

FINAL SUPPORTING STATEMENT
FOR
NRC FORM 790
CLASSIFICATION RECORD
(3150-0052)

REVISION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) Form 790, "Classification Record," is completed manually by an NRC licensee, licensee's contractor, or certificate holder delegated classification or declassification authority. The submission of the data contained on the NRC Form 790 is required each time an authorized classifier makes a classification determination to classify, declassify, or downgrade a document. This reporting requirement currently affects two NRC licensees and one licensee's contractor that are permitted to use, process, store, and reproduce, transmit, or otherwise handle NRC classified information. The information contained on the completed form includes specific information which identifies the document being classified, declassified, or downgraded, as well as specific information describing the status (e.g, original or derivative classification, the reason for the declassification review, or future action) of the classified document. This information enables NRC to conduct assessments of classification or declassification determinations made by those officials specifically authorized to make such determinations and to prepare accurate feeder data into a report to the President.

In October 2011, the NRC retired the Records Classification Action (RCA) System that was used previously for the purposes of collection and recordation of NRC Form 790 submissions. The RCA System was replaced by the Classification Management Action (CMA) System. The CMA System is a database that was created internally by NRC staff and permits the collection of NRC Form 790 information electronically through the use of a standard personal computer. All NRC Form 790 information is entered manually into the CMA database via keyboard data entry by an Information Security Specialist within the Information Security Branch (ISB), Division of Security Operations (DSO), Office of Nuclear Security and Incident Response (NSIR) through paper and electronic submissions from various NRC employees, contractors, licensees, or certificate holders. It is important to note that the RCA System was retired due to the increased costs associated with the development and implementation of a national "web-based" electronic collection system, as well as compatibility issues with the RCA System software and the licensee and certificate holder(s) computer systems.

Executive Order (E.O.) 12958, "Classified National Security Information," dated April 17, 1995, and amendments thereto, have been revoked and were replaced by E.O. 13526, "Classified National Security Information," effective June 25, 2010.

JUSTIFICATION

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

Under E.O. 13526, the Director of the Information Security Oversight Office (ISOO) is responsible for overseeing the NRC's actions to ensure compliance

with the Order and the associated implementing directives. In fulfilling this oversight function and in accordance with the authorities outlined in E.O. 13526, the Director of ISOO requires agencies, to include the NRC, to report statistics related to its security classification program on an annual basis. The NRC Form 790 is the means by which the NRC collects this data from its employees, contractors, licensees, licensees' contractors, certificate holders, and persons that fall within the scope of Title 10 of the *Code of Federal Regulations* (CFR) Part 95 or NRC Management Directive (MD) 12.2, "NRC Classified Information Security Program." Failure to complete this form would preclude NRC from meeting its expected classification and declassification reporting responsibilities prescribed by ISOO and from evaluating classification and declassification actions during appraisals, inspections and audits. Lastly, the burden estimate has decreased to approximately 1,500 responses per year. This decrease is due to the fact that the NRC has terminated facility clearances for several licensees, licensees' contractors and certificate holders as a result of a reduction of operations. At the time that a facility clearance is terminated, the licensee, licensee's contractor, or certificate holder is no longer permitted to use, process, store, and reproduce, transmit, or otherwise handle NRC classified information.

2. Agency Use of Information

The completed NRC Form 790 is submitted to NSIR and the data provided on the form is subsequently entered into the CMS database. The data is then tabulated, stored, and as needed, a report is produced. This report is used by NSIR to keep track of classification and declassification decisions made by authorized officials. Statistical data from this report is provided to ISOO pursuant to their responsibilities under E.O. 13526. This data is used by NRC during inspections, appraisals, and audits of the affected facilities or persons.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with the information collection. The NRC encourages respondents to use information technology when it is 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 e-mail, or by other means. The affected licensees and licensees' contractors complete the form electronically approximately 75 percent of the time. However, in all instances a hard copy of the form is mailed to the NRC for processing.

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

Currently, none of the licensees, organizations, or persons affected qualify as a small business. The burden associated with this form is minimal. There is no significant burden on a contractor should they qualify as a small business, enterprise or entity.

6. Consequences to Federal Program or Policy Activities if the Collection is not Conducted or is Conducted Less Frequency

The NRC Form 790 is completed manually and may be submitted electronically. A data entry is made when a classification or declassification action occurs. It is not possible to have less frequent collection without eliminating the requirement completely. In that case, NRC would not have the information necessary to evaluate the Information Security Program at the facility, which would negatively impact NRC's responsibility to ensure the proper protection of classified information and compliance with E.O. 13526 requirements and statutory requirements.

7. Circumstances Which Justify Variation from OMB Guidelines

Not applicable.

8. Consultations Outside of the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on June 12, 2015.

The NRC contacted two potential respondents via e-mail to request feedback on the information collection. Both potential respondents were licensees that fall within the scope of 10 CFR Part 95.

Potential Respondent Comment #1 – Louisiana Energy Services doing business as URENCO USA (UUSA) indicated that they had one concern that was not addressed on the revised NRC Form 790. Specifically, UUSA's concern is that when an authorized derivative classifier (ADC) completes the NRC Form 790 for someone, that ADC may not see that document again. In some instances, there is a discrepancy in whether the respondent copies the document title verbatim on the NRC Form 790 or whether the respondent summarizes the document title. In order to resolve any difficulties in locating a document reference on a completed NRC Form 790, the NRC should consider including a block on the form for site-specific use. The purpose of this block could be to provide the originating office or ADC a place to record a document identification number that they could use for reference against a log or inventory system they use to keep track of their documents and/or 790 forms.

NRC Response to Comment #1 – Block 4 on the revised NRC Form 790 was updated to allow the respondent to annotate the unclassified document title and/or site-specific document identifier (e.g., serial number), if applicable.

Potential Respondent Comment #2 – GE Hitachi, Global Laser Enrichment (GLE) commented that a collection of titles is not necessary for some licensees and should be optional. In some instances, a list of unclassified titles of classified documents may pose the risk of classification compilation or classification by association. Also, if compromised, this list would pose a business risk and, potentially, an intellectual property risk. Identification of documents by another method, such as serialized numerical value or document identifier would be a better proposition.

NRC Response to Comment #2 – Block 4 on the revised NRC Form 790 was updated to allow the respondent to annotate the unclassified document title and/or site-specific document identifier (e.g., serial number), if applicable.

Potential Respondent Comment #3 – GE Hitachi, Global Laser Enrichment (GLE) commented that with regard to the accuracy of the burden estimate, if this requirement were to apply to electronic markings of e-mails or other electronic files, then the estimated burden would be over 500 hours annually for a small office of 20-30 personnel.

NRC Response to Comment #3 – To date, the NRC has not required licensees to submit a completed NRC Form 790 for e-mail correspondence.

Potential Respondent Comment #4 – GE Hitachi, Global Laser Enrichment (GLE) commented that the use of electronic files (e.g., Microsoft Excel or Microsoft Access) could allow for the population of rows and columns, which could simplify the information collection process. If the NRC would accept a comma separated value (CSV) type file, which could then be loaded into a program sufficient to compile the data, then the information collection process would prove much more feasible.

NRC Response to Comment #4 – 10 CFR Part 95.57, “requires records for all classification actions (documents classified, declassified, or downgraded) to be submitted to the NRC Division of Security Operations. These may be submitted either on an “as completed” basis or monthly. The information may be submitted either electronically by an on-line system (NRC prefers the use of a dial-in automated system connected to the Division of Security Operations) or by paper copy using NRC Form 790.” The regulation does not prohibit submission of an electronic file, so long as the file addresses all the required fields on the NRC Form 790. If an individual licensee prefers an alternate submission mechanism, then the licensee should submit a request to the Division of Security Operations for consideration.

Potential Respondent Comment #5 – GE Hitachi, Global Laser Enrichment (GLE) commented that the use of a text processing tool or software (e.g., Microsoft Excel or Microsoft Access), which could incorporate CSV type files, would allow licensees to compile their own data and then submit this monthly to the NRC via a single file which could easily be edited or corrected.

NRC Response to Comment #5 – 10 CFR Part 95.57, “requires records for all classification actions (documents classified, declassified, or downgraded) to be submitted to the NRC Division of Security Operations. These may be submitted either on an "as completed" basis or monthly. The information may be submitted either electronically by an on-line system (NRC prefers the use of a dial-in automated system connected to the Division of Security Operations) or by paper copy using NRC Form 790.” The regulation does not prohibit submission of an electronic file, so long as the file addresses all the required fields on the NRC Form 790. If an individual licensee prefers an alternate submission mechanism, then the licensee should submit a request to the Division of Security Operations for consideration.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with 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

No sensitive information is requested on the NRC Form 790.

12. Estimated Burden and Burden Hour Cost

Approximately, 1,500 responses are anticipated on an annual basis. The affected licensees and licensees’ contractors complete the form electronically approximately 75 percent of the time; however, all respondents continue to submit in hard copy format in addition (by mail to the NRC for processing) although hard copy submission is not required. The estimated burden is calculated as follows:

(1,500 responses per year x 5 minutes to complete each form = 125 hours) x
\$268 per hour = \$33,500

(30 minutes to prepare the package of hard copies of the form each month x
12 months x 3 respondents = 18 hours) x \$268 per hour = \$4,824

Total burden = 143 hours (125 hours to submit each form electronically + 18 hours to submit hard copies). Burden per form = 143 hours / 1500 responses = 6 minutes per form.

Cost = 143 hours x \$268/hr = \$38,324

13. Estimate of Other Additional Costs

The affected licensees and their contractors mail hard copies of the completed NRC Form 790 to the NRC for processing on a monthly basis. The annual estimated cost for mailing the package to the NRC on a monthly basis is calculated as follows:

$(\$10 \text{ per package} \times 12 \text{ months} = \$120) \times 3 \text{ respondents} = \360

There are no other additional costs.

14. Estimated Annualized Cost to the Federal Government

The estimated annualized cost to the Federal Government to administer the program and procedures contained in 10 CFR Part 95 or NRC MD 12.2 is \$33,500.

This was computed as follows:

Licensees and licensees' contractor submissions: $(1,500 \text{ responses per year} \times 5 \text{ minutes to process each form} = 125 \text{ hours}) \times \$268 \text{ per hour} = \$33,500$.

The total cost to the Government is \$33,500.

This cost is recoverable (\$33,500) through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and/or 171.

15. Reasons for Changes In Burden or Cost

The burden increased from 125 hours to 143 hours, a change of 18 hours. The number of responses decreased from 2,500 to 1,500. Following are the reasons for these changes:

- The burden estimate for respondents has decreased from approximately 2,500 to approximately 1,500 responses per year. This decrease is due to the fact that the NRC has terminated facility clearances for several licensees, licensees' contractors and certificate holders as a result of the reduction of operations. At the time that a facility clearance is terminated, the licensee, licensee's contractor, or certificate holder is no longer permitted to use, process, store, and reproduce, transmit, or otherwise handle NRC classified information. In addition, the respondent cost decreased due to the decrease in the fee rate from \$279 to \$268/hr.
- The estimated burden associated with each response has increased from approximately 3 minutes to approximately 6 minutes to more accurately reflect the current process utilized to process each form. While the affected licensees and licensees' contractors complete the form electronically approximately 75 percent of the time, in all instances a hard

copy of the form is mailed to the NRC for processing. The NRC does not require hard copy submission; however, this is the respondents' historical practice and the NRC staff is accounting for all time to submit the forms.

Other changes to the NRC Form 790 include:

- E.O. 13526 outlines the categories of information eligible for classification, also referred to as the reasons for classification. The current NRC Form 790 has a blank field for respondents to annotate the E.O. 13526 reason for classification, with no additional information. In an effort to remove any ambiguity and reduce the burden associated with looking up the reasons for classification identified in E.O. 13526, Block 9 of the NRC Form 790 has been revised to explicitly state the eight categories of information eligible for classification under E.O. 13526. In order to complete Block 9 of the form, the respondent will select all reasons for classification that apply.
- Additionally, E.O. 13526 identifies the declassification instructions that can be utilized on an original or derivatively classified document. The current NRC Form 790 only included a subset of the declassification instructions listed in E.O. 13526. Specifically, the declassification instructions annotated in Block 10 and Block 14 of the revised NRC Form 790 include the option of 50X exemptions, as articulated in E.O. 13526. The design of the form and associated instructions were updated to improve the ease of usability and remove any ambiguity from instructions that were previously identified as self-explanatory.

16. Publication for Statistical Use

NRC staff tabulates the information contained on the form and provides it to Information Security Oversight Office, as needed. There is no other publication for statistical use.

17. Reason for Not Displaying the Expiration Date

The expiration date is displayed on NRC Form 790 and is displayed on the electronic NRC Form 790.

18. Exceptions to the Certification Statement

Not applicable.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.