

Date: July 13, 2011

## **FINAL SUMMARY OF INFORMATION COLLECTION REQUEST**

Title: Notices of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (GDP) (NRC Enforcement Policy) (3150-0136)

Current Burden/Responses: 1,825 hours (1,660 Reporting + 165 Recordkeeping)  
24 Responses (14 Responses + 10 Recordkeepers)

Proposed Burden/Responses: 1,705 hours (1,540 Reporting + 165 Recordkeeping)  
21 Responses (11 Responses + 10 Recordkeepers)

Frequency of Response: On occasion

Number of Respondents: 11

Reasons for Changes in Burden/Responses: The overall estimated burden decreased by 120 hours from 1,825 to 1,705 hours because of a reduction in the number of expected LOIs from 4 to 1 (3 x 40 hrs = 120 hrs) submittals for this clearance period. This resulted in a reduction of 120 hours from 1,660 to 1,540 reporting hours. Since 2005, 15 licensees have submitted LOIs, which averages to three submittals per year. However, at the present time, we have no indication that any new licensees will be submitting a letter of intent to transition to 10 CFR 50.48(c). The remaining licensees that have not elected to file a letter of intent may at any time decide that the performance-based program may be desirable. There is reason to believe that once the process has been successfully demonstrated through the completion of the first group of non-pilot applications, more licensees may decide to file a letter of intent. Given this and the number of remaining licensees that could submit an LOI, it is estimated that 1 LOI annually could be submitted during this clearance period. The NRC does not expect to receive any letters of retraction.

Although there has been an increase in the fee rate from \$258 to \$259, the reduction in LOI submittals resulted in a decrease in overall burden cost from \$470,850 to \$441,595.

Level of Concurrence:  
Chief, Licensing Processes Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Recordkeeping Requirements in Accordance with the Retention Periods for Records/Rule: N/A

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.

Abstract: The NRC's Enforcement Policy addresses circumstances in which the NRC may exercise enforcement discretion. A specific type of enforcement discretion is designated as a NOED and relates to circumstances which may arise where a nuclear power plant licensee's compliance with a Technical Specification Limiting Condition for Operation or other license conditions would involve: (1) an unnecessary plant shutdown; (2) performance of testing, inspection, or system realignment that is inappropriate for the specific plant conditions; or (3)

unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement or other condition would unnecessarily require a total plant shutdown, or, compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable.

A licensee or certificate holder seeking the issuance of a NOED, must document the safety basis for the request, including: an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, that there will be no adverse consequences to the environment, and any other information the NRC staff deems necessary before the NRC staff makes a decision whether to exercise discretion.

In addition, NRC's Enforcement Policy includes a provision allowing licensees to voluntarily adopt fire protection requirements contained in the National Fire Protection Association Standard 805, "Performance Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition" (NFPA 805). Licensees who wish to implement the risk-informed process in NFPA 805 must submit a letter of intent (LOI) to the NRC. Licensees who wish to withdraw from the NFPA 805 risk-informed process must submit a letter of retraction.

Package:  
ML111880183