

Supporting Statement for Paperwork Reduction Act Submission
Department of Energy
U.S. Declaration under the Protocol Additional to the
U.S. IAEA Safeguards Agreement

A. JUSTIFICATION

1. **Need to Collect:** This proposed collection of information is pursuant to implementing the provisions of the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (the “Additional Protocol” or AP). The AP is a supplement to the existing U.S.-IAEA Safeguards Agreement, which entered into force in 1980. The U.S. AP will become part of the Safeguards Agreement once the U.S. AP enters into force. The United States signed the U.S. AP in 1998, President Bush submitted it to the Senate on May 9, 2002, for the Senate’s advice and consent to ratification, and the Senate approved a resolution providing such advice and consent on March 31, 2004. Legislation to implement the U.S. AP was enacted on December 18, 2006 (Public Law 109-401, December 18, 2006). Entry into force of the U.S. AP will take place when the President deposits the instrument of ratification with the IAEA. Department of Energy (DOE) Order 142.2 A, “Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency” (December 15, 2006), describes roles and responsibilities within the DOE for implementation of the AP at DOE locations.

2. **Purpose:** The annual U.S. Government Declaration to the IAEA under the U.S. AP will be comprised of information collected separately by the DOE, the Nuclear Regulatory Commission (NRC), and the Department of Commerce (DOC). The purpose of this information collection is to enable the DOE to fulfill its responsibilities under Executive Order 13458 as the Lead Agency for implementing the AP at locations owned, operated, or leased by or for DOE, including NRC-licensed or certified activities on DOE installations, and, in coordination with the Department of Defense, non-military locations on installations that store or process naval reactor fuel (collectively known as “DOE Locations”). Only those persons performing declarable activities at DOE locations are subject to the proposed collection of information by DOE.

The NRC is the Lead Agency for locations that are subject to the regulatory authority of the NRC, pursuant to the NRC’s regulatory jurisdiction under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), with the exception of those NRC-licensed or NRC-certified facilities at DOE Locations. The DOC is the Lead Agency for all other locations in the United States, except U.S. Government locations and those locations for which the NRC is the Lead Agency. All persons, including DOE contractors performing declarable activities

at locations other than those for which DOE is the Lead Agency, would submit their declarations for these activities at non-DOE locations to either the NRC or DOC, as appropriate.

The U.S. Additional Protocol is based upon, and is virtually identical to, the IAEA Model Additional Protocol (see IAEA Information Circular, INFCIRC/540, at www.iaea.org/Publications/Documents/Infcircs/index.html). The difference lies in an exception that excludes IAEA access to activities with direct national security significance to the United States, or to locations or information associated with such activities; and further provides the United States the right to employ managed access for these circumstances.

The Additional Protocol is designed to enhance the effectiveness of the U.S.-IAEA Safeguards Agreement by providing the IAEA with information about aspects of the U.S. civil nuclear fuel cycle, including: mining and concentration of nuclear ores; nuclear-related equipment manufacturing, assembly, or construction; imports, exports, and other activities involving certain source material (i.e., source material that has not reached the composition and purity suitable for fuel fabrication or for being isotopically enriched); imports and exports of specified nuclear equipment and non-nuclear material; nuclear fuel cycle-related research and development activities not involving nuclear material; and other activities involving nuclear material not currently subject to the U.S.-IAEA Safeguards Agreement (e.g., nuclear material that has been exempted from safeguards pursuant to paragraph 37 of INFCIRC/153 (Corrected) June 1972). The IAEA has a right of Complementary Access (physical access) to declared locations and to other locations specified by the IAEA, to resolve questions or inconsistencies related to the U.S. Declaration.

All reporting requirements that are applicable to respondents making their declarations through DOE can be found in Article 2.a of the U.S. AP. These activities are considered to be funded, specifically authorized or controlled by, or carried out on behalf of, the United States, by virtue of the fact that the DOE, as an agency of the U.S. Government controls all activities, regardless of performer, that occur at its installations.

The IAEA may also request additional information about specific individual declared activities for purposes of resolving questions about or clarifying information in the U.S. declaration. It is anticipated that such questions or requests for clarification will be specific to the declared activity and will not be standardized. A U.S. Government Host Team will implement managed access measures during IAEA complementary access. In addition to using managed access to protect activities of direct national security significance to the United States, as well as locations or information associated with such activities, the United States will also use managed access to protect from disclosure classified, proliferation sensitive, proprietary, export-controlled or commercially sensitive information; minimize the impact of the visit on site operations; protect the health and safety of the inspectors and escorts; or meet physical protection requirements.

3. **Use of Electronic Systems:** The DOE has developed its Additional Protocol Reporting System (APRS) for electronically declaring, assembling, and reviewing the information that will comprise that portion of the overall annual U.S. Declaration for which DOE is the Lead Agency. The APRS provides three software tools designed specifically to support all phases of the DOE declaration process. The APRS assists DOE Field Elements and M&O contractors to determine if they have civil nuclear-related activities that must be declared and helps them prepare and submit the “site declarations” to DOE headquarters for review. It also enables DOE Headquarters (HQ) to review the declaration before it is submitted, following completion of interagency review of the U.S. declaration and completion of all applicable statutory requirements, to the IAEA through the Department of Commerce.

Respondents making their AP declarations through DOE will use two of the three integrated software tools that comprise the DOE APRS. These are the Declaration Decision Assistant (DDA), which is an optional tool for use at the site level to determine whether a given activity is declarable under the AP; and the Declaration Writing Assistant (DWA), which will be used by DOE Field Elements and persons making their declaration through DOE to create the declaration line items (i.e., the information describing each discrete declared activity). DOE HQ federal personnel and contractors working under their direct supervision will use the Declaration Review Assistant (DRA) tool in the APRS to review the assembled DOE declaration and submit it to the DOC AP reporting system that will be used to compile the U.S. Government AP Declaration. In addition to information collected from respondents, the U.S. Declaration will also include an annual description of the US Government’s plans for the civil nuclear fuel cycle for successive 10-year periods. DOE will prepare the description of this plan at HQ and will not conduct a collection of information for this purpose.

4. **Duplication of and Availability of Information:** Declarable activities are described on a site-specific basis, and careful quality review at the laboratory and Field Element levels prior to sending the site declarations to DOE Headquarters assures comprehensiveness and the absence of duplication
5. **Small Business Burden:** There is no known impact on small businesses.
6. **Consequences of Failure to Collect:** Upon Entry into Force, the U.S. Government is under a legal obligation to fulfill the requirements of the U.S. AP, including, but not limited to, submitting an Initial Declaration and subsequent annual Update Declarations. Failure to collect this information will prevent DOE from carrying out its responsibilities as Lead Agency to implement the U.S. AP at DOE Locations in a timely and efficient manner.
7. **Special Circumstances:** This information collection is consistent with the 5 CFR 1320 guidelines.

8. **Consultation with the Public:** The Department published a Notice, requesting comments concerning this collection in the Federal Register on April 3, 2008, (Federal Register, Vol. 73, No. 65, pp. 18263-18264). No comments were received from the public.
9. **Payment to Respondents:** DOE does not provide payments or gifts to respondents, other than remuneration of contractors.
10. **Confidentiality of Collected Information:** The IAEA will protect the U.S. Declaration under the Additional Protocol as Safeguards Information, which is not disclosed to third parties. Prior to submittal to the IAEA, the information in the U.S. declaration will be handled as Official Use Only information. The declaration provided to the IAEA will not contain classified, export-controlled, or proprietary information, and the locations identified in the declaration as being associated with the declarable activity will be those to which the U.S. can provide Complementary Access to the IAEA under appropriate managed access measures.
11. **Questions of a Sensitive Nature:** The collection of information does not involve questions of a sensitive nature.
12. **Estimate of Burden of Collecting Information** The maximum estimated burden for a person declaring many activities (30-40) would be approximately 400 hours per year; the minimum would be 40 hours for a person with one or two declarable activities. The burden in person-hours of responding to the proposed collection of information will depend on the number of declarable activities that take place at the respondent's location, which will affect the effort required to identify these activities, assemble information on them, and complete the declarations and submit them to DOE. This effort includes annual effort expended in maintaining and training on using the software provided by DOE to assemble and report the information as well as making the declaration. For purposes of estimating the number of responses and associated respondent burden, DOE has assumed 15 respondents, each of which makes one "site declaration" consisting of 40 activities; *training and draft declaration exercises funded by DOE.
13. **Estimate of Record Keeping Burden:** Not applicable. Zero cost to the respondents
14. **Annualized Cost to the Federal Government:** Not applicable. There is Zero cost to the Federal Government
15. **Reasons for Program Change:** There are no program changes. This is a new collection.

16. **Plans for Publication of Information:** This package contains no collections whose results will be published for statistical use.
17. **Reason for Not Displaying Expiration Date of OMB Approval:** The Department is not seeking approval to not display the expiration date.
18. **Explanation of Exceptions to Certification Requirements:** No exceptions are requested.