The burden estimates are based on submittals to NRC in past years and staff knowledge of the industry to make projections for the upcoming three-year clearance period. The \$288 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 2021 (86 FR 32146, June 17, 2021).

The estimated burden for each of the programs is as follows:

	<b>Total Burden (NRC Licensees)</b>		
	<b>Burden</b>	<b>Responses</b>	<b>Cost @\$288</b>
Reporting	1,929.5	123.0	\$555,696
Recordkeeping	597.3	73.0	\$171,022
Third party disclosure	15.0	5.0	\$4,320
<b>Total</b>	<b>2,541.8</b>	<b>201.0</b>	<b>\$732,038</b>

	<b>Total Burden (Agreement State Licensees)</b>		
	<b>Burden</b>	<b>Responses</b>	<b>Cost @\$288</b>
Reporting	9,354.0	628.0	\$2,693,952
Recordkeeping	4,526.0	512.0	\$1,303,488
Third party disclosure	0.0	0.0	\$0
<b>Total</b>	<b>13,880.0</b>	<b>1,140.0</b>	<b>\$3,997,440</b>

The total estimated burden for all Part 40 information collection activities is:

	<b>Total Burden (All Licensees)</b>		
	<b>Burden</b>	<b>Responses</b>	<b>Cost @\$288</b>
<b>Reporting</b>	11,284	751	\$3,249,792
<b>Recordkeeping</b>	5,123	585	\$1,475,424
<b>Third party disclosure</b>	15	5	\$4,320
<b>Total</b>	<b>16,422</b>	<b>1,341</b>	<b>\$4,729,536</b>

A detailed breakout of burden and responses for all reporting, recordkeeping, and third-party disclosure requirements is included in the spreadsheet submitted as a supplement to this supporting statement, titled, "Part 40 Burden Spreadsheet."

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 5,123 hours, the storage cost for this clearance is \$590 (5,123 hours [597 NRC hours + 4,526 Agreement State hours] x 0.0004 x \$288/hour).

14. Estimated Annualized Cost to the Federal Government

The total annual cost for the NRC to review the records, reports and third-party notifications required by 10 CFR Part 40 is estimated to be 2,623 hours or \$755,424

(2,623 hours x \$288/hr). The majority of the cost is associated with the review of records and reports within the uranium recovery decommissioning licensing program such as decommissioning funding plans, decommissioning plans, environmental reports, and records that are reviewed during inspections, which account for 2,230 hours, or \$642,240 (2,230 hours x \$288/hr).

Application review activities for 10 CFR Part 40 licensees are attributed to and reported under OMB Clearance No. 3150-0120 for NRC Form 313. The burden of certifying the disposition of all licensed material, including accumulated wastes, required for termination of 10 CFR Part 40 licenses is reported under OMB Clearance No. 3150-0028 for NRC Form 314.

#### 15. Reasons for Change in Burden

The overall burden decreased by 363 hours from 16,928 hours to 16,422 hours, as shown on the table below:

	CHANGE IN BURDEN AND RESPONSES - ALL LICENSEES					
	IN ROCIS		CURRENT REQUEST		CHANGE	
	Burden	Responses	Burden	Responses	Burden	Responses
<b>Reporting</b>	11,366.0	750.0	11,284.0	751.0	-82.0	1.0
<b>Recordkeeping</b>	5,544.0	634.0	5,123.0	585.0	-421.0	-49.0
<b>Third party disclosure</b>	18.0	6.0	15.0	6.0	-3.0	0.0
<b>Total</b>	<b>16,928.0</b>	<b>1,390.0</b>	<b>16,422.0</b>	<b>1,342.0</b>	<b>-506.0</b>	<b>-48.0</b>

The net decrease in burden results from an overall decrease in estimated NRC licensee burden (-405.6 hours) and a decrease in Agreement State licensee burden (-100.5 hours).

The NRC's regulations for uranium recovery facilities are located in 10 CFR Part 40 and Appendix A to Part 40. These regulations were developed in the 1980s. The criteria in Appendix A are focused on conventional uranium milling, which was the main technique used to extract uranium at that time. Since the 1980s, the uranium recovery industry has shifted, and most facilities use in situ recovery methods to extract uranium. As the regulations in Appendix A are focused on conventional uranium milling, the NRC currently regulates uranium in situ recovery facilities via site-specific license conditions. The information required by site-specific license conditions relates to the protection of groundwater at in situ recovery facilities. The site-specific license conditions are focused on field testing, and subsequent reporting, that licensees perform to demonstrate that their activities are protective of groundwater. Prior to this renewal, the burden associated with these license conditions was not included in the Part 40 renewal package. In this renewal, 40 hours burden associated with license conditions has been added to the information collection, included on the burden table under reporting as "License conditions."



Note that the ratio of Agreement State materials licenses to NRC materials licenses has increased from 6.5:1 to 7.3:1 since the last renewal. This ratio is based on the annual estimate provided by the Agreement States. NRC uses the ratio of the total of NRC materials licensees to the total number of Agreement State materials licensees to estimate the number of Agreement State respondents. The current ratio is 7.3 (7.3 Agreement State licensees: 1 NRC licensees), based on 2,187 total NRC licensees and 16,040 Agreement State licensees.

In addition, there was a change in the overall cost due to an increase in the hourly fee rate from \$279/hr to \$288/hr.

16. Publication for Statistical Use

Results will not be tabulated or published.

17. Reason for Not Displaying the Expiration Date

The recordkeeping and reporting requirements for this information collection are associated with regulations and are not submitted on instruments such as forms or surveys. For this reason, there are no data instruments on which to display an OMB expiration date. Further, amending the regulatory text of the CFR 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

Not applicable.

B. Collection of Information Employing Statistical Methods

Not applicable.

DESCRIPTION OF INFORMATION COLLECTION REQUIREMENTS  
CONTAINED IN 10 CFR PART 40  
DOMESTIC LICENSING OF SOURCE MATERIAL  
(3150-0020)

Section 40.9(b) requires that an applicant or licensee notify the Commission of information related to the regulated activity which the licensee recognizes as having significant implications for public health and safety or the common defense and security. This requirement applies only to information which is not covered by other reporting requirements. The information must be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information.

This requirement is necessary because there may be some circumstances in which a licensee possesses information that could be important to the protection of public health and safety or the common defense and security, but which is not otherwise required to be reported. This full disclosure requirement should not result in significant additional burdens on applicants or licensees. No formal program is required, but it is expected that licensees will maintain a professional attitude towards safety and if potential safety information is identified by the licensee, the information will be provided freely and promptly to the NRC so the agency can evaluate and act on it in a timely manner.

Section 40.13(a) describes exemptions from the regulations in Part 40 for persons who receive, possess, use, transfer or deliver source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of 1 percent (0.05 percent) of the mixture, compound, solution or alloy. Although the regulations in Part 40 do not require the NRC's prior written approval for transfers of unimportant quantities of source material to exempt persons, some licensees have requested NRC approval for these transfers.

Section 40.14 allows interested parties to apply to the Commission for exemptions from requirements of 10 CFR Part 40. Sufficient information is needed from parties applying for exemption for the Commission to determine if the exemption can be granted.

Section 40.22(b)(4) requires Section 40.22 general licensees to respond to written requests from the NRC relating to the general license within 30 calendar days of the date of the request or other time specified in the request.

Section 40.22(c) requires Section 40.22 general licensees, when activities involving source material are permanently ceased at any site and if evidence of significant contamination is identified, to notify the Director of NMSS about such contamination.

Section 40.23(b)(1) requires that carriers of transient shipments of natural uranium under the general license in Section 40.23(a) provide written notification to NRC concerning the shipments at least 10 days before transport.

Section 40.23(b)(2) requires that licensees who transport transient shipments between countries that are not party to the Convention provide NRC a certification that arrangements have been made to notify NRC when the shipment has been received at the destination facility. The notification must include the following: (i) the location of all

scheduled stops in United States territory; (ii) the arrival and departure time for all scheduled stops in United States territory; (iii) the type of transport vehicle; (iv) a physical description of the shipment; (v) the numbers and types of containers; (vi) the name and telephone number of the carrier's representative at each stopover location in United States territory; (vii) a listing of the modes of shipments, transfer points, and routes to be used; (viii) the estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered; and (ix) a certification that arrangements have been made to provide, NRC Director, Division of Security Policy, notification when the shipment has been received at the destination facility for shipments between countries that are not party to the Convention on the Physical Protection of Nuclear Material.

Section 40.23(c) requires that carriers of transient shipments of natural uranium other than in the form of ore or ore residue notify, NRC Director, Division of Security Policy, of unscheduled stops at United States ports.

Section 40.23(d) provides that a licensee may amend a notification required by 40.23(b)(1) by telephoning the Director, Division of Security Policy.

The information in Section 40.23 is used by the NRC staff to ensure that the requirements of the Convention on the Physical Protection of Nuclear Material are met. This section imposes requirements which are necessary to permit the United States to discharge its obligations as a signatory to the Convention, whose purpose is to provide for the establishment and maintenance of adequate physical security with respect to the international shipment of significant quantities of source or special nuclear material.

Section 40.25(c) requires persons to file NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License." The use of NRC Form 244 is covered under OMB Clearance No. 3150-0031.

Section 40.25(d)(3) requires persons transferring depleted uranium to a transferee pursuant to the general license in Section 40.25(a) to furnish to the transferee a copy of Section 40.25 and a copy of Form 244, and if under the regulations of an Agreement State, an explanation of that fact. The use of NRC Form 244 is covered under OMB Clearance No. 3150-0031.

Section 40.25(d)(4) requires persons to report in writing to the NRC Director, Office of Nuclear Material Safety and Safeguards (NMSS), with a copy to the appropriate NRC Regional Administrator, within 30 days of any transfer of depleted uranium under the general license in Section 40.25(a), the name and address of the person receiving the source material pursuant to such transfer.

This information is used by the NRC staff to identify persons who possess depleted uranium products so that inspections may be made of general licensees to determine compliance with the terms and conditions of the general license.

Because general licensees do not often use or transfer depleted uranium under this general license, there have been very few reports of transfer, and there is consequently only a small burden.

Section 40.26(c)(2) requires that persons receiving title to, owning, or possessing byproduct material (mill tailings or wastes) under the general license established in Section 40.26(a) document the daily inspections of tailings or waste retention systems and immediately notify the NRC Regional Office or the Director, Office of Nuclear Material Safety and Safeguards (NMSS) at NRC Headquarters, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions which could lead to failure of the system and result in a release of tailings or waste into unrestricted areas. Records of daily inspections must be retained for three years.

The purpose of this requirement is to provide for documented daily inspections of waste retention facilities, so as to avoid failure of such systems, and to require the reporting of significant failures so that appropriate follow-up actions may be taken and the cause of the failure may be determined, in order to avoid other failures from the same cause.

Only reports of failures will be submitted to NRC. These will be notifications only, not detailed analyses of failure cause or consequences. The notification will be used to trigger the establishment of direct communications with the licensee to determine the need for follow-up emergency response, cleanup and decontamination activities and standards, and also later failure analysis.

Section 40.26(d) provides that the general license covering tailings at active mills expires within nine months from the effective date of this requirement unless an affected licensee has submitted an application for license renewal or amendment which includes a detailed program for meeting the criteria in Appendix A to 10 CFR Part 40. This requirement is necessary to ensure that all existing mill operators develop acceptable programs relating to the long-term disposition of tailings at active mills in a timely manner. Information collection supporting data are included below in the burden for Appendix A.

Section 40.27(c)(3) requires that the licensee under the general license for custody and long-term care of a residual radioactive material disposal site notify the Commission of any changes to the Long-Term Surveillance Plan (LTSP). This information is necessary to permit NRC to ensure that changes to the LTSP do not decrease protection of public health and safety.

Section 40.27(c)(5) requires that the licensee under the general license for custody and long-term care of a residual radioactive material disposal site notify the Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency. This information is necessary to permit NRC to ensure that the construction, actions, or repairs do not decrease protection of public health and safety.

Section 40.28(c)(3) requires that the licensee under the general license for custody and long-term care of uranium or thorium product materials disposal sites notify the Commission of any changes to the LTSP. This information is necessary to permit NRC to ensure that changes to the LTSP do not decrease protection of public health and safety.

Section 40.28(c)(5) requires that the licensee under the general license for custody and long-term care of uranium or thorium product materials disposal sites notify the

Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency. This information is necessary to permit NRC to ensure that the construction, actions, or repairs do not decrease protection of public health and safety.

Section 40.31(a) provides that applications for specific licenses for source material may be submitted on NRC Form 313, "Application for Materials License." Because Part 40 licenses cover a broad range of uses, license applications vary from simple to complex. The use of NRC Form 313 is approved under OMB Clearance No. 3150-0120.

Section 40.31(b) provides that NRC may require further statements after the filing of the application and before expiration of the license to enable NRC to determine whether the application should be granted or denied or whether a license should be modified or revoked. The use of NRC Form 313 is approved under OMB Clearance No. 3150-0120.

Section 40.31(f) requires that an application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by an Environmental Report required pursuant to 10 CFR Part 51, which is cleared under OMB Clearance No. 3150-0021.

Section 40.31(g) requires that, in response to a written request by the Commission, an applicant for a license to possess and use source material in a uranium hexafluoride production plant or a fuel fabrication plant and any other applicant for a license to possess and use more than one effective kilogram of source material should file with the Commission the installation information described in 10 CFR 75.11 on International Atomic Energy Agency Form N-71, is approved under OMB Clearance No. 3150-0055 (10 CFR Part 75) and OMB Clearance No. 3150-0056 (IAEA Form N-71).

Section 40.31(h) requires applications for licenses to receive, possess, and use source material for uranium or thorium milling, or byproduct material at sites formerly associated with such milling, to contain detailed programs for meeting the criteria in Appendix A to 10 CFR 40. This information is necessary to allow NRC, pursuant to its obligations under the Atomic Energy Act of 1954, NEPA, and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), to assure that licensed uranium milling operations are conducted so as to provide appropriate protection of public health and safety, as well as the environment.

The information collection burdens and supporting data for this section are included below in the burden for Appendix A.

Section 40.31(i) provides that, as required by Section 40.36, certain applications for specific licenses must contain a decommissioning funding plan or a certification of financial assurance for decommissioning. The justification, burden, and other supporting information for this requirement are covered under Section 40.36.

Section 40.31(j)(1) provides that applications to possess uranium hexafluoride in excess of 50 kilograms in a single container or 1000 kilograms total must contain: (1) an evaluation showing that the maximum intake of uranium by a member of the public in the

event of a release would not exceed 2 milligrams; or (2) an emergency plan for responding to the radiological hazards of an accidental release of source material and to any associated chemical hazards. This information is necessary to ensure that adequate measures have been taken for protection of public health and safety through features to minimize or protect against releases and provisions for emergency response.

Section 40.31(j)(3)(viii) provides that an emergency plan submitted under Section 40.31(j)(1), above, for responding to radiological or associated chemical hazards of an accidental release, must include a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, and a commitment to notify the NRC operations center immediately after making the above offsite notifications and not later than one hour after declaring an emergency. These notifications are necessary to permit the NRC to determine whether immediate assistance or other prompt action is necessary to ensure adequate protection of public health and safety.

Section 40.35(b) requires that persons licensed to manufacture or initially transfer industrial products and devices containing depleted uranium label or mark each unit to identify the manufacturer or initial transferor, the license number, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium. The label must also state that the receipt, possession, use, and transfer of the product or device are subject to a general license or equivalent and the regulations of NRC or an Agreement State. This labeling is needed to inform persons who may use, possess, or find such a product or device, that it contains depleted uranium and is subject to specified regulatory requirements.

Section 40.35(d) requires that licensees for manufacture or initial transfer of industrial products and devices containing depleted uranium furnish to the transferee a copy of Section 40.25 and a copy of NRC Form 244, or the equivalent general license and certificate from an Agreement State. The use of NRC Form 244 is covered under OMB Clearance No. 3150-0031.

Sections 40.35(e)(1) requires that the holder of a specific license to manufacture industrial products and devices containing depleted uranium under Section 40.34 must report to the Director of NMSS all transfers of industrial products or devices to persons for use under the general license in Section 40.25. The report will identify each general licensee by name and address, an individual by name and model number of the device transferred, and the quantity of depleted uranium contained in each product or device. The report must be submitted within 30 days of the end of the calendar quarter in which such a product or device is transferred to the generally licensed person. The report shall also indicate if no transfers have been made to persons licensed under Section 40.25 during the reporting period.

Sections 40.35(e)(2) requires that the holder of a specific license to manufacture industrial products and devices containing depleted uranium under Section 40.34 must report to the responsible Agreement State agency all transfers of industrial products or devices to persons for use under the general license in the Agreement State's regulation equivalent to Section 40.25. The report will identify each general licensee by name and address, an individual by name, model number of the device transferred, and the quantity of depleted uranium contained in each product or device. The report must be submitted within 30 days of the end of the calendar quarter in which such a product or

device is transferred to the generally licensed person. The report shall also indicate if no transfers have been made to a particular Agreement State during the reporting period.

Section 40.35(e)(3) requires that holders of specific licenses to manufacture industrial products and devices containing depleted uranium under Section 40.34 keep records for a period of three years showing the name, address, and point of contact for each transferee, the date and quantity of depleted uranium in each product for each transfer, and compliance with the reporting requirements of Section 40.35.

The purpose of these requirements is to enable NRC or the appropriate Agreement State to identify the general licensee, to identify an individual by name who may serve as a point of contact between the agency and the general licensee, and to enable agency staff to determine the location and quantity of such radioactive material to assist them in determining that protection of public health and safety is being maintained.

Section 40.35(f) requires that licensees who must submit emergency plans under §40.31(i) submit an application for approval to NRC, and to effective offsite response organizations, within 6 months for any change to an emergency plan which decreases the effectiveness of the plan.

The notification and approval requirements are necessary so that NRC can ensure that changes and proposed changes to the emergency plan will still provide an adequate level of protection to public health and safety.

Section 40.36(a) requires applicants for a specific license authorizing the possession and use of more than 100 mCi of source material in a readily dispersible form to submit a decommissioning funding plan.

Section 40.36(b) requires applicants for a specific license authorizing the possession and use of source material greater than 10 mCi but less than or equal to 100 mCi in a readily dispersible form to either submit a decommissioning funding plan or submit a certification that financial assurance for decommissioning has been provided in the amount of \$225,000.

Section 40.36(c)(1) requires each holder of a specific license issued on or after July 27, 1990 covered under Sections 40.36(a) or 40.36(b) to provide financial assurance for decommissioning under Section 40.36.

Section 40.36(c)(2) requires each holder of a specific license issued on or after July 27, 1990 covered under Section 40.36(a) to submit a decommissioning funding plan and provide financial assurance for decommissioning in an amount at least equal to \$1,125,000 under Section 40.36.

Section 40.36(c)(3) requires each holder of a specific license issued on or after July 27, 1990 covered under Section 40.36(b) to submit a decommissioning funding plan or a certification of financial assurance for decommissioning under Section 40.36.

Section 40.36(c)(4) requires any licensee who has submitted an application before July 27, 1990 in accordance with Section 40.43 to provide financial assurance for decommissioning in accordance with Sections 40.36(a) and 40.36(b).

Section 40.36(c)(5) provides that if, in surveys made under 10 CFR 20.1501(a), residual radioactivity in the facility and the environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

This provision will ensure that if residual radioactivity is detected, the licensee provides a decommissioning cost estimate that addresses that residual radioactivity. In the past, licensees have used certification amounts for decommissioning financial assurance that did not take residual radioactivity into account, or they have developed decommissioning cost estimates based on the assumption that they will be able to meet the criteria for unrestricted use, but the presence of previously undetected residual radioactivity has made those certification amounts or decommissioning cost estimates inadequate.

Section 40.36(d) requires that each decommissioning funding plan contain a cost estimate for decommissioning and a description of assuring funds for decommissioning, including means for adjusting cost estimates and associated funding levels for decommissioning. Cost estimates must be updated every 3 years to reflect changes in decommissioning costs. The decommissioning funding plan must also contain a certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements in Section 40.36(e).

Section 40.36(e) specifies acceptable methods for providing for financial assurance either through a certification or funding plan, which include: (1) Prepayment; (2) Surety, insurance, or other guarantee method; (3) An external sinking fund, with annual deposits, coupled with a surety method or insurance; (4) A statement of intent (for Federal, State, or local government licensees) containing a cost estimate for decommissioning and indicating funds will be obtained when necessary; and (5) An arrangement that is deemed acceptable by a governmental entity.

Section 40.36(f)(1) requires that licensees maintain records of spills or other unusual occurrences involving the spread of contamination that remains after cleanup, including information on involved nuclides, quantities, forms, and concentrations, until the license is terminated by the Commission.

Section 40.36(f)(2) requires that licensees keep records of as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes, until the license is terminated by the Commission.

Section 40.36(f)(3) requires that licensees list in a single document (to be held by the licensee and updated once every two years)

- (i) identification of all restricted areas where licensed materials were used or stored
- (ii) all areas outside of restricted areas where documentation is required under Section 40.36(f)(1) for unusual occurrences or spills
- (iii) all areas outside of restricted areas where waste has been buried
- (iv) all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to decontaminate the area or seek special approval for disposal.



These listings must be updated and maintained for the life of the license.

Section 40.36(f)(4) requires that licensees keep records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used, until the license is terminated by the Commission.

The records and reports required by Section 40.36 are necessary for the Commission to determine whether an applicant will be able to decontaminate licensed premises to a level suitable for release for unrestricted use before the license may be terminated. NRC will review the information to ensure that adequate funds will be available to ensure that the applicant will conduct decontamination efforts in a timely manner and minimize exposure of workers to radioactive materials. The information will also be used to ensure that the decontamination efforts will reduce the residual radioactive contamination sufficiently to protect public health and safety after the site is released for unrestricted use, so that no future users of the site will be inadvertently exposed to radiation.

Section 40.41(f) requires each licensee to notify the appropriate NRC Regional Administrator, in writing, immediately following the commencement of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States code by or against: (i) The licensee; (ii) An entity controlling the licensee or listing the license or licensee as property of the estate; or (iii) An affiliate of the licensee.

Notification of the NRC in cases of bankruptcy would alert the Commission so that it may deal with potential hazards to public health and safety posed by a licensee that does not have the resources to properly secure the licensed material or required clean-up of a contaminated site. The information provided by the required notification would be used by the regional inspection and licensing staff, in consultation with headquarters legal and program staff, to initiate a determination of the need for prompt NRC response or regulatory action. In addition, prompt notification would allow NRC to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of site cleanup before funds are disbursed and become unavailable for cleanup.

Section 40.42(d) requires each holder of a specific license to provide written notification within 60 days to the NRC and to either begin decommissioning its site or submit within 12 months of notification a decommissioning plan, if (1) the license has expired; or (2) the licensee has decided to permanently cease principal activities at, either the entire site or in any separate building or outdoor area; or (3) no principal activities under the license have been conducted for 24 months; or (4) no principal activities have been conducted for 24 months in any building or area that contains residual radioactivity and is unsuitable for release.

Submission of this information is needed so that NRC can communicate with the licensees on a timely basis regarding disposition of the licensed material and cleanup of the facility before the facility may be released for unrestricted use.

Section 40.42(e) requires the licensee to maintain in effect all decommissioning financial assurances and requires the licensee to increase the amount of financial assurance, as

appropriate. It also permits the licensee to reduce the amount of financial assurance as decommissioning proceeds if the assurance will cover the detailed cost estimate for decommissioning.

Section 40.42(e)(1) requires licensees who have not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan to do so, effective November 24, 1995.

Section 40.42(e)(2) permits the licensee, following approval of the decommissioning plan, to reduce the amount of financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

Section 40.42(f) permits the NRC to grant a request to delay or postpone initiation of a licensee's decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is in the public interest. Licensees are required to submit such requests no later than 30 days before notification of decommissioning actions and plans required by Section 40.42(d) so that the NRC can review the request to determine if such relief is not detrimental to public health and safety.

Section 40.42(g)(1) requires that licensees submit a decommissioning plan if required by license condition or the decommissioning procedures and activities have not previously been approved by the NRC and the procedures could increase potential health and safety impacts to workers or the public, as in the following cases: (i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations; (ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation; (iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or (iii) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

Section 40.42(g)(2) provides for NRC approval of an alternate schedule for submittal of a decommissioning plan. The NRC will review the alternate schedule to determine if it is necessary for the effective conduct of decommissioning operations and presents no undue risk from radiation to public health and safety.

Submittal of the decommissioning plan is necessary for NRC to evaluate any health and safety impacts.

Section 40.42(j)(1) requires licensees, as a final step in decommissioning, to certify the disposition of all licensed material, on NRC Form 314, "Certification of Disposition of Materials," or equivalent. The burden and cost data for NRC Form 314 is approved under OMB Clearance No. 3150-0028.

Section 40.42(j)(2) requires licensees, as a final step in decommissioning, to perform a radiation survey of the premises where the licensed activities were carried out and submit a report on the results of the survey. The licensee shall, as appropriate:

- (i) Reports levels of gamma radiation in units of milliSievert per hour at one meter from surfaces and report levels of radioactivity in units of megabecquerels per 100 square centimeters removable and fixed for surfaces, megabecquerels per milliliter for water,

and becquerels per gram for solids such as soils and concrete; and (ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

This information is necessary for NRC to evaluate whether the site is suitable for release for unrestricted use.

Section 40.43 requires that applications for renewal of a license be filed in accordance with Section 40.31. The burden and cost data for this application for renewal is covered under NRC Form 313, "Application for Materials License," OMB Clearance No. 3150-0120.

Section 40.44 requires that applications for amendment of a license be filed in accordance with Section 40.31. The burden and cost data for this application for amendment is covered under NRC Form 313, "Application for Material License," OMB Clearance No. 3150-0120.

Section 40.46(b) requires an applicant for transfer of a license to include the identity, technical and financial qualifications of the proposed transferee, and the information on financial assurance for decommissioning required by 10 CFR 40.36 or Appendix A, as applicable.

This provision will ensure that the NRC has necessary information concerning the transferee and financial assurance for decommissioning to enable the agency to assess the application for transfer of the license.

Section 40.51(c) requires that, before transferring source or byproduct material to a specific licensee or a general licensee who is required to register prior to receipt, the transferor must verify that the transferee's license authorizes receipt of the type, form, and quantity of source or byproduct material to be transferred.

Section 40.51(d) specifies methods acceptable to the Commission for accomplishing the required verification, including:

- (1) The transferor may have in his possession, and read, a copy of the transferee's specific license or registration certificate.
- (2) The transferor may have a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration number, issuing agency, and expiration date.
- (3) For emergency shipments, the transferor may accept oral certification from the transferee, provided it is confirmed in writing within 10 days.
- (4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or Agreement State licensing agency.
- (5) When other methods are not available, the transferor may obtain and record confirmation from the Commission or Agreement State licensing agency.

The information required by Sections 40.51(c) and (d) is used by transferring licensees to provide assurance that the licensed byproduct material is being transferred to a person who is authorized to receive it. This verification serves as an additional check to prevent transfer of byproduct material to persons who may not have the facilities, training, experience, equipment, or procedures necessary for the safe handling of the material. Records of these certifications will be reviewed by NRC inspectors during periodic inspections to ensure that licensees have been complying with verification requirements.

Section 40.53(b) requires that each person licensed under Section 40.52 to ensure that products are labeled in accordance with the appropriate exemption in Section 40.13(c). Because the labeling requirements in Section 40.13(c) are not new, the burden with such labeling is already accounted for. In addition, Section 40.53(b) also requires those distributing products to be used under Paragraphs 40.13(c)(1)(i) and (c)(1)(iii) or equivalent regulations of an Agreement State must provide radiation safety precautions and instructions relating to handling, use, and storage of these products as specified in the license.

Section 40.53(c) requires that each person licensed under Section 40.52 file a report about its distributions of source material for use under exemption with the NRC. The reports must describe or identify the specifically licensed distributor, their license number, the specific exemption that the source material was transferred for use under in Section 40.13(c) (or Agreement State equivalent), the type of product (and model number, if applicable) for each type of source material; and indicate the total quantity of each type of source material and the number of units for each product transferred.

Section 40.53(c)(6) requires that persons licensed under Section 40.52 maintain all information concerning transfers that support the reports required by this section for 1 year after each transfer is included in a report to the NRC.

Section 40.55(a) requires that each person licensed under Section 40.54 to label the immediate container of each quantity of source material with the type of source material and the quantity of material and the words, "radioactive material." It is expected that as part of normal business practices, such distributors are already labeling containers with the quantities contained and so no additional burden is included for this requirement. New costs are primarily those connected with documentation of the program for the NRC and are captured under the requirement in Section 40.54(b).

Section 40.55(c) requires that each person, licensed under Section 40.54 to initially distribute source material to Section 40.22 general licensees, to provide recipients of source material under the Section 40.22 license a copy of Sections 40.22 and 40.51 (or equivalent regulations of the Agreement State if the general licensee is located in an Agreement State) and copies of appropriate radiation safety precautions and instructions related to handling, use, storage, and disposal of the source material. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient.

Section 40.55(d)(1) and (2) require that each person licensed under Section 40.54 report transfers of source material to Section 40.22 general licensees (or the equivalent in Agreement States) by filing a report with the NRC and filing reports with the responsible Agreement State agencies. The reports are to include specific information related to transfers of greater than 50 grams (0.11 lb) of source material transferred to an NRC

general licensee or a general licensee in an Agreement State within a calendar quarter, and cumulative quarterly totals. The reports are to be submitted by January 31 of each year and are to cover all transfers for the previous calendar year. If no transfers were made to persons generally licensed under Section 40.22 during the current period, a report shall be submitted to the NRC indicating so. If no transfers have been made to a person licensed under an equivalent to Section 40.22 in a particular Agreement State during the reporting period, the Section 40.54 licensee is only required to provide a report to that responsible Agreement State agency if the Agreement State agency requests it.

Section 40.55(e) requires that each person licensed under Section 40.54 maintain all information that supports the reports required by this section concerning each transfer to a general licensee for a period of 1 year after the event is included in a report to the NRC or to an Agreement State agency.

Section 40.60(a) requires licensees to notify NRC immediately (i.e., within four hours) by telephone of events or conditions that threaten the health and safety of individuals using licensed material or that prevent the performance of surveys or other safety-related duties necessary to maintain control over licensed material.

Section 40.60(b) requires licensees to notify NRC within 24 hours of the discovery of any of the following licensed-material events:

(1) An unplanned contamination event that: (i) Requires access to the contaminated area by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area; (ii) Involves a quantity of material greater than 5 times the lowest annual limit on intake specified in appendix B of Sections 20.1001 to 20.2401 of 10 CFR Part 20 for the material; and (iii) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

It is important that NRC be notified in such cases because accidental contamination events increase radiation exposure and the risk of ingesting radioactive material.

(2) An event in which equipment is disabled or fails to function as designed when: (i) The equipment required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident; (ii) The equipment is required to be available and operable when it is disabled or fails to function; and (iii) No redundant equipment is available and operable to perform the required safety function.

Notification is not required for an individual component failure if redundant systems are operable and available to automatically perform the required function.

(3) Events that require unplanned medical treatment of a radioactively contaminated individual with spreadable radioactive contamination at a medical facility. Such events are significant because they may: indicate safety problems in a licensed operation; risk internal contamination through open wounds; and expose medical personnel to radiation and contamination. Prompt notification is necessary so that NRC can ensure that an evaluation is performed and that measures are taken to prevent recurrence.

(4) All unplanned fires or explosions involving any device, container, or equipment containing licensed material, so that such events may be promptly evaluated and measures taken to minimize any spread of contamination and determine the performance of features designed to control licensed material.

Section 40.60(c)(1) requires that licensees who submit reports by telephone required in Sections 40.60(a) and 40.60(b), include, to the extent available, the following descriptive information:

- (i) The caller's name and call-back telephone number;
- (ii) A description of the event, including date and time;
- (iii) The exact location of the event;
- (iv) The isotopes, quantities, and chemical and physical form of the licensed material involved; and
- (v) Any personal radiation exposure data available.

Section 40.61(a) requires each person who receives source or byproduct material under the regulations in this part to keep records showing the receipt, transfer, and disposal of such source or byproduct material as follows:

- (1) Requires that licensees retain records of receipt of source or byproduct material as long as the licensee possesses the material and for three years following transfer or disposition of the source or byproduct material.
- (2) Requires that licensees who transferred the material retain records of transfer until the Commission terminates the license.
- (3) Requires that licensees retain records of disposal until the Commission terminates the license.
- (4) Provides that, if source or byproduct material is mixed with other licensed material and treated in such a manner as to make direct correlation of receipt, transfer, export or disposition records impossible, the licensee may use evaluative techniques (such as first-in-first-out) to make the records required by Part 40 account for 100 percent of the material received.

Section 40.61(b) requires that if a retention period for records is not specified by the appropriate regulation or license conditions, the records are to be retained until the Commission terminates the license.

Records are necessary as a primary source for determination that licensees have confined their possession and use of source or byproduct material to the locations and purposes authorized in the licenses. Information from the Sections 40.61(a) and 40.61(b) records of receipt, transfer, and disposal are examined together to determine whether the licensee has possessed at any one time no more than the maximum quantity of source or byproduct material authorized in the license.

Section 40.61(d) requires that licensees authorized to possess source material in an unsealed form forward to the NRC Regional Office records pertaining to offsite releases and waste disposal prior to license termination. The records should contain:

- (1) Records of disposal of licensed material made under Sections 20.2002, 20.2003, 20.2004, and 20.2005; and
- (2) Records required by Section 20.2103(b)(4).

This forwarding of records is necessary to ensure that adequate information will be available to evaluate offsite consequences, and to ensure that the site is decommissioned effectively.

Section 40.61(e) requires that licensees authorized to possess source material in an unsealed form transfer to the new licensee, in accordance with Section 40.41(b), records. The new licensee will be responsible for maintaining these records until termination of the license, and the records will contain:

- (1) Records of disposal of licensed material made under Sections 20.2002, 20.2003, 20.2004, and 20.2005; and
- (2) Records required by Section 20.2103(b)(4).

This transferring of records is necessary to ensure that adequate information will be available to effectively decommission the facility.

Section 40.61(f) requires that all licensees forward records pertaining to decommissioning, required by 10 CFR 40.36(f), to the NRC Regional Office prior to license termination. This forwarding of records is necessary to ensure that adequate information will be available to evaluate offsite consequences, and to ensure that the site is decommissioned effectively.

Section 40.64(a) requires each licensee who transfers, receives, or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin, or who imports or exports 1 kilogram or more of uranium or thorium source material of any origin, to complete and distribute DOE/NRC Form 741, "Nuclear Materials Transaction Report," in computer readable form in accordance with instructions in NUREG/BR-0006 and NMMSS Report D-24. DOE/NRC Form 741 is approved under OMB Clearance No. 3150-0003.

Section 40.64(b) requires each licensee who is authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination thereof, to submit to NRC within 30 days of September 30 each year a statement of the licensee's foreign origin source material inventory.

The information contained in the statement is placed in and maintained by the Nuclear Materials Management and Safeguards system, pursuant to the Commission's responsibility under Section 161 of the Atomic Energy Act of 1954, as amended, to establish such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material, as it deems necessary or desirable to promote the common defense and security.

Section 40.64(c)(1) requires that each licensee who is authorized to possess uranium or thorium pursuant to a specific license shall notify the NRC Headquarters Operations Center by telephone any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or 150 pounds of such material in any one calendar year.

Section 40.64(c)(2) requires that each licensee notify the NRC as soon as possible, but within 4 hours, of discovery of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of the material listed in 40.61(c)(1) to the NRC, with a copy to the Director, Division of Nuclear Security Policy, Office of Nuclear Security and Incident Response.

Section 40.64(c)(3) requires that the initial report by telephone, telegraph, mailgram or facsimile must be followed up by a written follow-up notification within 60 days to the NRC, with a copy to the Director, Division of Nuclear Security Policy, Office of Nuclear Security and Incident Response.

Section 40.64(c)(4) requires any substantive additional information regarding an attempted or apparent theft which the licensee subsequently obtains must be reported as a follow-up in writing.

The information submitted by licensees under this requirement is evaluated and maintained by NRC in order that the Commission may carry out its responsibility under the Atomic Energy Act of 1954, as amended, to regulate the possession and use of special nuclear material, source material, and byproduct material as necessary to promote the common defense and security, protect health, and minimize danger to life or property.

Section 40.65(a)(1) requires each licensee authorized to possess and use source material in uranium milling, in the production of uranium hexafluoride, or in a uranium enrichment facility to submit semiannual reports of the quantities of radioactive materials released to unrestricted areas. If quantities released during the reporting period were significantly above design objectives, the licensee must cover that fact specifically in its reports. The reports provide a structured, timely and uniform basis for assessing the effectiveness of regulating releases of radioactive material from fuel cycle plants to the unrestricted areas by engineering design features and administrative controls.

Information on effluent monitoring reported by licensees since January 1976 has been reviewed by NRC personnel to ascertain that the licensees' operations are consistent with commitments made in applications for licenses, and to assess the radiation dose commitment to assure that licensees' operations are, and remain, within specified regulatory limits and license conditions, to assure protection of public health, safety, and the environment.

Section 40.66(a) requires that licensees authorized to export natural uranium, other than as ore or ore residue, in excess of 500 kilograms, notify NRC in writing at least 10 days before transport of the shipment.

Section 40.66(b) requires that the notification include:



- (1) Information identifying the shipper, receiver and carrier, such as name(s), address(es), and telephone number(s);
- (2) A physical description of the shipment;
- (3) A listing of the mode(s) of shipment, transfer points, and routes to be used;
- (4) The estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered; and
- (5) A certification that arrangements have been made to notify NRC when the shipment is received at the receiving facility.

Section 40.66(c) provides that a licensee may amend a notification by telephone.

The information required under Section 40.66 is furnished to the Department of Transportation so it can notify countries through which the material passes, in accordance with the Convention on the Physical Protection of Nuclear Material provisions. The information will also be used by the NRC Safeguards staff to ensure that the requirements of the Convention are met.

Section 40.67(a) requires that licensees authorized to import natural uranium, other than as ore or ore residue, in excess of 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material, notify NRC in writing at least 10 days before transport of the shipment.

Section 40.67(b) requires that the notification include information including:

- (1) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);
- (2) A physical description of the shipment;
- (3) A listing of the mode(s) of shipment, transfer points, and routes to be used; and
- (4) The estimated date and time that shipment will commence and that each nation along the route is scheduled to be entered.

Section 40.67(c) requires that the licensee notify NRC when the shipment is received at the receiving facility.

Section 40.67(d) provides that a licensee may amend a prior notification by telephone.

The information required under Section 40.67 will be used by the NRC staff to ensure that the requirements of the Convention on the Physical Protection of Nuclear Material are met.

Appendix A to 10 CFR Part 40 requires all mill operators to develop and submit to the NRC definitive programs meeting specified criteria in five major categories: technical criteria; financial criteria; site and byproduct material ownership criteria; long-term site surveillance criteria; and hazardous constituents. This information is necessary in order

to permit NRC to assure that licensed uranium milling operations are conducted so as to provide protection of public health and safety, as well as the environment, as required by the Atomic Energy Act of 1954, NEPA, and UMTRCA (all as amended).

Either NRC or the responsible Agreement State licensing authority will review the information submitted in order to determine if the proposed programs are adequate for the issuance or continuance of a license, and what conditions, if any, should be imposed.

Criterion 5A(3) of Appendix A states that a licensee may be exempted from the requirements of paragraph 5A(1) (i.e., surface impoundments must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, ground water, or surface water at any time during the active life of the impoundment.) The exemption will be granted based on a demonstration by the applicant or licensee that alternative design and operating practices, including the closure plan, together with site characteristics, will prevent the migration of any hazardous constituents into ground water or surface water at any future time. The information is used by NRC to determine if an exemption of placing a liner to prevent migration of wastes should be granted.

Criterion 5D of Appendix A requires if the ground water protection standards under 5B(1) are exceeded at a licensed site, the licensee must submit a proposed corrective action program and supporting rationale to the Commission. The program must address removal of the hazardous constituents or treating them in place. The information is used by NRC to ensure that the licensee's program will return hazardous constituent concentration levels in ground water to the concentrations set as standards and to determine when the licensee may terminate corrective action measures.

Criterion 5G of Appendix A requires the applicant/operator, in support of a tailings disposal system proposal, supply the following information:

- (1) The chemical and radioactive characteristics of the waste solutions
- (2) The characteristics of the underlying soil and geologic formations, particularly as they control transport of contaminants and solutions.
- (3) Location, extent, quality, capacity, and current uses of any ground water at or near the site.

The information is used by NRC to determine the effectiveness of the applicant's tailings disposal system.

Criterion 6(4) of Appendix A requires verification that the final radon barrier over uranium mill tailings, as constructed, is effective in controlling radon emissions. Within 90 days of completion of the verification, licensees must report to the Commission the results of the testing and analysis, detailing actions taken to verify that levels of release of radon-222 do not exceed 20 pCi/m<sup>2</sup>s. Licensees are required to maintain records documenting the analysis until termination of the license, and the records must be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a State for long-term care, if requested.

Criterion 6A(1) of Appendix A requires that the emplacement of the earthen cover be carried out in accordance with a written, Commission-approved reclamation plan which includes enforceable dates for completion of key reclamation milestone activities.

Criterion 6A(2) of Appendix A provides that licensees could submit requests to NRC for extensions of time for performance of milestones related to emplacement of the final radon barrier.

Criterion 6A(3) of Appendix A permits licensees to submit requests that NRC authorize a portion of an impoundment to accept uranium byproduct material or other materials that are similar in physical, chemical, and radiological characteristics to uranium mill tailings and associated wastes, from other sources, during the closure process.

Criterion 8 of Appendix A requires that the licensee must check hourly and record in a log all parameters of the yellowcake stack emission control equipment operation and retain the log as a record for three years. Drying and packaging operations must terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions must be taken to restore parameters to the prescribed range. All cessations, corrective actions, and restarts must be reported to the appropriate NRC regional office, in writing, within 10 days of subsequent restart.

Criterion 8A of Appendix A requires that the licensee make daily inspections of tailings or waste retention systems and retain documentation of the inspections as a record for three years. These records are reviewed by NRC inspectors to ensure that operations have been conducted safely and efficiently and within prescribed parameters and that corrective actions have been taken when needed.

Criterion 9 of Appendix A contains provisions concerning financial assurance arrangements for decontamination and decommissioning. These arrangements are covered in Section 40.36, which should be referred to for justification, burden, and other supporting information.

Criterion 9 (b)(1) requires that a decommissioning cost estimate must contain a “detailed” cost estimate for decontamination, decommissioning, and reclamation, in an amount reflecting specified criteria. Criterion 9 (b)(1)(i) would require licensees to include in their decommissioning cost estimate an amount adequate to cover the cost of an independent contractor to perform all decontamination, decommissioning, and reclamation activities; Criterion 9 (b)(1)(ii) would require the cost estimate to include an adequate contingency factor.

Criterion 9 (b)(2) requires the cost estimate to include an estimate of the amount of radioactive contamination in onsite subsurface material.

Criterion 9 (b)(3) requires that the DFP explain and justify the basis for using the key assumptions in the DCE.

Criterion 9 (b)(4) requires that the DFP describe the method of assuring funds for decontamination, decommissioning, and reclamation.

Criterion 12 of Appendix A requires that reports of the results of annual inspections of all the sites under the licensee's jurisdiction must be submitted to the Commission within 90 days of the last site inspection in that calendar year. The information will be reviewed by the NRC to confirm the integrity of the site and to determine the need, if any, for maintenance and/or monitoring.

Site specific license conditions for ISR facilities - The site-specific license conditions are focused on field testing and subsequent reporting that licensees perform to demonstrate that their activities are protective of groundwater, and may include hydrologic site characterization, well design and construction specifications in the form of schematic or other appropriate construction drawings, monitoring point of compliance wells in immediately overlying, underlying and adjacent aquifers to the production unit in the wellfield to detect excursions. License conditions may include the establishment of programs to detect leaks or spills of byproduct material into the uppermost aquifer, post-restoration groundwater monitoring program, and a wellfield plugging and abandonment plan.

GUIDANCE DOCUMENTS FOR INFORMATION COLLECTION REQUIREMENTS  
CONTAINED IN  
DOMESTIC LICENSING OF SOURCE MATERIAL  
(3150-0020)

Title	Accession number or link
Guidance for Implementation of the Final Rule "Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions" 10 CFR Parts 30, 40, 70, 170, And 171	ML13051A824
Consolidated Guidance About Materials Licenses (NUREG-1556)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/</a>
Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a) (EPPAD 3.5, Revision 0.1, Final Draft)	<a href="#">ML16326A063</a>
Standard Review Plan for Transportation Packages for Radioactive Material (NUREG-1609)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1609/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1609/</a>
Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (NUREG-1620, Revision 1)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1620/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1620/</a>
Consolidated Decommissioning Guidance (NUREG-1757)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1757/</a>
Instructions for Completing Nuclear Material Transaction Reports (DOE/NRC Forms 741 and 740M) (NUREG/BR-0006, Revision 8)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0006/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0006/</a>
Instructions for the Preparation and Distribution of Material Status Reports (DOE/NRC Forms 742 and 742C) (NUREG/BR-0007, Revision 7)	<a href="https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0007/">https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0007/</a>