

OMB SUPPORTING STATEMENT  
FOR  
10 CFR PARTS 25 AND 95  
Broadening Scope of Access Authorization and  
Facility Security Clearance Regulations

Direct Final Rule and Proposed Rule

3150-0046 (Part 25) and 3150-0047 (Part 95)

Revision

Description of the Information Collection

10 CFR Part 25

The Nuclear Regulatory Commission (NRC) is amending its regulations to broaden the scope of the regulations applicable to persons who may require access to classified information, to include persons who may need access in connection with licensing and regulatory activities under the regulations that govern the disposal of high-level radioactive waste in geologic repositories, and persons who may need access in connection with such other activities as the Commission may determine, such as vendors of advanced reactor designs. This rule is needed to allow NRC to process any requests for security clearance in connection with the anticipated licensing hearing for the potential geologic repository for high-level radioactive waste at Yucca Mountain, Nevada, and in connection with activities involving the design of advanced reactors. If this rule is finalized, the NRC estimates that 28 respondents would be impacted, by a one time only reporting requirement.

Part 25 establishes procedures for granting, reinstating, extending, transferring, and terminating access authorizations of licensee personnel, licensee contractors or agents, and other persons who may require access to classified information. Currently a total of 50 licensees and other organizations must comply with the reporting and recordkeeping requirements associated with this information collection. Each licensee or organization employing individuals approved for personnel security access authorization under this part, shall maintain records pertaining to the personnel access authorization, termination, cancellation or reinstatement, or requests for exemption. The recordkeeping requirements will be on-going.

10 CFR Part 95

The NRC is also amending its regulations to broaden the scope of the regulations applicable to procedures for obtaining facility security clearances, to include persons who may need to use, process, store, reproduce, transmit, transport, or handle NRC classified information in connection with the above-identified activities. This rule is needed to allow NRC to process any requests for facility clearances in connection with the anticipated licensing hearing for the potential geologic repository for high-level radioactive waste at Yucca Mountain, Nevada, and in connection with activities involving the design of advanced reactors. If this rule is finalized, the NRC estimates that 6 respondents would be impacted, by a one time only reporting requirement.

Part 95 currently affects approximately 7 licensees and 1 certificate holder. The licensees and certificate holder 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 or declassification programs.

## A. JUSTIFICATION

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

#### 10 CFR Part 25

Part 25 contains requirements for submittal of personnel security access authorization and access authorization renewal requests and other related requirements. The requirements are necessary to help ensure that granting individuals access to classified information will not endanger the U. S. common defense and national security. Current Part 25 does not include activities related to disposal of high level waste and advanced reactor designs. This rule would clarify that activities related to Parts 52, 60 and 63 would be included.

Portions of a license application (under Part 63) for a geologic repository for the disposal of Yucca Mountain, Nevada, or supporting materials may contain classified Restricted Data or National Security Information. Such a license application would be submitted under Part 63. The State of Nevada has expressed interest in obtaining security clearances for their representatives in the potential licensing proceeding for a geologic repository at Yucca Mountain, Nevada.

There is a need for access authorizations and facility security clearances for vendors who are involved in the design of advanced reactors (under Part 52). These vendors could need access to classified information which would enable them to consider potential mitigative measures for operating reactors and design features for the various advanced reactor systems. Currently, a vendor who is not an NRC licensee or a contractor to an NRC licensee and does not have a facility clearance or access authorization provided by another Government agency, is not eligible for an access authorization under Part 25.

Essentially, all of the reporting, recordkeeping and application requirements (under Part 25) are necessary for one or more of the reasons listed below.

- a. To obtain the essential data from individuals necessary to determine their eligibility or continuing eligibility for an NRC access authorization for access to classified information. These information requirements are derived from pertinent statutes and Executive Orders which authorize

background investigations on an individual's character, associations and loyalty.

- b. To obtain essential data describing normal operating procedures pertinent to personnel security and visitor control activities to ensure that regulatory requirements are being met by licensees and other organizations.
- c. To obtain essential data which serves as the basis for determining continued eligibility of an individual for an NRC access authorization when occurrences or developments arise which may affect the initial determination.

The information collections appearing in Sections 25.11, 25.17(b), 25.17(c), 25.17(d)(1), 25.19, 25.21(b), 25.21(c)(1), 25.21(c)(2), 25.23, 25.25, 25.27(a), 25.27(b), 25.29(a), 25.29(b), 25.31(c), 25.33(b), 25.33(c), 25.35(a), 25.35(d); have not been changed by this direct final rule. However, they are identified because this rule expands the respondent universe for all of the information collections contained in Part 25.

#### 10 CFR Part 95

Part 95 contains 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.O. 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 information collections appearing in Sections 95.11, 95.13, 95.15(a), 95.15(b), 95.18(a), 95.18(b), 95.19(a), 95.19(b), 95.19(c), 95.21, 95.25(d), 95.25(g), 95.25(i), 95.25(j), 95.33(d), 95.33(h), 95.34(b), 95.36(d), 95.37(a), 95.37(c), 95.37(e)(2), 95.37(f), 95.37(g), 95.37(h), 95.37(j), 95.39(b)(4), 95.39(d), 95.39(e), 95.41, 95.43(a), 95.43(c), 95.45(a), 95.45(b), 95.45(d), 95.49, 95.53(a), 95.57(a), 95.57(b), 95.57(c); have not been changed by this direct final rule. However, they are identified because this rule expands the respondent universe for all of the information collections contained in Part 95.

## 2. Agency Use of Information.

### 10 CFR Part 25

Personal history information which is submitted by applicants for access authorizations or access authorization renewal is reviewed, evaluated by NRC's Division of Facilities and Security personnel, and provided to OPM which conducts background investigations. The NRC reviews the data from these investigations and makes determinations regarding the eligibility of applicants for access or continued access to classified information. Classified visit information is also processed and verified by NRC's Division of Facilities and Security personnel. If the information collection was not conducted, individuals would not be permitted access to NRC-classified information or be permitted to make visits involving NRC-classified information.

### 10 CFR Part 95

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 followed continuously. 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.

### 10 CFR Part 25

The burden is not amenable to being reduced through the application of information technology. Only a small portion of information from other agencies [e.g., 25.17(d) and 25.21(c)(2)] is available through information technology means. Most of the information is obtained directly from the individual affected and is received by NRC in hard copy form.

#### 10 CFR Part 95

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. Approximately 50 percent of the submissions are received in electronic format.

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

##### 10 CFR Part 25

These requirements and procedures have been used by the Department of Energy to collect similar information. Similar requirements and procedures are used by other government agencies. Whenever possible, NRC uses these alternative sources of information. However, personal history information is time perishable and may need to be supplemented and updated.

##### 10 CFR Part 95

Except as noted in Section 95.57 (Cognizant Security Agency is a Federal agency other than NRC), 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 agencies' security programs to protect the NRC-classified information and material. However, as an applicant or licensee, the Department of Energy would have a dual role under Part 95, first, as a Cognizant Security Agency and second, as an entity subject to the reporting requirements of Part 95.

#### 5. Effort to Reduce Small Business Burden.

None of the licensees or other organizations affected qualify as small business enterprises or entities.

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

##### 10 CFR Part 25

If the information is collected less frequently, the assurance that only appropriately cleared individuals have access to NRC-classified information is reduced, which may endanger the U. S. common defense and national security.

Classified information may be compromised if furnished to individuals without an access authorization or an out-of-date access authorization.

10 CFR Part 95

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 Part 25

There is no variation from OMB Guidelines in this collection of information.

10 CFR Part 95

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. Consultations Outside the NRC.

The opportunity for public comment on the information collection requirements has been published in the Federal Register.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of the Information.

The information collected for Parts 25 and 95 is used to determine an applicant's eligibility for access authorization or continuation of access authorization. The 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.

10 CFR Part 25

Sensitive information collected includes questions on the SF-86 about such matters as firings from a job, criminal history record, and use of illegal drugs (authorized under OMB No. 3206-0007) and is used as the basis for an investigation; the social security number on the NRC Form 237 (authorized under OMB No. 3150-0050) is used to ensure accuracy of these records; and the name, date and place of birth of the individual's spouse and the spouse's immediate relatives on the NRC Form 354 (authorized under OMB No. 3150-0026) are used as a basis for an investigation.

#### 10 CFR Part 95

No sensitive information is requested under these regulations.

### 12. Estimate of Burden.

#### 10 CFR Part 25

The overall burden increased by 150 hours from 267 to 417 hours because the scope of Part 25 was broadened to include persons who may need access in connection with licensing and regulatory activities for the disposal of high-level radioactive waste in geologic repositories or in connection with other activities as the Commission may determine, such as activities involving the designs of advanced reactors. As a result of including these activities in the scope of Part 25, the number of respondents increased by 28 from 50 to 78 with a corresponding increase in the number of responses by 544 from 972 to 1,516 responses. The reporting burden increased by 136 hours from 242 to 378 hours. The number of recordkeepers increased by 28 with a corresponding burden increase of 14 hours from 25 to 39 hours. See attached burden table.

#### 10 CFR Part 95

The overall burden increased by 335 hours from 447 to 782 hours because the scope of Part 95 was broadened to include persons who may need to use, process, store, reproduce, transmit, transport, or handle NRC classified information in connection with activities for the disposal of high-level radioactive waste in geologic repositories or in connection with other activities as the Commission may determine, such as vendors of advanced reactor designs. As a result of including these activities in the scope of Part 95 for obtaining facility clearance, the number of respondents increase by 6 from 8 to 14, with a corresponding increase in the number of responses by 110 from 146 to 256 responses. The reporting burden increased by 251 hours from 335 to 586 hours. The number of recordkeepers increases by 6, with a corresponding burden increase of 84 hours from 112 to 196 hours. See attached burden table.

### 13. Estimate of Other Additional Costs.

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the records storage cost has been determined to be equal to .0004 times the recordkeeping burden



cost. Therefore, the storage cost for this clearance is estimated to be \$6.15 (98 recordkeeping hours x .0004 x \$157/hr), which is insignificant.  
(98 hrs recordkeeping burden = 14 hrs for Part 25 and 84 hrs for Part 95)

14. Estimated Annualized Cost to the Federal Government.

The information collection requirements for Parts 25 and 95 have not been changed by this direct final rule, but will require a one-time only requirement to process additional requests for security and facility clearances and on-going recordkeeping costs to the Federal Government is estimated as follows:

Additional annual cost - professional effort		
(241 hrs X \$157/hr)	=	\$37,837
(241 hrs = 112 for Part 25 and 129 for Part 95)		

Additional annual cost - clerical effort		
(123 hrs X \$60/hr)	=	\$7,380
(123 hrs = 56 for Part 25 and 67 for Part 95)		

Total additional annual cost	=	\$45,217
(\$45,217 = \$37,837 + \$7,380)		

The costs shown below 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 Changes in Burden or Cost.

10 CFR Part 25

The overall burden increased by 150 hours from 267 to 417 hours because the scope of Part 25 was broadened to include persons who may need access in connection with licensing and regulatory activities for the disposal of high-level radioactive waste in geologic repositories or in connection with other activities as the Commission may determine, such as activities involving the designs of advanced reactors. As a result of including these activities in the scope of Part 25, the number of respondents increased by 28 from 50 to 78 with a corresponding increase in the number of responses by 544 from 972 to 1,516 responses. The reporting burden increased by 136 hours from 242 to 378 hours. The number of recordkeepers increased by 28 with a corresponding burden increase of 14 hours from 25 to 39 hours.

10 CFR Part 95

The overall burden increased by 335 hours from 447 to 782 hours because the scope of Part 95 was broadened to include persons who may need to use, process, store, reproduce, transmit, transport, or handle NRC classified information in connection with activities for the disposal of high-level radioactive waste in geologic repositories or in connection with other activities as the



Commission may determine, such as vendors of advanced reactor designs. As a result of including these activities in the scope of Part 95 for obtaining facility clearance, the number of respondents increase by 6 from 8 to 14, with a corresponding increase in the number of responses by 110 from 146 to 256 responses. The reporting burden increased by 251 hours from 335 to 586 hours. The number of recordkeepers increases by 6, with a corresponding burden increase of 84 hours from 112 to 196 hours.

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 requirements 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.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

10 CFR Part 25  
Reporting Burden Table

Section	Number of Respondents	Number of Responses Per Respondent	Total Annual Responses	Burden Hrs Per Response	Total Annual Burden Hrs	Cost to Respondent @ \$157/Hr
Part 52	18	19.43	350	.25	87.43	\$13,727
Part 60	0	0	0	0	0	0
Part 63	10	19.43	194	.25	48.57	\$7,625
Total	28		544		136	\$21,352

Recordkeeping Burden Table

Section	Number of Recordkeepers	Hours Per Recordkeeper	Total Annual Recordkeeping Burden Hrs
Part 52	18	0.5	9
Part 60	0	0	0
Part 63	10	0.5	5
Total	28		14

10 CFR Part 95  
Reporting Burden Table

Section	Number of Respondents	Number of Responses Per Respondent	Total Annual Responses	Burden Hrs Per Response	Total Burden Hrs	Cost to Respondent
Part 52	3	18.33	54.99	2.29	125.5	\$19,704
Part 60	0	0	0	0	0	0
Part 63	3	18.33	54.99	2.29	125.5	\$19,704
Total	6		110		251	\$39,408

Recordkeeping Burden Table

Section	Number of Recordkeepers	Hours Per Recordkeeper	Total Annual Recordkeeping Burden Hrs
Part 52	3	14	42
Part 60	0	0	0
Part 63	3	14	42
Total	6		84

Total Additional Respondents: 34 (28 for Part 25 and 6 for Part 95)  
Total Additional Responses: 688 (544 plus 28 recordkeepers for Part 25 and 110 plus 6 recordkeepers for Part 95)  
Total Additional Burden: 485 (150 for Part 25 and 335 for Part 95)