

DRAFT OMB 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

The U.S. Nuclear Regulatory Commission (NRC) regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 11 establish requirements for access to special nuclear material. 10 CFR Part 11 also establishes the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization.

10 CFR Part 11 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.

Most of the access authorization requirements under 10 CFR Part 11 are cleared separately under the specific forms used to provide personal history information, including Questionnaires for National Security Positions, Standard Form 86 (SF 86) and NRC Form 237, "Request for Access Authorization." The specific Part 11 requirements covered under the present clearance include:

- requests for exemptions to Part 11 requirements,
- amendments to security plans that require incumbents to have material access authorizations,
- access authorization cancellations, and
- records of the names and access authorization numbers of certain individuals assigned to shipments of special nuclear material.

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 Federal Bureau of Investigation (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 10-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.

The information required by 10 CFR Part 11 is needed to conduct background investigations and make determinations that individuals who require an access authorization/security clearance are reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

A complete description of all Part 11 information collection requirements is located in Appendix A at the end of this supporting statement. Note that most of the information submitted as part of an access authorization request is submitted on forms that are cleared separately from 10 CFR Part 11, and therefore the burden associated with these requirements is accounted for on the clearances for those forms:

- Access authorization requests under 10 CFR 11.15(a)(2) and 10 CFR 11.15(d) are submitted on the NRC Form 237, "Request for Access Authorization," which is cleared under OMB 3150-0050
- Personnel Security information submitted on "Questionnaires for National Security Positions, Standard Form 86 (SF 86)", which is cleared under OMB 3206-0005. No SF 86's are expected during the next clearance cycle, based on past data and staff experience. All

SF86's used in the last three years were submitted to the Department of Energy and reciprocally accepted by the NRC.

2. Agency Use of the Information

Applications for an exemption from requirements of 10 CFR 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.

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 (68 FR 58791) on October 10, 2003, 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. It is estimated that approximately 90% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

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 Office of Management and Budget (OMB) Guidelines

Contrary to the OMB Guidelines in Title 5 of the *Code of Federal Regulations* (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 for this clearance package has been published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions

No sensitive information is requested under the OMB clearance for 10 CFR Part 11 (3150-0062).

12. Estimated Burden and Burden Hr Cost

The NRC staff is aware of two respondents that will be subject to the information collection requirements in 10 CFR Part 11 during the clearance period.

The NRC staff estimates that the only reporting burden during this clearance period will be requests for reciprocal approvals of security clearances.

The total annual burden is estimated to be 81.9 hours (81.5 reporting hours + 0.4 recordkeeping hours) at a cost of \$21,989 (81.9 hours x \$268/hour). The NRC staff estimates 328 responses annually during the clearance period (326 reporting responses + 2 recordkeepers = 328 responses). See Tables 1 and 2 for burden detail.

13. Estimate of Other Additional Costs

The NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden and, therefore, can be used to calculate approximate records storage costs. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost. Because the recordkeeping burden is estimated to be 0.4 hrs, the storage cost for this clearance is \$0.04 (.4 hrs x 0.0004 x \$268/hr).

14. Estimated Annualized Cost to the Federal Government

The clerical effort associated with these requirements includes intake processing of documents by inputting requests into NRC security database system, scanning, and preparing letters. The estimated cost to the Federal Government for clerical effort is based on current and past experience under 10 CFR Part 11.

Annual clerical effort is estimated to be \$3,854 (328 reporting responses x 15 minutes per response = 82 hrs. x \$47 per hr).

15. Reasons for Changes in Burden or Cost

The burden estimate for 10 CFR Part 11 has not changed from the previous renewal based on NRC staff knowledge of the industry and of this program. The professional cost per hour, which is based on the NRC's annual fee rate under 10 CFR Parts 170 and 171, has decreased from \$274 per hr to \$268 per hr.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The recordkeeping and reporting requirement for this information collection are associated with regulations and are not submitted on instruments such as forms or surveys. For this reason, there are no data instruments on which to display an OMB expiration date. Further, amending the regulatory text of the CFR to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current..

18. Exceptions to the Certification Statement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

TABLE 1: ANNUAL REPORTING BURDEN							
Requirement	Description	No. of Respondents	Responses per Respondent	Number of Responses	Burden Hours per Response	Total Annual Burden Hours	Cost at \$268/hr
11.9	Request for an exemption to any Part 11 requirement	0.0	0.0	0.0	0.0	0.0	\$0
11.11(a)	Amendments to security plan	0.0	0.0	0.0	0.0	0.0	\$0
11.15(a)(2)	Requests for reciprocal approval of existing clearances	2.0	163.0	326.0	0.25	81.5	\$22,739
TOTAL				326.0		81.5	\$22,739

TABLE 2: ANNUAL RECORDKEEPING BURDEN					
Requirement	Description	Number of Recordkeepers	Burden Per Recordkeeper	Total Annual Burden Hours	Cost at \$268/hr
11.9	Request for an exemption to any Part 11 requirement (3 years)	0.0	0.0	0.0	\$0
11.13(b)	Record of names and access authorization numbers of individuals assigned to a shipment of special nuclear material (3 years)	0.0	0.0	0.0	\$0
11.15(a)(2)	Maintenance of Records (3 years)	2.0	0.2	0.4	\$112
TOTAL		2.0		0.4	\$112

TABLE 3: BURDEN TOTALS			
	Responses	Burden	Cost @\$268/hr
Reporting	326.0	81.5	\$22,739
Recordkeeping	2.0	0.4	\$112
TOTAL	328.0	81.9	\$22,850

APPENDIX A

DESCRIPTION OF INFORMATION COLLECTION REQUIREMENTS

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

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 current licensees have submitted the required amendments, and no new licensees 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)(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. Reciprocal approval of existing clearances, and associated recordkeeping, is included in the clearance for 10 CFR Part 11. Submission of NRC Form 237 is covered under the clearance for NRC Form 237 (3150-0050).

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.

10 CFR PART 11 REQUIREMENTS THAT ARE COVERED UNDER SEPARATE FORMS:

Sections 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 NRC Form 237, OMB 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. The burden associated with requirements in 10 CFR 11.15(b) is accounted for under the clearance for SF-86, 3206-0005.
- Section 11.15(c)(1) provides that, with specified exceptions, access authorizations must be renewed every five years from the date of issuance for an NRC-U and a NRC-R. All applications for renewal must be filed with NRC at least 120 days prior to the expiration date. 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(c)(2) requires 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)(5) 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-year span permitted in the regulations. This information collection is covered in 11.15(c)(1).
- 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. Information upon which to request change is submitted on NRC Form 237, OMB No. 3150-0050. 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.