

FINAL 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

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

A. Justification

1. Need for and Practical Utility of the Information Collection

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

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

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.

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 a Security Acknowledgment (NRC Form 176) and Request for Access Authorization (NRC Form 237, OMB Clearance No. 3150-0050). The information submitted is needed to determine the investigative basis and level of clearance. It is evaluated by NRC to determine whether access authorization should be granted.

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

the individual should be granted the level of special nuclear material access authorization that was requested.

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

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

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

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

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

2. Agency Use of the Information

Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization. Applications for an exemption from requirements of 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 NRC inspectors to verify that the licensee is complying with requirements for access to special nuclear material in transit and to permit followup in the event of any incident. Applications for special nuclear material access authorization for individuals

employed in jobs identified in § 11.11 are provided to OPM, which conducts an investigation or National Agency Check. NRC then determines whether the individual should be granted the level of special nuclear material access authorization that was requested. Applications required by § 11.15 for access authorization or a change in level of access authorization based on a change in the employee's job responsibilities are needed to enable NRC to make determinations concerning the eligibility of individuals for special nuclear material access authorization and to determine whether NRC licensees are in compliance with requirements for identifying and obtaining access authorization for specified types of jobs.

3, Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. 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. Requests which are not for personal records that require verification of identity of the requester are being accepted by electronic mail and facsimile transmission in addition to mail and in-person written request. Because of the types of information and the infrequency of submission, the applications and other reports do not lend themselves readily to the use of automated information technology for submission, and no requests are submitted electronically at this time.

4. Effort to Identify Duplication and Use Similar Information

The collection of the information required is not a duplication of other information the States must submit for other purposes because the information requested is strictly related to observation or participation in NRC inspection activities. No sources of similar information are available and there is no duplication of requirements.

10 CFR Part 11 specifically provides in § 11.15(a)(2) for the acceptance by NRC of information already collected by other Federal agencies under similar personnel security programs for incumbents in appropriate jobs. NRC will accept for its renewal program the information collected by the DOE for its renewal program. NRC also has in place an on-going 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 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

The opportunity for public comment on the information collections was published in the Federal Register on February 16, 2007 (72 FR 7693). 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 individual's eligibility for access to or control over special nuclear material. The information is protected from public disclosure under the Privacy Act of 1974.

11. Justification for Sensitive Questions

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

12. Estimated Burden and Burden Hour Cost

The annual burden is expected to be 1.25 hours, based on NRC staff experience and the number of reports submitted in the past. The cost per hour is the NRC's professional hour cost, which is based on NRC's fee recovery rate (\$216), as

published in NRC's annual fee recovery rule.

The estimated cost per burden hour is based upon NRC's annual fee recovery rule. This cost is fully recoverable by fee assessments to NRC licensees pursuant to 10 CFR Part 171.

Reporting Requirements

Section	No. of Respondents	Responses per Respondent	Burden Hrs Per Response	Total Annual Burden	Cost @ \$216/Hr	Comment
11.9	0	1	8	0	0	
11.11(a)	0	1	40	0	0	
11.15(a)(2)						Burden approved under NRC Form 237, OMB 3150-0050
11.15(b)						Burden for the Personnel Security Packet, SF-86, is approved under OMB 3206-0007
11.15(c)						Burden for the Personnel Security Packet, SF-86, is approved under OMB 3206-0007 and burden for NRC Form 237 is approved under OMB 3150-0050
11.15(d)						Burden approved for NRC Form 237 is approved under OMB 3150-0050
11.16	5	1	0.25	1.25	\$270.00	
Total	5			1.25	\$270.00	

The estimated cost per burden hour is based upon NRC's annual fee recovery rule. This cost is fully recoverable by fee assessments to NRC licensees pursuant to 10 CFR Part 171.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying Expiration Date

The 10 CFR Part 11 requirements are contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete, would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

None.

B. Collection of Information Employing Statistical Methods

Statistical methods are not used in this collection of information.