

SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security
Additional Protocol to the U.S.-IAEA Safeguards
Agreement Report Forms
OMB CONTROL NO. 0694-XXXX

In accordance with Title 44, Chapter 35, Section 3509, Public Printing and Documents, the Department of Commerce (DOC) hereby requests to be designated as central collection agency for this joint information collection. The information under this statement will be collected by the DOC under the new Additional Protocol Regulations (15 CFR Parts 781 through 799) and by the Nuclear Regulatory Commission (NRC) via amendment to NRC's Safeguards on Nuclear Material-Implementation of U.S./IAEA Agreement (10 CFR Part 75) and Export and Import of Nuclear Equipment and Material (10 CFR Part 110) (herein after referred to as NRC Regulations). DOC and the NRC have a Memorandum of Agreement (MOA) that provides for the development for the required forms under this collection.

Description of the Information Collection

The Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (hereinafter referred to as the "Additional Protocol," "Protocol," or "AP") was developed to strengthen existing verification agreements established under the International Atomic Energy Agency (IAEA) safeguards regime and to promote the non-proliferation of nuclear weapons, which is a cornerstone of U.S. foreign and national security policy. The U.S. Additional Protocol requires the United States to *declare* to the IAEA a number of commercial nuclear and nuclear-related items, materials, and activities that may be used for peaceful nuclear purposes, but also would be necessary elements for a nuclear weapons program.

The declaration submitted under the Additional Protocol will provide the IAEA with information about additional aspects of the U.S. commercial nuclear fuel cycle, including:

- mining and milling of nuclear materials;
- buildings on sites of facilities selected by the IAEA from the U.S. Eligible Facilities List;
- nuclear-related equipment manufacturing, assembly, or construction; import and export of nuclear and nuclear-related items and materials;
- research and development not involving nuclear material; and
- other nuclear material activities not currently subject to the U.S.-IAEA Safeguards Agreement.

The Protocol also expands IAEA access to locations where these activities occur.

United States implementation of the Protocol will be an interagency collaboration involving the Departments of Commerce, Defense, Energy, Justice and State, the Nuclear Regulatory Commission (NRC), the intelligence community and the National Security Counsel. The U.S. declaration submitted to the IAEA will contain aggregate data submitted by several government agencies in fulfillment of specific agency obligations under the Protocol. All implementing agencies will review and approve the U.S. declaration prior to its submission to the IAEA. The DOC will manage the aggregation of the agency declaration submissions and the vetting and approval of the U.S. declaration for Congressional review and submission to the IAEA.

This information collection addresses the time and cost burdens only for the implementing responsibilities of the DOC and NRC for collecting data from the public. See the Department of Energy's Directive DOE 0 142.2A, Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency and the Department of Defense's Defense Federal Acquisition Regulations System for information on implementing responsibilities for these two agencies.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The U.S. Additional Protocol was signed by the United States in Vienna on June 12, 1998, and the President transmitted it to the United States Senate on May 9, 2002, for its advice and consent to ratification. The U.S. Senate provided its advice and consent to ratification on March 31, 2004. The President signed the Additional Protocol Implementation Act (Title II of Public Law 109-401) into law on December 18, 2006 and Executive Order (EO) 13458 on February 4, 2008. The EO designates DOC as the lead agency responsible for collecting data from the commercial nuclear industry and other U.S. persons, except those activities or locations subject to the regulatory jurisdiction of the NRC, in order to comply with the U.S. Additional Protocol. The EO also designates the NRC as lead agency responsible for collecting data as required under the AP from those persons, locations and sites subject to its licensing jurisdiction. Finally, the President signed National Security Policy Directive 57 on February 4, 2008, that provides for more specific agency responsibilities, which, in addition to the responsibilities under the EO, designated DOC as the lead agency responsible for managing the collection and aggregation of interagency declarations to compile the U.S. AP declaration for submission to the IAEA.

The DOC will publish the Additional Protocol Regulations (15 CFR Parts 781 through 799) as a notice of proposed rulemaking and will request comments from the public. The Nuclear Regulatory Commission (NRC) will publish revisions to the applicable NRC regulations (10 CFR Parts 75 and 110) as a direct rule.

Under an existing MOA with the NRC, the DOC's Bureau of Industry and Security (BIS) developed handbooks and report forms for collecting information from the commercial nuclear industry, other U.S. persons, and NRC and Agreement State licensees for the U.S. to comply with its AP commitments. DOC will be the centralized point of submission of report forms from the public subject to the DOC proposed AP Regulations, the NRC Regulations or to both

regulations.

Initial reports must be submitted to DOC within 45 days of the publication of a final rule establishing the AP. Annual reports must be submitted to DOC by January 31st of the year following any year in which the nuclear fuel cycle-related activities took place or in which there were changes to previously reported activities. All U.S. persons must contact DOC or NRC within 30 days after starting any fuel cycle-related activities reportable pursuant to DOC or NRC regulations for instructions regarding the submittal of an initial or amended report outside of the above mentioned time frames.

There are two separate handbooks and related forms for collecting information from the public for implementing the Protocol. The first handbook is for locations and the second is for sites of IAEA-Selected Facilities. The below tables describes each form, including the form number, a brief description of the information to be collected on the form, and the correlation to the specific sub-article of the Protocol.

Handbook for locations and related forms:

FORM	DESCRIPTION OF INFORMATION COLLECTED ON FORM	SUB-ARTICLE
AP-1	Certification	n/a
AP-2	Contact Information	n/a
AP-3	Research and Development with U.S. Government (USG) Involvement	2.a.i
AP-4	Research and Development without U.S. Government Involvement	2.b.i
AP-5	Nuclear-related manufacturing, assembly and construction activities	2.a.iv
AP-6	Information on uranium hard rock mines	2.a.v
AP-7	Information on concentration plants	2.a.v
AP-8	Holdings of impure source materials	2.a.vi.a
AP-9	Imports and exports of impure source materials	2.a.vi.c
AP-10	Holdings of safeguards-exempted materials	2.a.vii.a&b
AP-11	Location of safeguards-terminated materials	2.a.viii
AP-12	Processing of safeguards-terminated waste materials	2.a.viii
AP-13	Exports of specified equipment and non-nuclear material	2.a.ix.a
AP-14	Imports of specified equipment and non-nuclear material	2.a.ix.b
AP-15	Supplemental information report	2.b.ii & 2.c
AP-16	Continuation	n/a
AP-17	No Changes Report	3.b

Handbook for Sites of IAEA-Selected Facilities and related forms:

FORM	DESCRIPTION OF INFORMATION COLLECTED ON FORM	SUB-ARTICLE
AP-A	Certification	n/a
AP-B	Contact Information	n/a

AP-C	Building information	2.a.iii
AP-D	Research and Development with U.S. Government Involvement	2.a.i
AP-E	Research and Development without U.S. Government Involvement	2.b.i
AP-F	Nuclear-related manufacturing, assembly and construction activities	2.a.iv
AP-G	Information on concentration plants	2.a.v
AP-H	Holdings of impure source materials	2.a.vi.a
AP-I	Imports and exports of impure source materials	2.a.vi.c
AP-J	Holdings of safeguards-exempted materials	2.a.vii.a&b
AP-K	Location of safeguards-terminated materials	2.a.viii
AP-L	Processing of safeguards-terminated waste materials	2.a.viii
AP-M	Exports of specified equipment and non-nuclear material	2.a.ix.a
AP-N	Imports of specified equipment and non-nuclear material	2.a.ix.b
AP-O	Supplemental information report	2.b.ii & 2.c
AP-P	Continuation	n/a
AP-Q	No Changes Report	3.b.

Information required by Protocol sub-article:

Sub-article	Information Required to be Declared to the IAEA
2.a.i	<u>Research and development activities with U.S. Government involvement</u> – General description of activity and location information for: <u>not</u> involving nuclear materials, regardless of whether or not they are funded, specifically authorized or controlled by, or carried out on behalf of, the United States. Specific information that must be provided for U.S. locations includes general activity description and location information.
2.a.iii	<u>Site building information</u> -- General description of each building on each site, including its use and, if not apparent from that description, its contents. A map of the site is required. This information will be for sites of facilities selected by the IAEA for the application of safeguards from the U.S. 'Eligible Facilities List' for which a design information questionnaire has previously been submitted.
2.a.iv	<u>Manufacturing activities</u> -- Description of the scale of operations for each location involved in the manufacturing activities specified and listed in detail in Annex I of the AP (e.g., manufacture of centrifuge rotor tubes, diffusion barriers, zirconium tubes, nuclear grade graphite, and reactor control rods). This information includes the company or U.S. person's name, location, a brief description of operations, the estimated production capacity, and the production for the reporting time period.
2.a.v	<u>Uranium mines and concentration plants and thorium concentration plants</u> – Identification of location, operational status and estimated annual production capacity of uranium mines and concentration plants and thorium concentration plants, the current annual production of such mines and concentration plants for the U.S. as a whole. Upon request by the IAEA, the current annual production of an individual mine or concentration plant. However, provision of this information does not require detailed nuclear material accountancy.

2.a.vi.(a)	<u>Holdings of Impure Source Material</u> -- Chemical composition, quantity, use, description of intended use of such material, and building or room where material is held for each location.
2.a.vi.(b).and (c)	<u>Exports and Imports of Impure Source Material</u> -- Chemical composition, quantity, intended use of such material for each location, the date of each export from the U.S. and the destination/country of import, the date of import into the U.S., the country of export, the current location and intended use of each import into the U.S. of such material for specifically non-nuclear purposes
2.a.vii(a) and (b)	<u>Holdings of Safeguards-Exempted Materials</u> – Quantity, use and location of nuclear material exempted from safeguards pursuant to Articles 36(b) and 37 of the Safeguards Agreement. Note that there is currently no nuclear material in the U.S. that has been exempted from IAEA safeguards.
2.a.viii	<u>Location of Safeguards–Terminated Waste Material</u> -- Location of further processing of intermediate or high-level waste containing plutonium, high enriched uranium or uranium-233 on which safeguards have been terminated pursuant to Article 11 of the Safeguards Agreement. Note that there is currently no high-level waste, as defined, in the U.S. on which IAEA safeguards have been terminated.
2.a.ix(a)	<u>Exports</u> -- Each export out of the U.S. of specified equipment and non-nuclear material, including the identity, quantity, location of intended use in the receiving State and date or, as appropriate, expected date, of export must be declared on a quarterly basis.
2.a.ix(b)	<u>Imports</u> – Upon receipt of a request from the IAEA, an import of equipment or non-nuclear material covered in Annex II of the AP (List of Specified Equipment and Non-Nuclear Material for the Reporting of Imports) must be declared for information to verify imports.
2.b.i.	<u>Research and development activities without U.S. Government involvement</u> -- Research and development activities not involving nuclear material and funded and conducted by non-government entities. Specific information that must be provided for U.S. locations includes general activity description and location information.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The United States will submit an initial declaration to the IAEA within 180 days after the President has deposited the instrument of ratification with the United Nations. Thereafter, the United States will submit annual declarations to the IAEA, quarterly declarations on exports of nuclear and nuclear-related equipment and materials, and amended declarations thereto. Upon request by the IAEA, the United States will submit additional information to resolve a question or inconsistency with the U.S. declaration.

The DOC and NRC will collect reports from the public pursuant to the DOC proposed AP Regulations and the NRC Regulations, respectively, in order to obtain the necessary information to compile the U.S. declaration. Under a draft MOA with the NRC, Commerce will receive reports on behalf of the NRC and Agreement State licensees, pursuant to NRC regulations. The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines (i.e., OMB, Department of Commerce, and specific operating unit guidelines.)

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The report forms will be available in portable document format (PDF) and can be printed and submitted, or information can be directly entered onto the forms, printed, and submitted. DOC may also deploy a joint DOC-NRC website, www.ap.gov that will contain the PDF data enterable forms.

DOC's Exhibit 300 entitled "Bureau of Industry and Security, Treaty Compliance Division (TCD) - Network (TCDNet), addresses the information technology investment for implementing the Additional Protocol (UPI Code: 006-30-01-25-02-5502-00).

DOC began developing an Internet-based information collection system for industry to use to submit reports electronically. However, due to severe budgetary crisis over the last two fiscal years, DOC has been unable to complete the Internet-based system for collecting reports from the public.

4. Describe efforts to identify duplication.

The Additional Protocol requires that additional information, beyond that which is currently being collected pursuant to the U.S.-IAEA Safeguards Agreement, be declared to the IAEA. The 'total' information required for U.S. compliance with the Additional Protocol, as to be collected under DOC's proposed AP Regulations and NRC Regulations, has not been previously obtained from the public. It is determined, therefore, that this is not a significant duplication of information necessary for implementing the Protocol. However, there is certain information collected, as described below, but this information is not sufficient to comply with specific Protocol requirements.

- 1 Under the Safeguards Agreement, NRC collects information regarding buildings on sites of IAEA-Selected Facilities in applications for NRC licenses, but this information will not fully meet the Article 2.a(iii) reporting requirement. The information collected and contained in the design information questionnaire (DIQ) relates to only the building where the nuclear material is located, whereas the Additional Protocol requires information to be declared on every building on the site of the IAEA-Selected Facility, including a detailed map of the site, and the use of the building and its content.

- 2 NRC and the Department of Energy (DOE) collect certain information on nuclear material from the public, including NRC and Agreement State licensees. DOE's Energy Information Administration (EIA) administers a survey to collect statistical data on the U.S. uranium industry. The data includes pounds of uranium ore concentrate produced on an annual and quarterly basis as well as number of operating and standby mills, concentration plants and by-product recovery plants. This information is not fully sufficient to comply with the requirements of Article 2.a(v) of the Additional Protocol because the EIA survey only captures the total operational and standby domestic mining activities and the Additional Protocol requires information on permanently closed down mines. NRC only licenses "in-situ" leach facilities and does not collect information on open pit or underground (deep mining) facilities. Finally, most mines, mills and concentration plants are located in Agreement States and report directly to the Agreement State. This information is collected at the state level and is not directly available to the U.S. government.

Department of Labor's Mine Safety and Health Administration (MSHA) administers the provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act) to enforce compliance with mandatory safety and health standards as a means to eliminate fatal accidents; to reduce the frequency and severity of nonfatal accidents; to minimize health hazards; and to promote improved safety and health conditions in the nation's mines. MSHA carries out the mandates of the Mine Act at all mining and mineral processing operations in the United States, regardless of size, number of employees, commodity mined, or method of extraction. MSHA gathers information (i.e., company name, mine name, address, operational status) from the mining industry on a quarterly basis. This information is not sufficient to satisfy the information needed for Article 2.a(v) of the AP because it does not include mines whose operational status was designated as abandoned, decommissioned, or under environmental restoration (e.g., mining operations that are shut down and personnel and infrastructure are not in place to resume mining activities)

- 3 NRC collects information on the inventories of source materials (depleted uranium, natural uranium and thorium) to which foreign obligations have been assigned. Source material without foreign obligations may be transferred between facilities, which are required under the Protocol. This information is, therefore, not sufficient to satisfy the information required under Article 2.a.(vi) of the Protocol.
- 4 There is currently no information collected from the public regarding research and development (R&D) on nuclear fuel cycle activities not involving nuclear material (e.g., development of enrichment technology) that is not funded by the U.S. government. Most U.S. government funding for fuel cycle-related R&D is provided by the DOE's, Office of Nuclear Energy, however, NRC's Office of Research also funds some activities. The information collected by DOE and NRC on R&D activities will not fully meet the Article 2.a(i) and 2.b(ii) reporting requirements.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

DOC and NRC are sensitive to the needs of small businesses; however this collection must be conducted to ensure the United States is in full compliance with its obligations under the Additional Protocol. This procedure, as will be conducted under the proposed AP Regulations and NRC's Regulations for Safeguards on Nuclear Material-Implementation of U.S./IAEA Agreement, is governed by national security, foreign policy and proliferation of weapons of mass destruction requirements.

Respondents will consist of government, small businesses, academic institutions, private company contractors, and other private entities. To minimize the burden on small businesses and other small organizations, the AP Report forms have been developed to only collect the minimum amount of information necessary from the public for the U.S. to comply with its AP treaty requirements. In addition, DOC and NRC plan to provide outreach to the public through seminars and published documents, providing pertinent information on the impending implementation of the Additional Protocol. These efforts will familiarize the public with the Additional Protocol and assist their understanding and compliance with the DOC and NRC Additional Protocol requirements.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Article 3 of the Additional Protocol requires the United States to submit initial, annual, and quarterly declarations for all public and private entities engaged in certain commercial nuclear fuel cycle related activities. If the requested collections are made less frequently or not at all, the United States will not be able to meet its reporting obligations and will then be in technical non-compliance with the requirements of the Additional Protocol, an international treaty that has the force of law. Also the President's policy objectives would be in jeopardy if this collection is not conducted, as enumerated in National Security Strategy of the U.S. of America of 2006.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The proposed rulemaking soliciting public comments was published on July 25, 2008 (Vol. 73, pg. 43568).

DOC and NRC held preliminary meetings with representatives from the Nuclear Energy Institute (NEI) to discuss the potential impact of anticipated DOC and NRC regulations (pursuant to the AP) on the U.S. commercial nuclear industry. NEI representatives were able to give very rough parameters of the types of companies and organizations that potentially would and would not be affected by implementation of the AP.

After these meetings, however, it was determined that a more targeted survey needed to be conducted to identify the number of possible entities that will be impacted by implementing the AP through promulgating DOC's proposed notice of advanced rule making and amending NRC's regulations.

The starting basis for developing the list of recipients of the survey was through three publications:

- 1 Dynmeridian report of June 15, 2000, on the "Cost Estimates for Implementation of the Additional Protocol to the U.S.-IAEA Safeguards Agreement;"
- 2 EIA's report of May 2003, on the "Uranium Industry Annual 2002;"
- 3 Lawrence Livermore National Laboratory report of October 2003, on the "Survey of Potentially Declarable Activities on Nuclear Fuel Cycle Related Research and Development under Article 2 of the U.S. Additional Protocol – A Preliminary Report."

The survey was conducted by DOC's Office of Strategic Industries and Economic Security (SIES), within the DOC, to get the best estimate possible (next to an actual data collection of the entire population) of the number of U.S. companies, organizations and other U.S. persons that will potentially have reporting requirements under the AP. This study, along with reviews conducted by the NRC on activities conducted by its licensees, indicated that potentially 119 locations and 10 sites of IAEA-Selected Facilities from the U.S. Eligible Facilities List licensed by the NRC will have reporting requirements pursuant to DOC and NRC regulations under the AP.

In order to assess the time and cost burden to the public associated with completing the AP report forms, DOC sent a letter requesting time estimates from nine pre-selected companies and organizations. The letter included a handbook containing background information on the AP and the anticipated reporting requirements, as well as the draft AP report forms, with detailed

instructions, definitions and supplements to aid in the completion of the forms, as appropriate (one handbook and set of forms is for commercial nuclear industry and other U.S. persons with reportable locations, and the other handbook and set of report forms is for sites of U.S. facilities selected by the IAEA from the U.S. Eligible Facilities List). The respondents were also encouraged to provide any comments or suggestions resulting from their review of the draft forms and handbook. Of the nine pre-selected companies and organizations, only seven responded to the time estimate request.

In addition, a Notice of Inquiry (FR Doc. 02-29513) was published in the Federal Register on November 20, 2002, requesting information to estimate the potential impact that implementing the Additional Protocol will have on the public and to gain a better understanding of the universe of locations that may be affected by implementation, when the Additional Protocol enter into effect. Comments to this Notice of Inquiry were received from the Nuclear Energy Institute (NEI) and one company, USEC, Inc.

Representatives from NEI commented that, “NEI does not foresee significant burdens on industry from ratification and imposition of the U.S. Additional Protocol ... Increased burdens can be expected for such agencies in extracting and reporting required information to the Department of Commerce and for entities engaged in nuclear research and development.” Regarding impact on uranium and thorium mines and mills, the NEI commented that, “NEI, foresees...a minor impact on uranium licensees to slightly broaden annual EIA filings to include mine or mill throughput capacity,” and also noted that, “NEI foresees the largest impact of protocol implementation on the Research and Development Activities area of the fuel cycle. Information on such research activities has not, to the best of our knowledge, ever been tabulated by the U.S. government.”

USEC representatives commented that, “Pending answers to our questions, enactment of implementing legislation and promulgation of implementing regulations, USEC is not able to reach conclusions regarding the extent to which the Additional Protocol may compromise the protection of confidential business information or Restricted Data. Nor is it able, at this time, to estimate the cost of compliance with the data submission and other requirements of the Additional Protocol.”

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no plans to provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Article 15 of the AP protects confidential business information (CBI) by mandating that the IAEA maintain a stringent regime to ensure effective protection against disclosure of commercial, technological and industrial secrets. In addition to the national security exclusion,

the U.S. Additional Protocol includes all the protections for commercially sensitive information contained in the Model Protocol. For example:

- 1 Information on nuclear R&D activities that must be declared to the IAEA is limited to location and general description and does not include details or results;
- 2 Similarly, the required information on nuclear-related manufacturing is also limited to location and the scale of operation without details;
- 3 Access is designed to be infrequent;
- 4 Inspection activities are limited and relevant to detection of undeclared nuclear material and activities;
- 5 Unlike the Chemical Weapons Convention, no other state to request access in the United States under the Additional Protocol.
- 6 The IAEA is required to maintain a stringent regime for protection against disclosure of commercial, technological and industrial confidential information, and the regime is subject to periodic review and approval by the United States and other Board members;
- 7 Only those individuals to whom the United States agrees may be assigned by the IAEA to conduct inspections in the United States under the U.S. safeguards agreement or for access under the U.S. Additional Protocol;
- 8 Whenever requested by the United States, managed access arrangements must be used to prevent disclosure of proliferation sensitive information, or proprietary or commercially sensitive information;
- 9 Both the IAEA and its officers or employees may be subject to legal process in the event of unauthorized disclosure of confidential information. The IAEA can withdraw immunity of inspectors in cases of abuse.

The United States Additional Protocol Implementation Act exempts information reported to, or otherwise acquired by, the U.S. government pursuant to the AP from disclosure through a Freedom of Information Act (FOIA) request (5 USC 552). This FOIA exemption will ensure additional protection against any unauthorized release of information. In addition, complementary access to locations and sites in the United States will be conducted consistent with the Fourth Amendment to the U.S. Constitution.

In addition, the DOC or NRC Host Team facilitating the inspection will implement managed access measures, if applicable, as described under the DOC proposed AP Regulations and NRC's Regulations on Safeguards on Nuclear Material-Implementation of U.S./IAEA Agreement. These include actions to prevent the dissemination of sensitive information (e.g., removal of sensitive papers from office spaces; shrouding of sensitive displays, stores and equipment; and logging off computer systems and turning off data indicating devices).

As stated in Section 221 of the United States Additional Protocol Implementation Act, in the event of a complementary access to a privately owned or operated facility, no employees from Environmental Protection Agency (EPA), Mine Safety and Health Administration (MSHA), or Occupational Safety and Health Administration (OSHA) may participate in the access. In the case of access to a federal facility, accompanying officials from other government agencies (i.e., OSHA or EPA) cannot conduct a concomitant inspection to ensure compliance with the given agency's regulations or issue citations and/or fines based on non-compliance with those regulations.

Finally, information submitted by the public to the DOC or NRC is protected from release to the public under Section 231 of the United States Additional Protocol Implementation Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

The approximate aggregate total burden for this joint DOC-NRC information collection is 3,357 hours at a cost of \$130,425. The estimated burden hours and costs are described below in three sections, including AP report handbooks and forms (joint DOC-NRC), and complementary access and compliance review of locations (DOC only). The summary for each of the three sections include:

- 1 *Joint report forms* -- 2,161 total estimated burden hours at a cost of \$96,467.
- 2 *DOC only complementary access* – 1,153 total estimated burden hours per complementary access at a cost of \$32,070.
- 3 *DOC only compliance reviews* – 43 total estimated burden hours at a cost of \$1,897.

AP Report Handbooks and Forms (Joint DOC and NRC collection)

It is estimated that 129 locations and sites will submit reports and forms. The aggregate estimate burden for the first-year for submitting reports by persons and locations under DOC's proposed AP Regulations and NRC's Regulations and by sites under NRC's regulations is 2,161 total hours and a cost \$96,467.

Below are the two handbooks and related burden hours for the reporting requirements of the Additional Protocol. See Question 1 above for a listing of each form in the two handbooks and the information required on each form.

- 1 Report Handbook for Locations – Joint DOC and NRC forms for persons and locations with reportable activities. The approximate total burden hours is 840 hours for respondents representing locations where reportable activities.
- 2 Report Handbook for Sites of IAEA-Selected Facilities – NRC forms for sites of IAEA-selected facilities with reportable activities. The approximate total burden hours is 1,321 hours for respondents representing sites of IAEA-selected facilities.

To develop the estimate for the burden hours for the draft AP report forms, DOC conducted an informal survey of nine companies to ascertain an estimated time for completing each of the AP report forms. The companies were instructed to include in their time estimates the time necessary to complete the form, the time needed to gather the information, and the time needed for review by attorneys, accountants, managers, etc. Each company was requested to only complete those draft forms relevant to their activities; therefore, there are not time estimates for all of the forms. Seven of the nine companies responded to the informal survey.

The estimated time for completing the draft AP report forms, as provided by the seven companies, is outlined in Table 1. The burden hours varied widely, mostly due to whether the respondent represented a location or a site, the pre-existence of reportable information in a company database, the size of the location (i.e., number of rooms/buildings for each location), and the scope of the reportable activities (the number of AP-related activities the location is engaged in). For example, one company estimated it will have to only submit three forms (Forms AP-1, AP-2 and AP-5) and anticipated a burden of 45 minutes. Another much larger company reporting for a site estimated the time burden will be much larger because of the requirement to submit a separate form for every building on the site. This company estimated it will have to need to submit at least 75 forms (Form AP-C), one for each building on its site, and estimated 195 potential burden hours to prepare and submit the necessary forms for the site.

As noted in Question 8 above, the DOC's SIES conducted a mandatory survey to gather information on activities relating the U.S. commercial nuclear fuel cycle-related industry that would be affected by the Additional Protocol. DOC received responses from 166 companies/organizations, of which 119 indicated that they were currently engaged in, or have conducted in the past 5 years, activities that may be reportable under the Protocol.

Estimated Burden Hours for Locations – Five locations submitted information on the report forms under the SEIS survey for an estimated 840 total burden hours. This estimate is based upon the sum of the estimated number of draft forms submitted by the respondents for each activity multiplied by the estimated average number of hours to complete each type of report form, based on the average of the time estimates for completing the draft AP report forms as provided by companies that responded to the survey.

Estimated Burden Hours for Sites – Two sites submitted information on the report forms under the SEIS survey for an estimated 1,321 total burden hours. There are currently only 10 sites regulated by the NRC in the U.S. that are on the U.S. Eligible Facilities List that have been selected for IAEA safeguards activities. This estimate is based upon the sum of the number of forms for these 10 sites conducting each activity multiplied by the estimated average number of hours to complete each type of report form, based on the average of the time estimates for

completion of the draft AP report forms provided by the two sites.

Estimated Cost for Locations and Sites -- The estimated annual cost to all respondents (locations and sites) is \$96,467. The cost per hour for the respondents was derived from the cost per hour of the salaries and overhead of the Federal employees working on this project. Thus, the estimated total annual cost burden to all respondents and record keepers is 2,161 hours x \$37.20/hour (GS-13 Step 1) x 1.2 (20% Overhead) = \$96,467.

DOC estimates that the total burden hours and cost for the joint AP report forms may decrease in subsequent reporting years as respondents become familiar with the requirements and have to only report changes to information after submitting their initial report. Also once DOC deploys an optional electronic tool for the public to use for creating and submitting their reports, this may also reduce the burden hours.

Complementary Access by the IAEA to Locations (DOC only)

It is estimated that the IAEA will request complimentary access to two locations annually. The total estimated burden hours for implementing complementary access to locations under the proposed AP Regulations is 1,153 hours and cost is \$32,070. DOC's proposed AP Regulations establish the authority for conducting complementary access by the IAEA to locations included in the U.S. declaration as well as locations that are not included in the U.S. declaration as agreed to by the U.S. government. DOC envisages complementary access to locations will include, but is not limited to, preparing records, reviewing reports previously submitted by the location, providing information to be included in location-specific subsidiary arrangements between the U.S. government and the IAEA, identifying and protecting confidential business and other critical information, and developing a pre-inspection briefing for inspectors about the facility.

DOC has based the burden hour and cost estimates on its experience implementing the inspection provisions of the Chemical Weapons Convention (CWC) Regulations (15 CFR 710-722; information collection number 0694-0091). Specifically, the information collection for the inspection provision of CWC Regulations has an estimated burden time of 576.33 hours per inspection, which is derived from the average of the actual total burden hours in a calendar year as reported by eleven Schedule 2 and Schedule 3 chemical facilities. Similarly, the estimated cost of \$16,035 per inspection is derived from the average of the actual cost reported by the eleven respondents, including preparations, on-site activities and inspection reports, and the average time for preparing a report of inspection related costs.

DOC estimates that the IAEA will request complementary access to two locations per calendar year (576.33 hours per complementary access x 2 locations = 1152.66 hours and \$16,035 per complementary access x 2 locations = \$32,070).

Compliance Reviews (DOC only)

The total estimated burden hours for implementing compliance reviews of locations under the proposed AP Regulations is 43 hours and \$1,897. DOC's proposed AP Regulations establish the authority for contacting any person or location subject to the proposed AP Regulations to determine whether it is in compliance with the reporting and recordkeeping requirements of the

proposed AP Regulations. Any person or location subject to the proposed AP Regulations receiving such a request for information will be required to provide such information to DOC within a 30-day time period. An extension of the submission deadline may be requested. This provision does not, in itself, impose a requirement to create records or maintain existing records. The recordkeeping requirement that apply to persons and locations are set forth in Part 786 of the proposed AP Regulations.

DOC estimates that the burden to implement this provision of the proposed AP Regulations is approximately 43 hours, which is based on a survey that DOC conducted of persons/facilities subject to a similar provision of the CWC Regulations. Specifically, DOC conducted a survey of persons/facilities that responded to past requests for voluntary information under the CWC Regulations in which it was estimated that 1.7 burden hours are required to comply with each request for information. DOC estimates that it will issue 25 requests for information from a person or location per calendar year under the proposed AP Regulations (25 requests x 1.7 hours = 42.5 hours x \$37.20/hour (GS-13/1) = \$1581 x 1.2 (20% overhead) = \$1,897.20).

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

This collection involves a recordkeeping requirement of three years, as specified in DOC's proposed AP Regulations. The estimated recordkeeping cost for this collection of \$8,707.

The largest of companies is anticipated to file less than 100 pages of forms or letters per year. Although the quantity of actual records required to support these forms and letters varies from company to company, most of these records are already being saved in some form by each company for other purposes (i.e., Environmental Protection Agency, Occupational Safety and Health Administration, Nuclear Regulatory Commission, Department of Energy (Energy Information Administration), Department of Labor (Mine Safety and Health Administration), Department of State, Department of Transportation)). A company may also have its own internal policy in which such documents are maintained from year to year. Note that such records, while useful for other purposes, are not normally in a format useful to AP reports, and therefore cannot be substituted for reports.

A worst case assumption assumes a ten fold excess of underlying records for each submitted form or letter (i.e., 1,000 pages for the largest of companies). This amounts to a total permanent storage of 5,500 pages of documents to be contained in a filing cabinet occupying 1.5 square feet of office space. Estimates of office space costs in the Washington, DC area range from approximately \$35/sq.ft. to \$55/sq. ft., with an average value of \$45/sq. ft. /year. Applying this worst case assumption to the 129 potentially reportable locations (based on the results of the SIES survey) yields an estimated recordkeeping cost for this collection of \$8,707 (1.5 sq.ft. x \$45/sq.ft. x 129 reports). It must be emphasized that this is a worst case assumption only. Most respondents will file far less than the anticipated 100 pages per largest of companies and hence will have much lower recordkeeping expenses. The \$7,707 is rounded to \$8,708 in ROCIS.

14. Provide estimates of annualized cost to the Federal government.

The estimated annualized cost to DOC and NRC for reports is \$1,159,736. A major portion of this estimate is the cost for personnel to receive, process, validate, aggregate, and archive the data and other activities for implementing the reporting and complementary access requirements for the Additional Protocol. The chart below provides a breakout of the annualized estimate cost of the collection. The annual cost is based on the annual salaries of the 2 full-time Federal employees (2 DOC employee and 1 NRC employee), 5 part-time Federal employees (DOC employees), 2 full-time employees that will provide contractual support (DOC contractors), and 2 part-time employees that will provide contractual support (DOC contractors). Also included is the annual cost for equipment and printing needs.

Number of Personnel	Cost (USD)
3 full-time Federal employees (2 DOC and 1 NRC) (3 x 2080 hrs/yr x \$37.20/hr [GS-13, Step 1] x 1.2 [Overhead])	\$ 278,553
5 part-time Federal employees (3 DOC and 2 NRC) (5 x 1040 hrs/yr x \$37.20/hr [GS-13, Step 1] x 1.2 [Overhead])	\$ 232,128
2 full-time contractual support employees	\$ 364,332
2 part-time contractual support employees	\$ 159,723
Equipment	\$ 50,000
Printing Cost	\$ 75,000
Total Cost	\$1,159,736

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is a new information collection. All burden figures are based on DOC experience and an estimated number of locations and sites affected.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish information obtained under this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

DOC is requesting exemption from printing the expiration date on forms for this collection of information because the implication of an expiration date would only serve to confuse the public. The presence of an expiration date would tend to give the public the impression that these collections are only temporary and are no longer required after the expiration date.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not utilize statistical methods.

Estimated Burden Hour Table

The estimated total burden hours for this joint collection includes locations regulated by both the DOC and NRC and sites regulated by NRC. The burden hours (2160.8) are broken into three separate sub-tables, as follows: sub-table A for DOC locations; sub-table B for NRC locations, and sub-table C for NRC sites, as well as the related reference notes.

SUB-TABLE A -- DEPARTMENT OF COMMERCE

Locations				
AP Forms	No. Estimated Forms Completed	Time Estimate Responses (min.)	Avg. Time Estimate (min)	Total Time Per Form (min.)*
AP-1 ¹	71	60, 30, 20, 15, 15, 10, 10	22.8	1618.8
AP-2 ²	71	120, 120, 30, 20, 20, 15, 15	4806	3450.6
AP-3 ³	60	480, 240	360	21600
AP-4 ³	1	480, 240	360	360
AP-5 ⁴	7	240, 180, 10	143	1001
AP-6 ⁵	22	120, 72, 30	74	1628
AP-7 ⁵	0	120, 72, 30	74	0
AP-8 ⁶	0	120, 60	90	0
AP-9 ⁷	0	---	30	0
AP-10 ⁸	0	---	---	---
AP-11 ⁸	0	---	---	---
AP-12 ⁸	0	---	---	---
AP-13 ⁹	0	---	30	0
AP-14 ¹⁰	0	---	---	---
AP-15 ¹¹	71	---	---	---
AP-16 ¹²	0	60, 30, 20, 15, 15, 10, 10	22.8	---
Total (Burden Hrs.)**				494.3

SUB-TABLE B -- NUCLEAR REGULATORY COMMISSION - LOCATIONS

Locations Table				
AP Forms	No. Estimated Forms Completed	Time Estimate Responses (min.)	Ave. Time Estimate (min)	Total Time Per Form (min.)*
AP-1 ¹	48	60, 30, 20, 15, 15, 10, 10	22.8	1094.4
AP-2 ²	48	120, 120, 30, 20, 20, 15, 15	4806	2332.8
AP-3 ³	40	480, 240	360	14400
AP-4 ³	1	480, 240	360	360
AP-5 ⁴	7	240, 180, 10	143	1001
AP-6 ⁵	0	120, 72, 30	74	0
AP-7 ⁵	14	120, 72, 30	74	1036
AP-8 ⁶	4	120, 60	90	360
AP-9 ⁷	3	---	30	90
AP-10 ⁸	0	---	---	---
AP-11 ⁸	0	---	---	---
AP-12 ⁸	0	---	---	---
AP-13 ⁹	1	---	30	30
AP-14 ¹⁰	0	---	---	---
AP-15 ¹¹	48	---	---	---
AP-16 ¹²	0	60, 30, 20, 15, 15, 10, 10	22.8	---
Total (Burden Hrs.)**				345.1

SUB-TABLE C -- NUCLEAR REGULATORY COMMISSION - LOCATIONS

Sites Table				
AP Forms (Site)	No. Estimated Forms Completed	Time Estimate Responses (min.)	Ave. Time Estimate (min)	Total Time Per Form (min.)*
AP-A ¹	10	60, 30, 20, 15, 15, 10, 10	22.8	1094.4
AP-B ²	10	120, 120, 30, 20, 20, 15, 15	4806	2332.8
AP-C ¹³	500	180, 132	360	14400
AP-D ³	0	480, 240	360	360
AP-E ³	0	480, 240	143	1001
AP-F ⁴	4	240, 180, 10	74	0
AP-G ⁵	0	120, 72, 30	74	1036
AP-H ⁶	0	120, 60	90	360
AP-I	0	---	30	90
AP-J ⁸	0	---	---	---
AP-K ⁸	0	---	---	---
AP-L ⁸	0	---	---	---
AP-M ⁹	0	---	30	30
AP-N ¹⁰	0	---	---	---
AP-O ¹¹	10	---	---	---
AP-P ¹²	0	60, 30, 20, 15, 15, 10, 10	22.8	---
Total (Burden Hrs.)**				1321.4

Total Estimated Burden Hours (DOC and NRC) = 2160.8

--- No information was provided by the 9 companies surveyed.

* Total time per form = No. Estimated Forms Completed x Ave. Time Estimate (to complete each form) = total time burden to industry for each form.

** Total (Burden Hrs) = Represents total time burden to industry.

NOTES:

1 Separate responses were received for Forms AP-1 and AP-A. Because Forms AP-5 and AP-F (Certification) are nearly identical, the time estimates for Forms AP-1 and AP-A were merged and averaged.

2 Separate responses were received for Forms AP-2 and AP-B. Because Forms AP-2 and AP-B (Reporting Address) are nearly identical, the time estimates for Forms AP-2 and AP-B were merged and averaged.

3 A response was received for Form AP-3. Because Forms AP-3, AP-4, AP-D and AP-E (Nuclear Fuel Cycle R&D Not Involving Nuclear Material) are very similar, the time estimate for Form AP-3 was also used for Forms AP-4, AP-D, and AP-E.

4 Separate responses were received for Forms AP-5 and AP-F. Because of the similarity between forms AP-5 and AP-F (Manufacturing Activities), the time estimates for Forms AP-5 and AP-F were joined and averaged for forms AP-5 and AP-F.

5 Separate responses were received for Forms AP-6 and AP-7. Because Forms AP-6 (Uranium Hard Rock Mine Operations) and AP-7 and AP-G (Concentration Plant Operations) are very similar, the time estimate for Forms AP-6 and AP-7 were merged and averaged, and the time estimate was also used for Form AP-G. The number of in situ mines and concentration plants is projected for an increasing number of mines and plants licensed by NRC and the Agreement States.

6 A response was received for Form AP-8. Because Forms AP-8 and AP-H (Holdings of Impure Source Material) are nearly identical, the time estimate for Form AP-3 was also used for form AP-H.

7 No responses were received for Form AP-9 or AP-I. 30 minutes was estimated for completion of this form based on the time responses for the other forms collecting similar quantities of information.

8 Forms AP-10, AP-11 and AP-12 and Forms AP-J, AP-K and AP-L concerns reporting of information pertaining to the holding of safeguard-exempted material and the location and

processing of safeguard-terminated material respectively. No responses were provided as no entities currently possess such material in the United States.

9 No responses were received for Form AP-13 or AP-M. 30 minutes was estimate for completion of this form based on the time response for the other forms collecting similar quantities of information.

10 No responses were received for Form AP-14 or AP-N. Form AP-14 and Form AP-N collect information related to a response from the IAEA request to clarify information contained in a previously provided report.

11 No responses were received for Form AP-15 or AP-O. Both forms provide additional space to fully answer a question that was asked on many of the previous AP report forms. Time for completion of this form is included in the estimates for completing the specific forms above.

12 No responses were received for Forms AP-16 and AP-P. Form Ap-16 and From AP-P are No Changes Reports to certify that the information reported in the last submitted report has not changed and would not be submitted during the first information collection. Because Forms AP-1 and AP-A (Certification) and AP-16 and AP-E (No Change Report) are very similar, the time estimate for Forms AP-1 and AP-A was also used for Forms AP-16 and AP-E. During annual update information collections, it is expected that a large number of the reporting entities will submit No Changes Reports.

13 Over 200 facilities licensed by the NRC have been placed on the list of U.S. Facilities Eligible for IAEA Safeguards. Ten on the list have been or are currently selected for IAEA safeguards activities. The 10 sites are expected to have an average of 50 buildings per site and to submit a separate Form AP-C for each building.