

FINAL SUPPORTING STATEMENT
FOR
10 CFR PART 11
CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR
ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL
(3150-0062)

EXTENSION

Description of the Information Collection

NRC regulations in 10 CFR Part 11 establish requirements for access to special nuclear material and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. These requirements, criteria, and procedures apply to employees (including applicants for employment), contractors, and consultants of NRC licensees and contractors whose activities involve access to or control over special nuclear material at either fixed sites or in transportation activities. The regulations are issued pursuant to the Atomic Energy Act of 1954, as amended.

A. Justification

1. Need for and Practical Utility of the Information Collection

Two levels of special nuclear material access authorization are established. The higher level, NRC-U, is based on a full field background investigation and applies to (i) all positions in the security force, (ii) certain management positions, (iii) all individuals who require unescorted access to special nuclear material or within vital areas, (iv) those jobs in which an individual, alone or in cooperation with another individual who does not possess an NRC-U special nuclear material access authorization, could act to steal or divert special nuclear material or commit sabotage, and (v) drivers of motor vehicles and pilots of aircraft transporting significant quantities of special nuclear material, those who escort road, rail, air, or sea shipments of special nuclear material, and those who are authorized to direct deviation from planned transportation routes. The lower level, NRC-R, is based on a National Agency Check and credit investigation and applies to all individuals who require unescorted access to protected areas and who are not required to possess an NRC-U special nuclear material access authorization.

Both the National Agency Check and credit investigation and the full field background investigation are conducted by the Office of Personnel Management (OPM). The National Agency Check and credit investigation consists of a check of files of the FBI (fingerprinting and central files), OPM (Security-Investigative Index), and a check of military records and records of other government agencies and a credit check. The full field background investigation consists of interviews of references, conducted by investigative agents of OPM, in addition to the records check. Sources of information developed in the course of the investigation are also interviewed. The full field background investigation conducted by OPM generally covers the 7-year period of the individual's adult life prior to the investigation.

Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization.

Section 11.9 provides that licensees and other organizations may submit an application for an exemption from any requirement of Part 11. Applications under this section are examined by the NRC staff to determine whether the requested exemption is authorized by law and whether it will not constitute an undue risk to the common defense and security. Documentation related to the request, notification, and processing of an exemption is required to be maintained as a record for 3 years after the period covered by the exemption. No licensees have requested exemptions in recent years, and no requests are anticipated.

Section 11.11(a) requires that all fixed site licensees and transportation facilities submit an amendment to their security plan identifying those jobs which will require incumbents to have material access authorizations. The information is needed by NRC to determine the extent of requirements for access authorizations and to establish that such authorizations are keyed to job requirements. All existing licensees have submitted the required amendments, and no new submittals are anticipated.

Section 11.13(b) requires licensees who ship special nuclear material subject to the physical protection requirements of specified sections of 10 CFR Part 73 to make a record, prior to shipment, of the name and special nuclear material access authorization number of certain individuals assigned to the shipment. The record must be retained for 3 years after the shipment is made. The information is needed to permit NRC inspectors to verify that the licensee is complying with requirements for access to special nuclear material in transit and to permit followup in the event of any incident. There are currently no licensed Category I shippers, hence no current burden is anticipated.

Section 11.15(a), (b), (c), and (d) requires an employer to file an application with the NRC on behalf of the employee for special nuclear material access authorization, renewal, or change in level.

Section 11.15(a)(2) permits licensees to request certification of existing clearances of individuals from the NRC or other Federal agencies if the investigation data are equivalent to that required for NRC-U or NRC-R access authorization. Information upon which to base certifications is submitted on a Security Acknowledgment (NRC Form 176) and Request for Access Authorization (NRC Form 237, OMB Clearance No. 3150-0050). The information submitted is needed to determine the investigative basis and level of clearance. It is evaluated by NRC to determine whether access authorization should be granted.

Section 11.15(b) requires that, for individuals other than those qualified under § 11.15(a)(2), above, licensees must submit applications for special nuclear material access authorization for individuals employed in jobs identified in Section 11.11. Applications contain personal history information which is provided to OPM, which conducts an investigation or National Agency Check. NRC then determines whether the individual should be granted the level of special nuclear material access authorization that was requested.

Section 11.15(c) provides that, with specified exceptions, access authorizations expire 5 years from the date of issuance, and requires that applications for renewal be filed with NRC at least 120 days prior to expiration. In addition, this section allows an exception to the NRC-U and NRC-R special nuclear material access authorization expiration date for individuals who have an active DOE-Q or

DOE-L access authorization and are subject to the DOE reinvestigation program.

Section 11.15(c) requires the licensee to submit NRC renewal applications only for an individual who has not been reinvestigated by DOE or another Federal agency within a 5- to 7-year span permitted in the regulations. The burden is attributable to and will be reported under the clearance for Standard Form 86, OMB No. 3206-0007, and NRC Form 237, OMB No. 3150-0050.

Section 11.15(d) requires that applications must be filed with NRC for a change in level of access authorization if changes in the employee's job responsibilities so require. The application must include a description of the new duties to be assigned or assumed, justified by reference to the licensee's security plan.

The information required by § 11.15 is needed to enable NRC to make determinations concerning the eligibility of individuals for special nuclear material access authorization and to determine whether NRC licensees are in compliance with requirements for identifying and obtaining access authorization for specified types of jobs.

Section 11.16 requires that licensees wishing to withdraw or cancel a request for an individual to be granted a special nuclear material access authorization do so by supplying the identifying information on the individual and the level of authorization requested. This information must be provided immediately by telephone and confirmed in writing. This information is needed so that the full field investigation or National Agency Check may be discontinued.

2. Agency Use of the Information

Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization. Applications for an exemption from requirements of Part 11 are examined by the NRC staff to determine whether the requested exemption is authorized by law and whether it will not constitute an undue risk to the common defense and security. Information in licensee security plans identifying those jobs which will require incumbents to have material access authorizations is needed by NRC to determine the extent of requirements for access authorizations and to establish that such authorizations are keyed to job requirements. Records of the name and special nuclear material access authorization number of certain individuals assigned to shipments of special nuclear material are needed to permit NRC inspectors to verify that the licensee is complying with requirements for access to special nuclear material in transit and to permit followup in the event of any incident. Applications for special nuclear material access authorization for individuals employed in jobs identified in § 11.11 are provided to OPM, which conducts an investigation or National Agency Check. NRC then determines whether the individual should be granted the level of special nuclear material access authorization that was requested. Applications required by § 11.15 for access authorization or a change in level of access authorization based on a change in the employee's job responsibilities are needed to enable NRC to make determinations concerning the eligibility of individuals for special nuclear material access authorization and to determine whether NRC licensees are in compliance with requirements for identifying and obtaining access authorization for specified types of jobs.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. However, because of the types of information and the infrequency of submission, the applications and other reports do not lend themselves readily to the use of automated information technology for submission. No requests are submitted electronically at this time.

4. Effort to Identify Duplication and Use Similar Information

The Information Requirements Control Automated System (IRCAS) was searched to identify duplication. None was found. Part 11 specifically provides in § 11.15(a)(2) for the acceptance by NRC of information already collected by other Federal agencies under similar personnel security programs for incumbents in appropriate jobs. NRC will also accept for its renewal program the information collected by the Department of Energy for its renewal program.

5. Effort to Reduce Small Business Burden

The NRC has determined that none of the affected licensees are small entities as that term is defined in the Regulatory Flexibility Act.

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

If the information were not collected, NRC would not have the information needed to assure that licensees will continue to conduct programs in a manner that will assure adequate protection of the common defense and security. Applications for new access authorization are submitted only once. Applications for renewal of access authorization are submitted every 5 years.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to the OMB Guidelines in 5 CFR 1320.5(d), § 11.16 requires that licensees provide notification to NRC immediately by telephone, with prompt confirmation in writing, of the withdrawal or cancellation of any request for access authorization. This requirement is needed to allow the government to promptly terminate investigations which may be underway in order to prevent the further expenditure of extremely scarce government investigative resources on a clearance that will not be needed.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements was published in the Federal Register on April 2, 2001 (66 FR 17583), and no comments were received.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

The information collected is used to determine an individual's eligibility for access to or control over special nuclear material. The information is protected from public disclosure under the Privacy Act of 1974.

11. Sensitive Questions

Sensitive information collected under this program has been previously cleared in connection with Standard Form 86, OMB Clearance No. 3206-0007.

12. Estimated Burden and Burden Hour CostReporting Requirements

| <u>Section</u> | <u>Submittals Annually</u> | <u>Respondent Hrs Per Submittal</u> | <u>Total Annual Respondent Burden</u> |
|----------------|--|---|---|
| 11.9 | 0 | 8 | 0 |
| 11.11(a) | 0 | 40 | 0 |
| 11.15(a)(2) | - See NRC Form 237, OMB Clearance No. 3150-0050 | | |
| 11.15(b) | - Personnel Security Packet, SF-86 OMB Clearance No. 3206-0007 | | |
| 11.15(c) | - Personnel Security Packet, SF-86, OMB Clearance No. 3206-0007 and NRC Form 237, OMB Clearance No. 3150-0050 | | |
| 11.15(d) | - See NRC Form 237, OMB Clearance No. 3150-0050 | | |
| 11.16 | 5 | 0.25 | 1.25 |
| TOTAL | <u>5</u> | | <u>1.25</u> |

Recordkeeping Requirements

| <u>Section</u> | <u>Recordkeepers</u> | <u>Annual Hrs Per Recordkeeper</u> | <u>Total Hrs</u> | <u>Record Retention Period</u> |
|-------------------------------------|----------------------|--|------------------|------------------------------------|
| 11.9 | 0 | 1 | 0 | 3 yrs after exemption period |
| 11.13(b) | 0 | 2 | 0 | 3 yrs after shipment |
| Total number of recordkeepers: | | | 0 | |
| Total recordkeeping hours annually: | | | 0 | |

TOTAL BURDEN HOURS: 1.25

Cost to Respondents to Comply

| <u>Section</u> | <u>Cost</u> |
|----------------|--|
| 11.9 | 0 |
| 11.11(a) | 0 |
| 11.13(b) | 0 |
| 11.15(a)(2) | - See OMB Clearance No. 3150-0050 |
| 11.15(b) | |
| 11.15(c) | - See OMB Clearance Nos. 3206-0007 and 3150-0050 |
| 11.15(d) | |
| 11.16 | \$ 178.75 |
| TOTAL | \$ <u>178.75</u> |

Source of Burden Data and Method for Estimating Costs

The estimates are based on submittals to NRC in past years. Cost to applicants and licensees is calculated at a rate of \$143 per hour, which includes overhead.

13. Estimate of Other Additional Costs

None. For licensees under 10 CFR Part 11, it is most likely that purchases of equipment and services were made (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

14. Estimated Annualized Cost to the Federal Government

The majority of the cost incurred under 10 CFR Part 11 is attributable to activities in connection with the review and handling of the following reporting forms, and has been reported to OMB in connection with the clearance of those forms:

| | |
|--------------|-----------------------------|
| SF 86 | OMB Clearance No. 3150-0048 |
| NRC Form 237 | OMB Clearance No. 3150-0050 |

It is expected that there will be a small number of withdrawals and cancellations of requests for access authorization which will not be covered by the above forms clearances. The estimated cost of NRC staff processing of those withdrawals, at a rate of \$143 per hour, is \$286 (5 reports x .4 hr = 1 hr. 40 min.). These costs are fully recovered through fee assessments to NRC licensees

pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost

There is no actual change in burden. However, due to an error on the OMB 83-I dated June 5, 1998, that showed the burden hours as 5 instead of 1, the correction is reflected on the OMB 83-I. The change in estimated cost is based on a change in the fee recovery rate from \$125 per hour to \$143 per hour.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying Expiration Date

The 10 CFR Part 11 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. Collection of Information Employing Statistical Methods

Statistical methods are not used in this collection of information.

U. S. NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension
2. The title of the information collection: 10 CFR Part 11 - Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material
3. The form number if applicable: None.

4. How often the collection is required: New applications, certifications, and amendments may be submitted at any time. Applications for renewal are submitted every 5 years.
5. Who is required or asked to report: Employees (including applicants for employment), contractors and consultants of NRC licensees and contractors whose activities involve access to or control over special nuclear material at either fixed sites or in transportation activities.
6. An estimate of the number of responses: 5.
7. The number of annual respondents: 5 NRC licensees.
8. The number of hours needed annually to complete the requirement or request: Approximately 0.25 hours annually per response, for an industry total of 1.25 hours annually.
9. An indication of whether Section 3507(d), Pub. L. 104-13 applies: Not applicable.
10. Abstract: NRC regulations in 10 CFR Part 11 establish

requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: <http://www.nrc.gov/NRC/PUBLIC/OMB/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by (insert date 30 days after publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen
Office of Information and Regulatory Affairs (3150-0009)
NEOB-10202
Office of Management and Budget
Washington, DC 20503

Comments can also be submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 20th day of June, 2001.

For the Nuclear Regulatory Commission.

/RA/

Brenda Jo. Shelton, NRC Clearance Officer
Office of the Chief Information Officer

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