

FINAL SUPPORTING STATEMENT
FOR
NRC FORM 749, "MANUAL LICENSE VERIFICATION REPORT"

(3150-XXXX)

NEW

Description of the Information Collection

As a result of the terrorist attacks in the United States (U.S.) on September 11, 2001, the U.S. Nuclear Regulatory Commission (NRC) reviewed nuclear material security requirements, with particular focus on radioactive material of concern. Based on the findings of its review, the NRC issued a series of security orders to NRC and Agreement State licensees. In general, the orders provided for enhanced security measures for such things as license verification before transfer, intrusion detection and response, use of security zones, access control, and coordination with local law enforcement authorities.

In order to make requirements generally applicable to all licensees and allow for public participation, the NRC initiated a rulemaking in which security requirements for use of category 1 and category 2 quantities of radioactive material were codified in a new Part of the CFR: 10 CFR 37, "Physical Protection of Byproduct Material" (information collections approved by OMB on April 9, 2013, 3150-0214.)

In 2014, the requirements in 10 CFR Part 37 will become effective for NRC licensees. The Agreement States will have until March of 2016, to adopt the Part 37 requirements into their regulations.

One of the requirements in Part 37, is a license verification requirement. Any licensee transferring category 1 or category 2 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, shall verify with the NRC's License Verification System (LVS) or the license issuing authority, that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

The current submission seeks to facilitate the verification that is conducted by contacting the license issuing authority. Verification information is completed by both the transferring licensee and the Issuing Agency using NRC Form 749, Manual License Verification Report. The data elements contained on this form represent the minimum information necessary for the Issuing Agency to determine if the requested transfer of material is authorized on the license, and to convey the verification outcome to the transferring licensee as described in 37.71(a) and (b).

The information being provided by the transferring licensee is the Date of the Verification Request, the Transferring Licensee Information, including Issuing Agency, Licensee Name, License Number, Contact Name and Title, Contact Phone Number, Contact Fax Number (if applicable), and Contact Email address. Also provided is the Receiving Licensee Information

including Issuing Agency, Licensee Name, License Number, Amendment Number, Issue Date, Authorized Location, Material of Concern Being Requested, Chemical/Physical Form, and the Quantity/Activity Being Requested. In addition, the Verifier's Name, Phone Number, Fax Number (if applicable), and Email Address are also provided.

The information being provided by the Issuing Agency is the Verifier's Name, Phone Number, Fax Number (if applicable), and Email Address. In addition, the Verification Date and Verification Outcome are also provided. This information allows the NRC to ensure that they are only providing non-public, sensitive license information to authorized recipients. In addition, it allows the licensee completing the verification manually to have a record of the verification to demonstrate compliance with 37.71(a) and (b) upon inspection. Licensees using the LVS have their license and contact information included as part of their user account profile in the system, and employment is verified prior to providing access to the LVS.

The outcome of the manual verification needs to be retained by the licensee for three years.

The requirement to verify a license using the LVS or the license issuing authority, and keep a record of the verification is covered in the Part 37 OMB clearance (3150-0214). However, following approval of the Part 37 information collection requirements and prior to implementation of the LVS, the NRC staff developed a manual license verification procedure and optional corresponding NRC Form 749 to facilitate the manual verification with the license issuing authority. Licensees will complete a manual verification when the licensee does not have internet access to complete the verification through the online system, if their LVS user account is expired or inactive, or if they receive a message in LVS to contact the regulator. In a manual license verification procedure, the regulatory agencies (either the NRC or the Agreement State regulator) perform the license verification on behalf of the licensee. The licensee would submit NRC Form 749, "Manual License Verification Report" to provide the regulatory agency with the necessary information to verify the license. NRC Form 749 is a voluntary alternative that licensees may use to fulfill the requirements in 37.71(a) and (b).

A. JUSTIFICATION

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

There is broad U.S. Government and international interest in ensuring licensees receive only authorized radioactive materials in authorized quantities for radioactive material of concern. Prior to the implementation of the Web Based Licensing System (WBL) and the License Verification System (LVS), there was no single U.S. source for information to verify the authorized licensees, users, locations, or quantities of these materials. The NRC WBL contains the materials licenses issued by the NRC and Agreement States for licenses that authorize radioactive materials of concern. License verification is part of a comprehensive radioactive source control program for radioactive materials of greatest concern. Although a national license verification system cannot ensure the physical protection of sources, it provides greater source accountability. A national license verification system in conjunction with other controls will result in improved security for sealed sources.

Section 37.71(a) requires any licensee transferring category 1 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, to verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

Section 37.71(b) requires any licensee transferring category 2 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, to verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

Section 37.71 (c) allows in an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day. If the licensee contacts the licensing issuing authority, they can use the NRC Form 749 to facilitate the manual license verification as it is used for 37.71 (a) and (b).

37.71 (c) is an exception for an emergency case where the LVS is not available and the regulator that issued the license cannot be reached. In this emergency case, the licensees are allowed to complete the verification with each other, and they must follow up with a documented license verification with the regulator the next day. This can be either using LVS or using the manual process and optionally the 749 form.

Section 37.71 (d) requires the transferor to keep a copy of the verification documentation as a record for 3 years.

Note that the burden for license verification using the LVS is covered under recordkeeping burden for 10 CFR Part 37, OMB clearance number 3150-0217. This clearance requests additional reporting burden for licensees using NRC Form 749, "Manual License Verification Report" rather than the LVS.

2. Agency Use of Information

The NRC and Agreement State agencies will use the information collected to determine if the licensee requesting receipt of radioactive materials of concern is authorized to receive the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. This verification helps protect the nation from the threat of the malevolent use of radioactive materials.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection through the use of information technology. In fact, the NRC encourages licensees to use information technology when it would be beneficial to them. The NRC issued a regulation on October 10, 2003 (68 FR 58792) 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 interfaces, or other means.

It is estimated that approximately 95% (86 submissions) of the manual license verifications will be completed electronically by emailing the form 749.

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

While some licensees who are subject to Part 37 license verification requirements are small businesses, the concerns associated with the safe and secure use of radioactive materials of concern are the same for large and small entities. It is not possible to reduce the burden on small businesses by less frequent or less complete license verification procedures while maintaining the required level public health and safety of common defense and security. It is estimated that 38 percent of respondents to this collection are small businesses.

6. Consequences to Federal Program or Policy Activities if the Collection Is Not Conducted or Is Conducted Less Frequently

The NRC Form 749 is a voluntary form to facilitate a manual license verification, which can be used when the licensee does not have internet access to complete the verification through the online system, if the licensee's LVS user account is expired or inactive, or if the licensee receives a message in LVS to contact the regulator. If the NRC Form 749 were not available, licensees who do not have access to LVS for these reasons would need to provide their own mechanism for documenting the manual verification.

If the information on the form and in the LVS were not provided by the licensee and license issuing authority, the regulatory agencies issuing and inspecting against 10 CFR Part 37 would not have a way to determine if the licensee requesting receipt of radioactive materials of concern is in compliance with the license verification requirement in 10 CFR 37.71. Licensees and regulators providing this information at the time of material transfer is necessary to assure adequate protection of the public health and safety and common defense and security.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to OMB Guidelines in 5 CFR 1320.5(d)(2), Sections 37.71(a) through (d) of 10 CFR Part 37 require licensees to complete a license verification prior to transferring radioactive materials of concern (a reporting frequency of less than 30 days).

This information collection frequency is necessary to ensure only authorized licensees are receiving radioactive materials of concern in authorized quantities at authorized locations.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published In the Federal Register on November 8, 2013 (78 FR 67204). No comments were received.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b). However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

Not Applicable.

12. Estimated Burden and Burden Hour Cost

It is estimated that an average number of responses to this information collection over the three year period of the clearance will be 91 per year. Since the Part 37 license verification requirement is effective for NRC licensees two years prior to being effective for Agreement State licensees, the number of manual license verifications is lower in 2014 and 2015, and increases in 2016. The estimate of 91 manual verifications is an average of the annual estimates over the three year period. For example, there are an estimated number of 29 manual license verifications in the years 2014 and 2015, and an estimated number of 215 manual verifications in the year 2016, for an annual average of 91 manual verifications.

Due to the simplicity of the form and the minimal information being requested, the estimated burden on licensees is 0.13 (8 minutes) per verification. This includes contacting the LVS Help Desk by phone to request the Form 749, completing the form and submitting it via email to the LVS Help Desk. While the form has a number of fields on it, the actual fields populated by the licensee are the date, their license information and the receiving licensee information (both of which are readily available and do not require a lookup), and the material and quantity being requested, which is also readily available. The remaining fields will be populated by the LVS Help Desk staff or the Agency that issued the license. The total estimated annual burden in hours is 11.8 hours (0.13 hrs x 91 responses), for a total financial burden annual of \$3210 (11.8 hours x \$272/hr).

The recordkeeping burden is addressed in the Part 37 OMB Clearance, OMB clearance number 3150-0217.

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

It is estimated that the staff cost to develop and implement the manual license verification procedure and form and coordinate the process with the NRC Regional offices and Agreement States is 85 hours at a rate of \$272 per hour for a total of \$23,120.

Ongoing, the LVS Help Desk will facilitate the manual license verification process with the Agreement States and the NRC Regional offices at an estimate of .25 hours per form received. The help desk rate is \$102.85 per hour, for a total annual cost of \$2,340.00 (22.75 hours \$102.85 Hourly Help Desk Cost).

15. Reasons for Change in Burden or Cost

This submission represents a new collection to implement the information collection requirements in 37.71(a) and (b), & (c). The information collection requirements in 37.71(a) and (b), & (c) were approved by OMB on April 9, 2013 (3150-0214). This submission provides information about the manual license verification forms that will be used to fulfill the license verification requirement in the event the licensee is unable to use the License Verification System.

The information provided by licensees will ensure that only authorized licensees obtain radioactive materials in authorized amounts. The collection will allow the NRC or Agreement State to confirm that (1) a license is valid and accurate, (2) a licensee is authorized to acquire quantities and types of radioactive materials, and (3) that the licensee is authorized to receive radioactive material at the location requested for delivery.

16. Publication for Statistical Use

Licensee submittals will not be published.

17. Reason for Not Displaying the Expiration Date

The expiration date will be displayed.

18. Exceptions to the Certification Statement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.