Final OMB Supporting Statement
for
10 CFR Part 95
Facility Security Clearance and Safeguarding of
National Security Information and Restricted Data
3150-0047

Revision to Extension Request

Description of Information Collection

The reporting requirements of 10 CFR Part 95 affect approximately seven licensees, one certificate holder, and other organizations regulated by the Commission. The licensees, certificate holder, or other organizations make reportable information available at their places of business or send the reports to NRC at its Headquarters or Regional Offices. Reports or applications are only required as occasioned by the occurrence of specific events such as the request for a facility clearance, a modification to an existing security Standard Practice Procedures Plan (SPPP), a cancellation or termination of a facility clearance, or a report of loss of classified information. Other requirements for recordkeeping are necessary for checking the licensees', certificate holder's and other organizations' procedures for maintaining acceptable security education, facility, and classification/declassification programs. The limited amount of personal information submitted in connection with facility clearance requests, classification/declassification actions, and other areas within these requirements is handled and protected in accordance with NRC directives and the provisions of the Privacy Act of 1974. Other information submitted to NRC in response to the application, recordkeeping, and reporting requirements is available for public inspection in accordance with 10 CFR Part 9.

A. JUSTIFICATION

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

10 CFR Part 95 contains numerous reporting, recordkeeping and application requirements, including requirements for submittal of information, plans and procedures for the protection of classified information, automatic data processing (ADP) and telecommunications security plans, security recordkeeping requirements for compliance purposes and security reporting and notification procedures for compliance and appropriate responses to certain events. In all cases, the requirements are necessary to help ensure that an adequate level of protection is provided for information determined to be classified. Essentially, all of the reporting, recordkeeping, and application requirements are necessary for one of the reasons listed below:

a. To obtain essential descriptive data concerning the content and planned operation of the licensees', certificate holder's, or other organizations' information security program which is necessary for NRC to determine the adequacy of planned methods and procedures for safeguarding classified information and material that is used, stored, transmitted, reproduced, or destroyed.

b. To obtain essential data describing the licensees', certificate holder's, or other organizations' planned program for ensuring employee indoctrination and continued awareness of their security responsibilities so as to preclude unauthorized disclosure of classified information or material and to ensure compliance with E.0. 12958, as amended and the National Industrial Security Program Operating Manual.

c. To obtain essential data that will permit NRC review and inspection of the licensees', certificate holder's, or other organizations' classification procedures and compliance with regulatory requirements for classification and procedures concerning release of classified information to International Atomic Energy Agency (IAEA) representatives.

d. To obtain essential data that will permit NRC review and appraisal of the licensees', certificate holder's or other organizations' degree of foreign ownership, control or influence to prevent unauthorized international transfer or disclosure of classified information or material and to ensure that classified activities are not adversely affected.

The currently effective information collection requirements of Part 95 are identified and explained below:

95.11 The NRC may grant exemptions from the requirements of the regulations of Part 95 upon application by any interested person (licensee or certificate holder) or upon its own initiative provided the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

95.13 This section requires that licensees/certificate holders maintain records that are subject to review and inspection by CSA representatives during security reviews.

95.15(a) A licensee shall request an NRC facility clearance to store or handle classified information in connection with NRC-related activities.

95.15(b) This section specifies the content of the request required by 95.15(a). If there is no existing facility clearance, the request must include a security SPPP that outlines the facility's proposed security procedures and controls for the protection of classified information, a floor plan of the area in which the matter is to be used, processed, stored, reproduced, transmitted, transported or handled; and foreign ownership, control or influence information.

The request for facility clearance and accompanying security SPPP provides pertinent data including information concerning foreign ownership, control or influence which enables the NRC Division of Nuclear Security to assess the licensees', certificate holder's, or other organizations' eligibility for a facility clearance. Facilities are inspected to ensure their compliance with the procedures outlined in their security SPPP and the reporting requirements contained within Part 95.

95.18(a) This section requires that licensees/certificate holders submit documentation when excluding key management officials from access to classified information. These

individuals may not occupy positions that would enable them to adversely affect the organization's policies or practices in the performance of activities involving classified information. A record must be made concerning the lack of clearance for all such personnel and a copy forwarded by the organization's executive body to the Cognizant Security Agency (CSA).

This list of key personnel is expected to be forwarded to the CSA annually. The burden for developing the list of employees, reviewing and filing it, and forwarding a copy to the CSA is estimated to require a maximum of 15 hours.

95.18(b) This section requires that licensees/certificate holders submit documentation when excluding key management officials from access to higher-level classified information. These individuals may not occupy positions that would enable them to adversely affect the organization's policies or practices in the protection of classified information. A record must be made concerning the lack of clearance for all such personnel and a copy forwarded by the organization's executive body to the CSA.

95.19(a) This section requires that each licensee, certificate holder, or other person shall obtain prior CSA approval for any proposed change to the name, location, security procedures and controls, or floor plan of the approved facility. These substantive changes to a security SPPP are reported to the CSA with copies to the NRC Division of Nuclear Security and the NRC Regional Administrator. The substantive changes to the SPPP that affect security of the facility must be submitted to the NRC Division of Nuclear Security, or CSA, 30 days prior to the change.

95.19(b) This section requires that a licensee or other person may effect a minor, non-substantive change to an approved SPPP for the safeguarding of classified information without receiving prior CSA approval. These minor changes that do not affect the security of the facility may be submitted to the addressees noted in paragraph (a) of this section within 30 days of the change.

95.19(c) This section requires that a licensee, certificate holder, or other person must update its NRC facility clearance every five years either by submitting a complete SPPP or a certification that the existing SPPP is fully current.

95.21 This section requires the reporting of withdrawal or cancellation requests for facility clearances to the NRC Division of Nuclear Security by the requestor in the most expeditious manner so that processing for these clearances may be terminated. The requestor shall confirm the notification promptly in writing.

The information required by this section is necessary each time a licensee, certificate holder, or other organization wishes to withdraw or cancel a facility clearance request. This information will be used by the NRC Division of Nuclear Security as a basis for discontinuing further processing of the application and, if no access to classified information or material is needed, would indicate that pending personnel security access authorization requests should also be canceled.

95.25(d) If a record is made of a classified combination to an authorized storage container, the record must be marked with the highest classification of material authorized for storage in the container. Superseded combinations must be destroyed. This record should be kept as long as the classified storage container is in use.

This information and recordkeeping requirement helps ensure that written lock combinations are properly classified and safeguarded in accordance with the provisions of E.0. 12958, as amended and its implementing directives.

95.25(g) A record of names of persons having knowledge of the combination must be posted inside the container to ensure that responsible personnel may be contacted in the case of an emergency. This record should be kept as long as the classified storage container is in use.

95.25(i) If an unattended security container housing classified matter is found unlocked, the custodian or an alternate must be notified immediately, and the container must be secured by appropriate personnel. Incidents such as these are entered into a written log that is provided to the NRC on a monthly basis (see section 95.57(b)).

This information collection and recordkeeping requirement assures: (1) that the licensee, certificate holder, or other organization complies with the Information Security Oversight Office (ISOO) directive to report the loss or possible compromise of classified information; and (2) that the NRC may evaluate such occurrences and corrective actions which have been taken.

95.25(j) This section requires that a key and lock register be maintained, and that a monthly audit of keys and locks and a key inventory be performed with each change of custody. This recordkeeping requirement permits the NRC inspection and review of lock and key accountability records to determine that proper individuals with appropriate level of access authorization are issued keys and locks.

95.33(d) Facility Security Officers must submit SF-312, “Classified Information Nondisclosure Agreement” forms to the CSA for retention. Facility Security Officers must also submit a report to the CSA in the event that an employee refuses to sign the SF-312.

The SF-312 is a required agreement with the United States not to disclose classified information. Submission of forms to the CSA and reports to the CSA in the event that an employee refuses to sign the SF-312, will allow verification through inspection that Section 25.23 requirements are being met before access to classified information is granted.

95.33(h) All cleared employees must be provided with security training and briefings commensurate with their involvement with classified information. The facility may obtain defensive security, threat awareness, and other education and training information and material from their CSA or other sources. Records reflecting an individual’s initial and refresher security orientations and security termination must be maintained for three years after termination of the individual’s access authorization.

Since NRC does not conduct inspections annually, this requirement provides reasonable assurance that records are available when NRC conducts an inspection. This recordkeeping requirement permits verification through NRC inspection that individuals granted access authorizations are appropriately indoctrinated as to their individual security responsibilities and duties relative to the protection of classified information.

95.34(b) Licensees, certificate holders, or others subject to Part 95 shall take measures as may be necessary to preclude access to classified information by foreign visitors. The licensee, certificate holder, or others shall retain records of visits for five years beyond the date of the visit.

95.36(d) Records of International Atomic Energy Agency (IAEA) or other international organization visits, and records of inspections and disclosure authorizations must be maintained for five years. This recordkeeping requirement and its inspectability through NRC inspections ensures that licensees, the certificate holder, or other persons maintain the proper procedures and controls over the release of classified information to IAEA or other international representatives in accordance with the disclosure authorization granted by NRC's Division of Nuclear Security. The licensee, certificate holder, or others shall retain records of visits for five years beyond the date of the visit.

95.37(a) A licensee or other person must appropriately mark classified information in accordance with provided guidance.

This section requires licensees and others who possess classified material which is not conducive to markings (e.g., equipment) to request approval for exemption from marking requirements for such material. This requirement provides assurance that: (1) only those officials delegated classification authority are classifying material; (2) classified material is not downgraded or declassified without proper authority; and (3) there is accountability for future classification, downgrading and declassification actions.

95.37(c) A licensee or other person is responsible for applying classification markings for National Security Information and Restricted Data.

These marking and labeling requirements, which require an authorized classifier to place the appropriate classification markings on the document and sign his/her name, will be used whenever an NRC licensee, certificate holder, or contractor authorized derivative classifier generates a classified document or the classification of an existing document is to be changed (e.g., declassified or downgraded). A file or record copy must be maintained of the derivatively classified document as long as the document remains classified. These requirements provide assurance that: (1) only those officials delegated classification authority are classifying documents; (2) documents are not downgraded or declassified without proper authority; and (3) there is accountability for future classification, downgrading, and declassification actions.

95.37(e)(2) If the originator or classifier determines that reproduction or further dissemination of a document should be restricted, the following additional wording may be placed on the face of the document: Reproduction or Further Dissemination Requires Approval of_____.

95.37(f) In addition to the information required on the face of the document, each classified document is required, by marking or other means, to indicate clearly which portions are classified (e.g., paragraphs or pages) and which portions are not classified. If this type of portion marking is not practicable, the document must contain a description sufficient to identify the classified information and the unclassified information.

95.37(g) If a document transmitting classified information contains no classified information or the classification level of the transmittal document is not as high as the highest classification level of its enclosures, then the document must be marked at the top and bottom with a classification at least as high as its highest classified enclosure. When the content of the transmittal document warrants a lower classification than the highest classified enclosures(s) or combination of enclosures or requires no classification, a stamp or marking such as the following must also be used on the transmittal document: UPON REMOVAL OF ATTACHMENTS THIS DOCUMENT IS: (Classification level of transmital document standing alone or the word "UNCLASSIFIED" if the transmittal document contains no classified information.)

95.37(h) Persons authorized possession of classified National Security Information who in good faith believe a classification status is too high or too low shall refer the document to the originator or authorized classifier for review. The classifier shall review the document and render a written classification decision to the holders of the information.

This is a required procedure for document custodians to assure that any questions regarding proper classification are referred to the originator and that appropriate steps to safeguard the document are taken. The recordkeeping requirement permits verification through NRC inspections of actions taken when unauthorized disclosures may have occurred.

95.37(j) Drafts of documents and working papers, that contain, or are believed to contain, classified information must be marked as classified information.

This requirement ensures there is accountability for future classification, downgrading, and declassification actions.

95.39(b)(4) This requirement applies to Secret documents prepared for external transmission. It requires document receipts signed by the recipient to be returned to the sender as a way to officially transfer a Secret document to another person.

This requirement permits verification through inspection that Secret documents that have been transferred to another person are properly accounted for.

95.39(d) Licensees, certificate holders or other persons who may require a secure telecommunication system shall submit a telecommunication plan as part of their request for facility clearance, as outlined in 95.15, or as an amendment to their existing SPPP.

95.39(e) Licensees/certificate holder's that have classified matter that, because of the nature of the material, cannot transmit the classified material via conventional means, must submit a classified matter transportation security plan to the CSA for approval.

The requirement to submit the classified transportation security plan for review ensures that licensees'/certificate holder's procedures meet minimum security requirements in Part 95.

95.41 Each licensee, certificate holder or other person possessing classified information shall maintain records of the date of the material, receipt or dispatch, classification, an unclassified description of the material, and the identity of the sender for two years after receipt or dispatch.

Since NRC does not conduct annual inspections, this procedure and a two-year recordkeeping requirement provides assurance that records are available when NRC conducts an inspection.

95.43(a) This section requires that each licensee, certificate holder or other person possessing classified information establish a reproduction control system to ensure that reproduction of classified material is held to a minimum consistent with operational procedures.

95.43(c) The licensee/certificate holder is required to mark classified reproductions with the same classification markings as the original classified document.

This requirement assures that classified reproductions receive the same protection as other hard-copy classified documents.

95.45(a) Requests for downgrading or declassifying any NRC-classified information should be forwarded to the NRC Division of Nuclear Security. Requests for downgrading or declassifying Restricted Data should be forwarded to the NRC Division of Nuclear Security for coordination with the Department of Energy.

95.45(b) If a change of classification or declassification is approved, the previous classification marking must be canceled and a statement to that effect must be placed on the first page of the document.

95.45(d) Any persons making a classification change shall forward a notice of classification change to all known holders of the document.

These reporting and marking procedures in 95.45(a), (b), and (d) ensure that documents which may warrant downgrading or declassification are reviewed by the NRC Division of Nuclear Security or are referred to the Department of Energy, as may be appropriate, and that all known holders are notified of the action.

95.49 This section requires the licensee or other person to submit an ADP security proposal to the CSA for approval before classified data or information may be processed or produced on an ADP system. The proposal may be submitted as part of the licensee's or other person's request for facility clearance or submitted as an amendment to its existing SPPP for the protection of classified information.

95.53(a) If a facility clearance is terminated, the facility shall submit a certification of nonpossession of classified information to the NRC Division of Nuclear Security within 30 days of termination.

These procedures and notifications ensure that the facility clearance is terminated, suspended or revoked when no longer needed or when continuation would not be in the interest of national security. The certificate of nonpossession provides assurance that all classified information and material has been returned to the NRC or destroyed in accordance with NRC security requirements.

95.57(a) Each licensee or other person having a facility clearance shall report to the CSA and the Regional Administrator of the appropriate NRC Regional Office listed in Part 73, Appendix A, any alleged or suspected violation of Federal acts or statutes, related to classified information (e.g., deliberate disclosure of classified information to persons not authorized to receive it, theft of classified information) within one hour of the event followed by written confirmation within 30 days of the incident.

95.57(b) Any infractions, losses, compromises, or possible compromises of classified information not falling within paragraph (a) of this section must be entered into a written log and provided to the NRC on a monthly basis.

The procedures in 95.57(a) and (b) are necessary to ensure that possible losses, compromises, violations of law, and disclosures of classified information are investigated and assessed in a timely manner.

95.57(c) Requires an authorized classifier of a licensee, certificate holder or other organization subject to Part 95 to submit all classified actions (documents classified, declassified, or downgraded) to the NRC either on an “as completed” or monthly basis. This information may be submitted either electronically by an on-line system (NRC prefers the use of a dial-in automated system connected to the Division of Nuclear Security) or by paper copy using the NRC Form 790, "Classification Record." This requirement is cleared under OMB approval number 3150-0052. The electronic collection system, the “NRC Record Classification Actions (RCA) System is housed at the NRC, and permits collection of NRC Form 790 information electronically through the use of a personal computer and modem.

2. Agency Use of Information.

The reports, security plans and other security information are submitted to the NRC’s Division of Nuclear Security. The information is used to help determine whether a licensee, certificate holder, or other organization is eligible to use, process, store, transmit or handle NRC-classified information. The information is also used for periodic reviews and inspections to ensure appropriate regulations are continuously followed. If the information collection was not conducted, these determinations could not be made and the licensees, certificate holder, or other organizations would not be permitted to maintain this classified information which is pertinent to their activities.

3. Reduction of Burden Through Information Technology.

There are no legal obstacles to reducing the burden associated with this information collection with the use of information technology. The NRC encourages licensees to use new automated information technology when it would be beneficial to them. However, electronic submissions are received on an infrequent basis as licensees may not readily avail themselves to the use of automated information technology. Approximately 50 percent of the submissions are received in hard copy form.

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

Except as noted in Section 95.57 (CSA could be another Federal agency), there is no duplication with any other Federal agency reporting requirements since the nature of the information being requested is unique to NRC's activity at the facility. For the few cases where another agency, normally the Department of Energy, also has an interest at the facility, this regulation specifically reduces or eliminates duplication through acceptance of the other agency’s security program to protect the NRC- classified information and material.

5. Effort to Reduce Small Business Burden.

No licensees, certificate holder, or other organizations effectively qualify as a small business enterprise or entity.

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

Required reports and information are collected and evaluated on a continuing basis as events occur. Applications for new facility clearances may be submitted at any time. If not submitted, approval to store NRC- classified information will not be processed. Other information collection requirements ensure that once placed at the facility, that information continues to receive the required protection. Less frequent collection of this information may impact negatively on NRC's responsibility to ensure proper protection and may endanger the U.S. common defense and national security.

7. Circumstances Which Justify Variation from OMB Guidelines.

10 CFR 95.34(b) and 10 CFR 95.36(d) require that licensees, certificate holders, or others shall retain records of foreign visits for five years beyond the date of the visit. This requirement is needed to check the history of foreign visitors in case they become targets of interest by the United States Government.

8. Consultation Outside the NRC.

The opportunity for public comment on the information collections requirements was published in the Federal Register on February 24, 2004 (69 FR 8494), and no comments were received.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of Information.

This information is protected from public disclosure under the Privacy Act of 1974 and is handled in accordance with routine uses specified in the Privacy Act Statement.

11. Justification for Sensitive Questions.

No sensitive information is requested under these regulations.

12. Estimate of Burden.

The annual cost to the respondents is reflected on Attachment A.

13. Estimate of Other Additional Costs.

None.

14. Estimated Annualized Cost to the Federal Government.

The estimated annual cost to the Federal Government in administering the program and procedures contained in these requirements is:

Annual cost - professional effort (1,543 hrs. X $157/hr.)	=	$242,251

Annual cost - clerical effort (269 hrs. X $60/hr.)	=	$16,140
Annual cost - record holding requirement for ongoing program (3/4 cubic ft. X $209/cubic ft.)	=	$157
Total annual cost	=	$258,548

These costs are fully recovered through fee assessments to NRC licensees and the one certificate holder pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Change in Burden or Cost.

The overall burden increased by 4 hours from 443 to 447 hours. The reporting burden increased by 5 hours from 333 to 338 hours, because of the incorporation of Section 95.39(d) which was inadvertently omitted from the previous clearance package. However, the burden for Section 95.33(d) was miscalculated and should have been 12 hours instead of 15. Therefore, the reporting hours increased by a net of only 2 hours totaling 335 hours. The recordkeeping burden increased by 2 hours from 110 to 112 because of the incorporation of Sections 95.13, 95.19(c), 95.37(e)(2); and 95.37(f) which were inadvertently omitted from the previous clearance package. The hourly rates increased from $143/hr. to $157/hr. for professional effort in accordance with Part 170 and from $45/hr. to $60/hr. for clerical effort.

16. Publication for Statistical Use.

There is no application of statistics in the information collected. There is no publication of this information.

17. Reason for Not Displaying the Expiration Date.

The requirement will be 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.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

ATTACHMENT A

10 CFR PART 95 BURDEN ESTIMATE (REPORTING)

Section	Requirement	No. of Rspndnts	Responses Per Rspndt	No. of Responses	Burden Per Response	Total Annual Burden Hrs	Cost to Rspndt
95.11	Specific Exemptions	1	1	1	10	10	$1,570
95.15(a) & (b)/95.49	Facility Clearance Requests	1	1	1	60	60	$9,420
95.18(a) & (b)	Key Personnel	1	15	15	15	225	$35,325
95.19 (a) & (b)	Changes in Security Practices and Procedures	2	1	1	4	8	$1,256
95.21	Cancellation of Facility Clearance Requests	1	1	1	1	1	$157
95.25(i)	Unattended Security Container Found Open (See 95.57(b) for burden cost)	0	0	0	0	0	0
95.33(d)	Security Education	8	15	120	.1	12	$1,884
95.37(a)	Classification	1	1	1	5	5	$786
95.39(d)	Telecommunication of Classified Information	1	1	1	5	5	$785
95.45(a) & (d)	Changes in Classification	3	1	3	2	6	$942
95.53(a) & (b)	Facility Clearance Terminated	1	1	1	3	3	$471
95.57(a)	Event Reporting (See 95.57(b) for burden cost)	0	0	0	0	0	0
95.57(c)	Completion of NRC Form 790. (Form cleared under OMB Control Number 3150-0052)						
Totals				146		335	$52,595

ATTACHMENT A

10 CFR PART 95 BURDEN ESTIMATE (RECORDKEEPING)

Section	Requirement/Record Retention	No. of Recdkprs	Annual Hours Per Rcrdkpr	Total Annual Rcrdkprng Hours	Cost to Rspdnt $157/Hr.
95.13	Maintenance of Records (Burden identified below)	8	0	0	0
95.18(a)	Key Personnel	1	1	1	$157
95.19(c)	Update NRC Facility Clearance	1	.2	.2	$31.40
95.25(d)	Records of Combinations	8	1	8	$1,256
95.25(g)	Posted Information	8	.4	3.2	$502.40
95.25(i)	Unattended Security Container Found Open (See 95.57(b) for burden cost)	0	0	0	0
95.25(j)	Key and Lock Accountability Records	5	4	20	$3,140
95.33(h)	Security Education Training Records	8	1	8	$1,256
95.34(b)	Foreign Visitors	1	1		$157
95.36(d)	IAEA Visit Records (5 yrs)	1	5	5	$785
95.37(c), (e)(2), (f), (g) & (j) /95.45(b)	Marking Requirements	0	.40	3.2	$502.40
95.37(h)	Classification Challenges	2	1	2	$314
95.39(b)(4)	External Transmission	5	1	5	$785
95.39(e)	Classified Information in Transit	2	1	2	$314
95.41	External Receipt and Dispatch of Records (2 years)	5	.25	1.25	$196.25
95.43(a)	Reproduction	8	1	8	$1,256

Section	Requirement/Record Retention	No. of Recdkprs	Annual Hours Per Rcrdkpr	Total Annual Rcrdkprng Hours	Cost to Rspdnt $157/Hr.
95.43(c)	Marking Classified Reproductions	8	1	8	$1,256
95.57(b)	Maintenance of Log	3	12	36	$5,652
Totals				111.85	$17,560.45

Total Overall Number of Responses = 154 {146 total responses + 8 recordkeepers}
Total Reporting and Recordkeeping Burden Hours = 446.85 {335 total reporting hours + 111.85 total recordkeeping hours}
Total Number of Respondents = 8
Total Cost to Respondent = $70,155.45 {446.85 burden hours x $157 per hour}