

DRAFT SUPPORTING STATEMENT
FOR

Request for Information Pursuant to 10 CFR 70.22(d) and 40.31(b) regarding the Fukushima Dai-ichi Event and NRC Generic Letter 2015-01: Treatment of Natural Phenomena Hazards in Fuel Cycle Facilities

(3150-XXXX)
NEW

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) is required by the Atomic Energy Act to verify that licensees are in compliance with the regulations and license conditions. Compliance with the regulations provides reasonable assurance of public health and safety. The NRC has authority to collect this type of information pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 70.22(d) and 10 CFR 40.31(b). The NRC staff may at any time require a licensee to submit additional information to enable the Commission to determine if the license to operate a nuclear facility needs to be modified, revoked, or suspended. The Commission uses the information collected to verify that licensees meet the NRC regulations and requirements of their license.

Following the unanticipated events (earthquake and tsunami) at the Fukushima Dai-ichi nuclear plant in Japan, the NRC Chairman directed the staff to undertake near-term and longer-term actions (Tasking Memorandum – COMGBJ-11-0002 – “NRC Actions Following the Events in Japan,” dated March 23, 2011 (Agencywide Document Access and Management System (ADAMS) Accession No. ML110820875). One of the near-term actions was the creation of a Near-Term Task Force to review the events and the possible implications for the safety of U.S. nuclear power plants. One of the longer-term actions was for the staff to assess the applicability of the lessons learned from the accident to the non-reactor facilities, such as fuel cycle facilities, in the event of a natural disaster.

On December 23, 2011, the Consolidated Appropriations Act, Public Law 112-074, was signed into law. While the text of the statute did not specify a deadline, the Conference Report for PL 112-074 stated:

The conferees recognize the progress that the Nuclear Regulatory Commission has made on the recommendations of the Near Term Task Force. Commission staff has proposed a prioritized list of the Task Force recommendations that reflects the order regulatory actions are to be taken. The conferees direct the Commission to implement these recommendations consistent with, or more expeditiously than, the “schedules and milestones” proposed by NRC staff on October 3, 2011. The conferees direct the Commission to maintain an implementation schedule such that the remaining recommendations (not identified as Tier 1 priorities) will be evaluated and acted upon as expeditiously as practicable. The conferees request that the Commission provide a written status report to the House and Senate Committees on Appropriations on its implementation of the Task Force recommendations on the one year anniversary of the Fukushima disaster.

The NRC cannot comply with the normal clearance procedures because the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information as stated in 5 CFR 1320.13(a)(2)(ii) - (iii).

A. JUSTIFICATION

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

Protection from natural phenomena is critical for safe operation of nuclear fuel cycle facilities. Current NRC regulations and associated regulatory guidance provide an approach for the evaluation of site hazards associated with natural phenomena. However, after the Fukushima event, the NRC staff performed a systematic evaluation and inspection of selected fuel cycle facilities to confirm that licensees are in compliance with applicable regulatory requirements and license conditions; and to evaluate their readiness to address natural phenomena. Based on the results of the inspection, the NRC staff identified that licensees have not clearly documented their safety assessments of natural phenomena hazards and the potential consequences. This information collection (generic letter) will request additional information from licensees to verify that they are in compliance with the regulatory requirements and demonstrate that they provide adequate protection of public health and safety. The outcome of the generic letter ensures that the NRC fulfills its mission of protecting the public.

2. Agency Use of Information

Using the information gathered by this information request, the NRC will verify that fuel cycle facilities are maintaining compliance with the NRC regulations and requirements of license and will determine if additional regulatory action is necessary. This may include actions such as modifying the nuclear fuel cycle facilities safety analysis related to natural phenomena events if the NRC determines that a deficiency is identify that leads to a facility not meeting the regulations.

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 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. The NRC has an Electronic Information Exchange system that provides an electronic submission capability for NRC licensees to voluntarily submit documents electronically. This system provides certificates of authority for electronic signatures with licensees, contractors, and other Government organizations. It is estimated that approximately 0% of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

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

collections.

The information request is based upon NRC regulations and specific license requirements to ensure safe operation of nuclear fuel cycle facilities. It requests licensees to submit information to demonstrate compliance with regulatory requirements and applicable license conditions regarding the treatment of natural phenomena events. This type of information or its analog is not currently available to the NRC. The NRC staff conducted inspections at selected fuel cycle facilities and determined that this information is not readily available for NRC review at nuclear fuel cycle facilities.

5. Effort to Reduce Small Business Burden

None of the licensees responding 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

As described in the justification for this action, the NRC considers this information to be critical to its mission. The NRC is required by the Atomic Energy Act to verify that licensees are in compliance with the regulations and license conditions. Compliance with the regulations provides reasonable assurance of public health and safety. The NRC finds that the current schedule is necessary to avoid unnecessary delay.

7. Circumstances Which Justify Variation from OMB Guidelines

Not Applicable

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register.

Additionally, throughout the development of this letter, the NRC staff has solicited stakeholder input including feedback on the burden. The NRC staff published the draft version of the letter on August 14, 2014 (79 FR 46472). The NRC received two comments. In addition, the staff had multiple interactions with stakeholders during public meetings and regulatory conferences. The NRC staff also discussed the basis for the generic letter and the generic letter itself during a public meeting on March 4, 2015 (ADAMS Accession No. ML15041A056) and solicited public comment. The NRC staff considered all feedback in generating its burden estimate.

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).

11. Justification for Sensitive Questions

Not Applicable

12. Estimated Burden and Burden Hour Cost

Estimated Burden and Cost

The NRC staff estimates that the time to respond to all requirements contained in the generic letter information request averages 56 hours per fuel facility licensee, for a total of 728 hours (13 fuel facilities x 56 hours = 728 hours) at a cost of \$203,112 (728 hours x \$279/hr). This burden estimate represents the entire industry burden to respond to the 70.22 and 40.31 information request. If this burden is annualized over a three-year clearance period, the burden is estimated to be 2,184 hours (728 hours / 3 years = 2,184 hours per year).

Burden assumptions

Response indicating inability to comply with the information collection request

- Licensees are requested to respond within 90 days of the issuance of the generic letter if they are unable to comply with the information collection request. In developing the generic letter, the NRC staff has worked closely with industry regarding all requirements, and will continue to do so following issuance of the letter, including providing guidance to licensees. Due to the continuing interactions with licensees, the NRC staff does not anticipate that any licensees will submit a response indicating an inability to comply with the request. Should a licensee submit such a response, it is estimated that the burden would be one hour. However, if a licensee states that they are unable to comply with the information collection request, the NRC is still bound by the Atomic Energy Act to verify that the licensee is in compliance with the regulations and license conditions. In this case, the NRC staff would conduct individual team inspections of the facility to verify compliance. This would result in a larger burden of at least 240 hours (vice 56 hours per fuel facility licensee for responding to the information request).

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

The NRC staff estimates that the hours required to review the licensees information to demonstrate compliance with regulatory requirements and applicable license conditions regarding the treatment of natural phenomena events will require 1 full-time equivalent (FTE) employees over the course of the next year. At an estimated 1,400 hours per FTE, NRC effort is estimated at 1,400 hours or \$390,600 (1,400 x \$279/hr).

15. Reasons for Change in Burden or Cost

The current emergency clearance request is a new collection, issued pursuant to 10 CFR 70.22(d) and 40.31(b), which would impose a total of 728 hours of burden on 13 fuel facility licensees to verify that they are in compliance with the regulatory requirements and demonstrate that they provide adequate protection of public health and safety.

16. Publication for Statistical Use

Not Applicable

17. Reason for Not Displaying the Expiration Date

Not Applicable

18. Exceptions to the Certification Statement

None

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS