

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

EXTENSION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission (NRC) Form 790, "Classification Record," is completed 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.

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 is needed to comply with Executive Order (E.O.) 13526, "Classified National Security Information," effective June 25, 2010, and enables NRC to conduct assessments of classification or declassification determinations made by those officials specifically authorized to make such determinations and to prepare accurate input for a report to the President. Additionally, this information is required for 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 to comply with the rule.

This reporting requirement currently affects two NRC licensees that are permitted to use, process, store, and reproduce, transmit, or otherwise handle NRC classified information.

The respondents complete the form and may provide it by email or in hard copy format. Once the information is submitted, it is entered into the Classification Management Action System (CMS).

JUSTIFICATION

1. Need for the Collection of Information

Under E.O. 13526, the National Archives' 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 10 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.

2. Agency Use and Practical Utility of Information

The completed NRC Form 790 is submitted to the NRC 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 the NRC 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. The NRC has issued [Guidance for Electronic Submissions to the NRC](#) which provides direction for the electronic transmission and submittal of documents to the NRC. Electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (e.g., CD-ROM, DVD), by facsimile or by e-mail.

Licensees choose the method of submission they prefer, either by email or hard copy. The affected licensees and licensees' contractors complete the form electronically approximately 75 percent of the time.

The NRC evaluated the feasibility of developing an electronic submission capability for NRC Form 790. Given the scale of the Form 790's the agency receives over the course of a year, it was decided at the time to not pursue an electronic submission due to costs of implementation.

Currently, the NRC is looking at all business processes to become more efficient. The agency has also just committed to an online collaborative tool set for working with our licensees. As part of these efforts, the NRC will perform a cost analysis to establish if the Form 790 would be more efficiently managed by an electronic submission versus keeping this current form and the manual submission.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements.

5. Effort to Reduce Small Business Burden

Not applicable.

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

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 has been published in the *Federal Register* on November 14, 2018 (83 FR 56885). In addition, NRC staff directly contacted one of the two respondents (Global Laser Enrichment) and requested comments.

Licensee comment #1

The licensee indicated that they provide very generic information on the form so as to avoid transmitting security related information. As a result, they cannot track the form back to the associated document.

NRC staff response

Best practice for classifiers is that documents should be titled such that the title itself is not classified. If this practice is followed, linking a Form 790 to the associated document should not be problematic.

Licensee comment #2

The licensee suggested that the burden estimate is not accurate because it requires a derivative classifier to file the electronic form in a records management system. The licensee did not provide an alternative burden estimate.

NRC staff response

The estimated burden per response assumes that a derivative classifier would be completing the form, however, the NRC does not require the form to be stored in an electronic records system. The burden estimate remains unchanged.

Licensee comment #3

The licensee asked whether the purpose of the form was for the NRC to determine the number of documents the licensee classifies or the types of documents that are classified.

NRC staff response

The information on the form is needed to comply with Executive Order (E.O.) 13526, "Classified National Security Information," effective June 25, 2010. It is used by the NRC to conduct assessments of classification or declassification determinations made by those officials specifically authorized to make such

determinations and to prepare accurate input for a report to the President. The form specifies the minimum data required to fulfill the purpose of the form and comply with the E.O.

Licensee comment #4

The licensee suggested that electronic submission is unnecessary, and that licensees could keep the forms onsite and periodically send the NRC a count of the documents they have classified.

NRC staff response

10 CFR 95.57(c) requires submission of the information on the Form.

Specifically:

"In addition, NRC 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."

Staff encourages electronic submission of the NRC Form 790 as a means of reducing burden on licensees.

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

Not applicable.

12. Estimated Burden and Burden Hour Cost

Approximately, 500 responses are anticipated on an annual basis. Although licensees are not required to submit hard copies of the form, burden estimates account for the time to submit hard copies, as some licensees prefer to follow-up with a hard copy submission. The estimated burden is calculated as follows:

(500 responses per year x 5 minutes to complete each form = 41.6 hours) x \$275 per hour = \$11,440

(30 minutes to prepare the package of hard copies of the form each month x 12 months x 2 respondents = 12 hours) x \$275 per hour = \$3,300

Total burden = 53.6 hours (41.6 hours to submit each form electronically + 12 hours to submit hard copies). Burden per form = 53.6 hours / 500 responses = 6 minutes per form.

Cost = 53.6 hours x \$275/hours = \$14,740

The \$275 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per professional staff-hour." For more information on the basis of this rate, see the Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018 (83 FR 29622, June 25, 2018).

13. Estimate of Other Additional Costs

The affected licensees may 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 2 \text{ respondents} = \240

There are no other additional costs.

14. Estimated Annualized Cost to the Federal Government

The staff has developed estimates of annualized costs to the Federal Government related to the conduct of this collection of information. These estimates are based on staff experience and subject matter expertise and include the burden needed to review, analyze, and process the collected information and any relevant operational expenses. 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 \$11,440.

This was computed as follows:

Licensees and licensees' contractor submissions: $(500 \text{ responses per year} \times 5 \text{ minutes to process each form} = 41.6 \text{ hours}) \times \$275 \text{ per hour} = \$11,440$.

The total cost to the Government is \$11,440.

15. Reasons for Changes In Burden or Cost

The burden decreased from 125 hours to 53.6 hours, a change of 71.4 hours. The number of responses decreased from 1,500 to 500.

The reason for the changes in the estimate for the upcoming clearance period is based on recent data and staff experience with the program. The staff attributes the decrease to the lack of new classified information being generated as a result of the maturity of the licensees' programs. In addition, the respondent cost increased due to the increase in the fee rate from \$268 to \$275/hour.

16. Publication for Statistical Use

NRC staff tabulates the information contained on the form and provides it to the National Archives and Records Administration's 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.

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.