DRAFT SUPPORTING STATEMENT FOR

10 CFR PART 25

ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

(3150-0046)

REVISION

Description of the Information Collection

10 CFR Part 25 establishes procedures for granting, reinstating, extending, transferring, and terminating access authorizations of licensee personnel, licensee contractors or agents, and other persons (e.g., individuals involved in adjudicatory procedures as set forth in 10 CFR, Part 2, Subpart I) who may require access to classified information. On January 31, 2005, the Nuclear Regulatory Commission (NRC) amended 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. There are a total of 75 licensees and other organizations who must comply with the reporting and recordkeeping requirements of 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, a termination, cancellation or reinstatement or a request for exemption from 10 CFR Part 25. These records are subject to review and inspection by Cognizant Security Agency (CSA) representatives during security reviews. Reports such as, notification of access authorization requests, NRC Form 237, and classified visits are submitted "upon occasion" as prescribed in 10 CFR Part 25.

A. JUSTIFICATION

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

10 CFR Part 25 contains numerous reporting, recordkeeping, and application requirements, including requirements for submittal of personnel security access authorization and access authorization renewal requests, security recordkeeping requirements and security reporting and notification procedures relative to access authorizations. Part 25 was amended in January 2005 to include activities related to disposal of high level waste and advanced reactor design, and clarified activities related to Parts 52, 60, and 63. In all cases, the requirements are necessary to help ensure that granting individuals, covered by 10 CFR Part 25, access to classified information will not endanger the U. S. common defense and national security. Essentially, all of the reporting, recordkeeping and application requirements 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 collection requirements of 10 CFR Part 25 are identified and explained below:

Section 25.11 NRC may grant exemptions from the requirements of the regulations of this part upon application by any person 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.

Section 25.17(b) The access authorization request must be submitted to the facility's Cognizant Security Agency (CSA). If the NRC is the CSA, the procedures in 10 CFR Parts 25.17(c) and (d) will be followed. If the NRC is not the CSA, the request will be submitted to the CSA in accordance with procedures established by the CSA. The NRC will be notified of the request by a letter that includes the name, social security number and level of access authorization. If NRC is not the CSA, the burden is insignificant because the licensee must only furnish NRC with a copy of what is sent to the CSA.

This information is used to verify the identity of the employee for whom access authorization is requested and ensures that the licensee or other organization endorses the request.

Section 25.17(c) This section requires that the access authorization request must include a completed personnel security packet (see 25.17(d)) and NRC Form 237 (Office of Management and Budget [OMB] Clearance No. 3150-0050) signed by a licensee, licensee contractor official, or other authorized person.

The information and signature required by this section are used to verify the identity of the employee for whom access authorization is requested and ensures (through the signature of a licensee, licensee contractor, or other organization official) that the licensee or other organization official endorses the request.

Section 25.17(d)(1) This section requires that each personnel security packet submitted must include a Questionnaire for National Security Positions, Standard Form 86 (SF-86), submitted electronically through the Electronic Questionnaire for Investigations Processing (e-QIP) System; two standard fingerprint cards (FD-258); Security Acknowledgment (NRC Form 176); and other related forms where specified in accompanying instructions. Only an NRC Form 176 is required from any person possessing an active access authorization, or who is being processed for an access authorization, by another Federal agency.

The information required by this section provides the pertinent data necessary to conduct an initial or update investigation to determine the respondent's trustworthiness and his/her eligibility for access to National Security Information or Restricted Data. The information submitted on the SF-86, (OMB Clearance No. 3206-0007 Department of Energy [DOE]) is reviewed by the NRC's Division of Facilities and Security staff and forwarded to the appropriate investigating agency. In those cases where the respondent already has a security clearance granted by another Federal agency, alternative sources (other agency records) may be used to obtain this information.

Section 25.19 This section requires that the processing of each application for access authorization or access authorization renewal must be submitted to the CSA. If the NRC is the CSA, the application and its accompanying fee must be submitted to the NRC Division of Facilities and Security. This information collection is covered in 25.17(a).

Section 25.21(b) The CSA must be promptly notified of developments that bear on continued eligibility for access authorization throughout the period for which the authorization is active (e.g., persons who marry subsequent to the completion of a personnel security packet must report this change by submitting a completed NRC Form 354, "Data Report on Spouse" (OMB Clearance No. 3150-0026) or equivalent CSA form).

The reports and information required by this section ensure that personnel security records are kept up-to-date and that any developments or circumstances which may have an impact on an individual's continued access authorization eligibility are properly and accurately evaluated. This evaluation enables NRC to carry out the regulatory intent to safeguard NRC-classified information.

Section 25.21(c)(1) An application for renewal must be submitted at least 120 days before the expiration of the five-year period for a "Q" access authorization and the ten-year period for an "L" access authorization. It must include a statement by the licensee or other person that the individual continues to require access to classified National Security Information or Restricted Data and also include a personnel security packet as described in 25.17(d).

Section 25.21(c)(2) Renewal applications and the required paperwork are not required for individuals who have a current and active access authorization from another Federal agency and who are subject to a reinvestigation program by that agency that is determined by the NRC to meet the NRC's requirements. Any

individual who is subject to the reinvestigation program requirements of another Federal agency who does not submit reinvestigation forms to that agency within five years of the previous submission shall submit a renewal application to the NRC using the forms prescribed in 25.17(d) before the expiration of the five-year period for a “Q” renewal and the ten-year period for an “L” renewal. If the NRC is not the CSA, reinvestigation program procedures and requirements will be set by the CSA.

Section 25.23 Upon receipt of the notification of original grant of access authorization, the licensee or organization shall obtain an executed “Classified Information Nondisclosure Agreement” (SF-312) from the affected individual. An employee issued an initial access authorization shall execute an SF-312 before being granted access to classified information. The licensee or other organization shall forward the executed SF-312 to the CSA for retention. If the employee refuses to execute the SF-312, the licensee or other organization shall deny the employee access to classified information and submit a report to the CSA. The SF-312 must be signed and dated by the employee and witnessed. The employee’s and witness’ signatures must bear the same date. The individual shall also be given a security orientation briefing in accordance with 95.33 of this chapter. Based on past experience, no individual has refused to execute the SF 312. Therefore, no burden is expected for this report. Records of access authorization grant and renewal notification must be maintained by the licensee or other organization for three years after the access authorization has been terminated by the CSA.

The reports and information required by this section ensure that only individuals who have agreed to properly protect classified information have access to such information. The maintenance of access authorization grant and renewal letters permits review and confirmation during prescribed NRC surveys that only properly authorized employees have had access to classified information. This recordkeeping requirement ensures these records are available for review by NRC inspectors and that they can be compared against records held by the NRC Division of Facilities and Security. The records under this section must be kept for three years following the access authorization termination date.

Section 25.25 When a request for an individual's access authorization or renewal of access authorization is withdrawn or canceled, the requestor shall notify the CSA immediately by telephone so that the personnel security investigations, or other action may be discontinued. The requestor shall identify the full name and date of birth of the individual, the date of request, and the type of access authorization or access authorization renewal requested. The requestor shall confirm each telephone notification promptly in writing.

The information required by this section is necessary each time a licensee or other organization wishes to withdraw or cancel an access authorization or access authorization renewal they have requested. The information is used by NRC to terminate its processing of the individual and to notify the investigating agency that the investigation may also be canceled. This action saves the U. S.

Government specific processing costs and curtails unnecessary investigations and invasions of privacy.

Section 25.27(a) In conjunction with a new request for access authorization (NRC Form 237 or CSA equivalent) for individuals whose cases were previously canceled, new fingerprint cards (FD-257) in duplicate and a new Security Acknowledgment (NRC Form 176), or CSA equivalents, must be furnished to the CSA along with the request.

Section 25.27(b) This section requires that if 90 days or more have elapsed since the date of the last Questionnaire for National Security Positions (SF-86), or CSA equivalent, the individual must complete a personnel security packet (see 25.17(d)). The CSA, based on investigative or other needs, may require a complete up-to-date personnel security packet in other cases as well.

These procedures and information in 25.27(a) and (b) are used by NRC to reopen and complete the access authorization processing and to determine the respondent's trustworthiness and eligibility for an access authorization.

Section 25.29(a) An access authorization can be reinstated provided that no more than 24 months has lapsed since the date of termination of the clearance; there has been no break in employment with the employer since the date of termination of the clearance; there is no known adverse information; the most recent investigation does not exceed five years (Top Secret, Q) or ten years (Secret, L); and the most recent investigation meets or exceeds the scope of the investigation required for the level of access authorization that is to be reinstated or granted.

Section 25.29(b) An access authorization can be reinstated at the same, or lower, level by submission of a CSA-designated form to the CSA. The employee may not have access to classified information until an up-to-date personnel security packet is furnished with the request for reinstatement of an access authorization and receipt of written confirmation of reinstatement. A new Security Acknowledgment will be obtained in all cases. Where personnel security packets are not required, a request for reinstatement must state the level of access authorization to be reinstated and the full name and date of birth of the individual.

The purpose of this requirement is to provide that information which may be necessary (depending upon when the access authorization was terminated) to reinstate or reactivate the access authorization.

Section 25.31(c) Requests for extension or transfer of access authorization must state the full name of the person, his date of birth, and level of access authorization. The NRC's Director, Division of Facilities and Security may require a new personnel security packet to be completed by the applicant.

These procedures and requirements provide the necessary information to properly identify and process an individual for an extension or transfer of their access authorization.

Section 25.33(b) This section requires that if a representative of the licensee or other organization that employs the individual whose access authorization will be terminated shall immediately notify the CSA when the circumstances noted in paragraph (a)(1) or (a)(2) exist; shall inform the individual that his access authorization is being terminated, and the reason; and shall be considered for reinstatement of access authorization if he resumes work requiring it.

Section 25.33(c) This section requires the reporting of the content required by 25.33(b). When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Security Termination Statement (NRC Form 136 or CSA-approved form) (OMB Clearance No. 3150-0049) and have the individual complete the form. The representative shall promptly forward the original copy of the Security Termination Statement to the CSA.

These procedures in 10 CFR Parts 25.33(b) and (c) are required to ensure that an individual's access authorization is properly terminated whenever his/her need for access has expired or the individual has been found ineligible for a continuing access authorization.

Section 25.35(a) This section requires that the number of classified visits must be held to a minimum. The licensee, certificate holder, or other facility shall determine that the visit is necessary and that the purpose of the visit cannot be achieved without access to, or disclosure of, classified information. All classified visits require advance notification to, and approval of, the organization to be visited. In urgent cases, visit information may be furnished by telephone and confirmed in writing. Notifications of visits shall consist of a Visit Authorization Letter (VAL) prepared in accordance with 25.35(c).

Section 25.35(d) Classified visits may be arranged for a 12-month period. The requesting facility shall notify all places honoring these visit arrangements of any change in the individual's status that will cause the visit request to be canceled before its normal termination date.

These procedures ensure that only properly authorized individuals who require access to classified matter as a part of their official duties will have such access during visits to other facilities and agencies. They also require the requesting facility to notify places receiving long term visit requests of any changes in the individual's status as they occur.

Except as noted for 10 CFR Part 25.17(d), there is no duplication with any other Federal agency reporting requirements for all of the above. For each of the reporting requirements, the respondent is not required to submit more than two copies of any response.

2. Agency Use of Information

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 the Office of Personnel Management (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.

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 new automated information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. There is no significant impact upon the information collection requirement through the application of information technology. Only a small portion of other agency information [e.g., 10 CFR Parts 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 it is estimated that 90% of the information is submitted electronically.

4. Effort to Identify Duplication and Use Similar Information

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.

5. Effort to Reduce Small Business Burden

None of the licensees 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

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.

7. Circumstances Which Justify Variation from OMB Guidelines

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

8. Consultations Outside the NRC

The opportunity for public comment on the information collections was published in the Federal Register on February XX, 2010 (72 FR XXXX). No comments were received.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

The information collected 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 provided with or on each form.

11. Justification for Sensitive Questions

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.

12. Estimated Burden and Burden Hour Cost

The burden estimates for 10 CFR Part 25 information collection requirements are based on submittals to NRC in past years and NRC staff experience. The cost to the licensees is calculated at a rate of $47 per hour for clerical staff and $257 per hour for professional staff preparation of the reports prepared in response to 10 CFR Part 25 information collection requirements. These rates are based on NRC's fee rate and includes both salaries and overhead; the clerical rate is estimated.

The total annual burden and cost for complying with the information collection requirements in 10 CFR Part 25 is estimated to be about 201 hours at $55,320 (See Attachment A).

13. Estimate of Other Additional Costs

NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden. Based on the number of pages maintained for a typical clearance, the record storage cost has been determined to be equal to .0004 percent of the recordkeeping burden cost. Therefore, the storage cost for this clearance is insignificant (37 recordkeeping hours x .0004 x $257 = $3.80).

14. Estimated Annualized Cost to the Federal Government

The professional effort associated with these requirements includes reviewing the SF-86's and other personnel security forms required for access authorization processing; evaluating reports of developments which may affect continued eligibility for access authorization; and renewing, reinstating or transferring access authorizations. The estimated cost to the Federal Government for processional effort is based on current and past experience under 10 CFR Part 25.

1680 hrs. x $257/hr. = $431,760
(4 hrs. per case x 420 = 1680 hrs. x $257 = $431,760)

The clerical effort associated with these requirements includes requesting background investigations required for access authorizations; processing name changes, processing visit requests; and canceling and terminating access authorization requests. The estimated cost to the Federal Government for clerical effort is based on current and past experience under 10 CFR Part 25.

840 hrs. x $47/hr. = $39,480
(2 hrs. per case x 420 = 840 hrs. x $47 = $39,480)

The annual cost for the record holding requirements is:

1 cubic ft. x $209/cubic ft. = $209

Total annual cost = $471,440
($431,760/professional + $39,480/clerical + $209 record holding = $471,449)

The records are held in the Division of Facilities and Security, Security Branch file vault.

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

15. Reasons for Changes in Burden or Cost

There has been no change in the overall burden, and the overall burden hours for this collection remains at 840 hours. However, the professional cost per hour, which is based on the NRC’s annual fee rate under 10 CFR Parts 170 and 171 has increased from $216/hr. to $257/hr.

16. Publication for Statistical Use

There is no publication of information collected.

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

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

ATTACHMENT A

10 CFR PART 25 REPORTING BURDEN ESTIMATE

Section	Requirement	No. of Respndnts	No. of Responses Per Rspndnt	Total Annual Responses	Burden Hours Per Response	Total Burden Hours	Cost to Rspdnt $257/Hr
Reporting							
25.11	Exemption Request	0	0	0	0	0	0
25.17(b)	Access Authorization Request	Burden included in NRC Form 237, cleared under OMB number 3150-0050.					
25.17(c)	NRC Access Authorization Request NRC Form 237	Form cleared under OMB number 3150-0050.					
25.17(d)(1)	Personnel Security Packet SF-86	Form cleared under OMB number 3206-0007.					
25.19	Processing Applications	Covered under Section 25.17(b)					
25.21(b)	Reporting Personnel Security Data - NRC Form 354	Form cleared under OMB number 3150-0026.					
25.21(c)(1)&(2)	NRC Access Authorization Request	Form cleared under OMB number 3150-0050.					
	NRC Form 237						
25.23	Notification of grant of access authorization SF-312	75	4	300	.5	150	38,550
25.25	Access Authorization Cancellation	1	25	25	.15	3.75	964

Section	Requirement	No. of Respndnts	No. of Responses Per Rspndnt	Total Annual Responses	Burden Hours Per Response	Total Burden Hours	Cost to Rspdnt $257/Hr
25.27(a) & (b)	Reopening Canceled Requests	0	0	0	0	0	0
25.29(a) & (b)	Access Authorization Reinstatement	10	10	100	.15	1.5	3,855
25.31(c)	Extension or Transfer of Access Authorization	10	3	30	.15	4.5	1,157
25.33(b) & (c)	Reporting Access Authorization Terminations - NRC Form 136	Form cleared under OMB number 3150-0049.					
25.35(a)	Classified Visits	5	6	30	.15	4.5	1,157
25.35(d)	Classified Visits – Changes	0	0	0	0	0	0
Totals				505	1.05	164	45,683

ATTACHMENT A

10 CFR PART 25 RECORDKEEPING BURDEN ESTIMATE

Section	Requirement/Record Retention	No. of Rcrdkprs	Hours Per Rcrdkpr	Total Annual Burden Hours	Cost to Rspndnt $257/Hr
Recordkeeping					
25.23	Notification of Access Authorization Approval (3 yrs)	75	.5	37	9,637
Totals			.5	37	9,637

Total Overall Number of Responses = 580 {505 Total Responses for reporting + 75 Recordkeepers}
Total Reporting and Recordkeeping Burden Hours = 201 {164Total Reporting hrs + 37 Total Recordkeeping hrs}
Total Number of Respondents = 75
Total Cost to Respondent =$55,320 {$45,683 reporting + 9,637 recordkeeping}