

FINAL OMB SUPPORTING STATEMENT  
FOR  
THE OFFICE OF FEDERAL AND STATE MATERIALS AND  
ENVIRONMENTAL MANAGEMENT PROGRAMS REQUESTS TO  
AGREEMENT STATES FOR INFORMATION  
(3150-0029)

REVISION

Description of the Information Collection

Prior to 1954, the atomic energy activities were largely confined to the Federal government. Only the Federal government issued licenses to users of radioactive materials. In that year, the enactment of the Atomic Energy Act made it possible for private commercial firms to enter the field. Because of the hazards, Congress determined these activities should be regulated under a system of licensing to protect the health and safety of radiation workers and the public. The U.S. Nuclear Regulatory Commission (NRC), as a successor to the Atomic Energy Commission, is charged by Congress with this responsibility.

The protection of public health and safety has traditionally been a State responsibility, but the 1954 Act did not carve out any specific role for the States. In 1959, Section 274 of the Atomic Energy Act was enacted to spell out a State's role and to provide a statutory basis under which the Federal government could relinquish to the States portions of its regulatory authority. The 1959 amendments made it possible for the States to license and regulate byproduct, source materials, and small quantities of special nuclear material. The mechanism for the transfer of the NRC's authority to a State is an agreement between the Governor of the State and the NRC. The 37 States have entered into such Agreement with the NRC. These States now regulate approximately 87 percent of byproduct, source and special nuclear material licenses in the United States, as permitted by Section 274 of the Atomic Energy Act.

Ultimately, the responsibility for regulating the approximate 21,000 specifically licensed users of radioactive materials is shared between the NRC and the 37 Agreement States. As part of the NRC cooperative post-agreement program with the States, information on licensing and inspection practices, and/or incidents, and other technical and training-related information is voluntarily exchanged every year.

The NRC is seeking to revise this information collection to be a plan for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. Requests to Agreement States for information will be uncontroversial and low-burden. All surveys and requests for information will be submitted to the Office of Management and Budget for review prior to being sent to Agreement States.

## A. JUSTIFICATION

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

Section 274(g) of the Atomic Energy Act authorizes and directs the NRC to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and NRC programs will be coordinated and compatible. As part of the NRC cooperative post-agreement program with the States, information on licensing and inspection practices, incidents, and other technical and training-related information is exchanged. The Agreement State comments are also solicited in proposed implementing procedures and guidance documents relative to NRC Agreement State program policies. The information requests take the form of one-time requests, questionnaires or surveys (e.g., telephonic and electronic surveys/polls and facsimiles). The information collection requests have been expanded to take into account the impact of the NRC and Agreement State working groups and the re-defining of the Agreement State Program through the "Statement of Principles and Policy for the Agreement State Program," the "Policy Statement on the Adequacy and Compatibility of Agreement State Programs," and the associated implementing procedures, including the "Integrated Materials Performance Evaluation Program."

Historically, NRC has requested information from the Agreement States that require them to verify the number of specific radioactive materials licenses that are currently active under their jurisdiction, information on low-level radioactive waste disposal and associated notice of public meetings published in the *Federal Register*, and the opportunity to comment and provide guidance on the draft International Atomic Energy Act (IAEA) safety guide. NRC also requests Agreement States to update information submitted in support of the implementation of NRC's Integrated Source Management Portfolio, and update the status of decommissioning activities at materials and uranium recovery sites. The NRC also gives the States the opportunity to comment on proposed and final rules. Some examples include letters to Radiation Control Program Directors (RCPDs) in the Agreement States providing opportunities to comment on draft NRC documents such as white papers, safety guides, guidance documents, NRC reports or plans, Integrated Materials Performance Evaluation Program (IMPEP) reviews and schedules, and NRC rulemaking prioritization and schedules. RCPDs may also be asked to comment on draft proposed rule language and draft final rule language. RCPDs may be asked for general information on the licensees they regulate, such as the number of licensees in their states, or for information on their licensing and inspection practices. In the case of an unanticipated event associated with a safety or security concern, RCPDs may be asked for information on licensees in their state related to the specific safety or security concern.

The information is needed because the responsibility for regulating the approximate 21,000 specifically licensed users of radioactive materials is shared between the NRC and the 37 Agreement States. Section 274 of the IAEA directs the Commission to cooperate with the Agreement States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

The NRC is seeking approval for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. Agreement States will be asked to provide voluntary responses to uncontroversial questions, typically requiring 8 or fewer hours to respond. A generic collection would allow the NRC to meet its obligations under the Paperwork Reduction Act while eliminating unnecessary burden and delays. Obtaining a separate OMB clearance for each RCPD letter would not allow the agency to efficiently coordinate and share information with the Agreement States in maintaining a national radioactive materials program.

2. Agency Use of Information

The periodic one-time collection of data from the individual Agreement States enables the NRC and States to identify issues and plan and evaluate options for future actions. The data is also utilized in preparing responses to Congressional inquiries and requests for information from other sources. There is no source for obtaining such necessary information other than from the Agreement States.

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. The 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. It is estimated that approximately 95 percent of the potential responses are filed electronically.

4. Efforts to Identify Duplication and Similar Use 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

There is no impact or burden on small business because the recipients of the requests are State agencies.

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

The information collections are a one-time or as-needed action, which address specific issues generic to the Agreement States. The consequences of not collecting information, such as licensing and inspection practices, incidents, other technical, statistical and training information, could potentially impact the public health and safety and also hamper the identification and evaluation of issues and options for the development of program responses to national problems. Further, the opportunity for valuable Agreement State review and comment on proposed policy and program updates and revisions would not be timely or could not be sought if the collection is conducted less frequently or not conducted.

7. Circumstances Which Justify Variation from OMB Guidelines

Because information would be collected in the most expedient manner possible in order to respond to an exigent or unique circumstance which could affect public health and safety, it is possible that such a request would require a response in less than 30 days.

8. Consultation Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on April 27, 2015 (80 FR 23306). In addition, the NRC staff contacted 4 potential respondents by email as part of the public consultation process. One comment was received, from the Board of the Organization of Agreement States. The commenter indicated that the information requested from Agreement States is necessary for the NRC to perform its functions and has practical utility. The commenter did not provide input on burden estimates, but deferred to the NRC's estimates. The commenter made two substantive comments related to the information collection request:

Comment 1:

The commenter requested that the NRC provide the Agreement States with as much time as possible to reply when necessary.

Response:

When soliciting comments from the Agreement States, NRC staff is mindful of providing adequate time to the Agreement States for their responses.

Comment 2:

The commenter requested that the NRC provide information prior to the request being submitted, allowing the Agreement States time to prepare and allow necessary time to respond.

Response:

The NRC staff may provide information to Agreement States about upcoming information requests, but cannot issue a formal request until after OMB has reviewed the request and approved it for distribution. Efforts will continue to be

made to communicate planned information requests to the Organization of Agreement States during the regularly scheduled monthly phone conference meetings.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the 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

The NRC does not require the Agreement States to submit any sensitive information.

12. Estimated Burden and Burden Hour Cost

The NRC issues about 20 requests annually to the 37 Agreement States. The number of responses received for each request varies greatly based on the type of request, but the average number of responses per request is 11 (30% response rate).

The NRC also provides the Agreement States the opportunity to comment on guidance, procedures, policies and regulations. The NRC issues about 18 requests annually to seek such input. Based on past responses, the NRC received an average of 11 Agreement State responses per request (approximately 30%<sup>1</sup> response rate).

The staff hours expended on each request varies greatly depending on the type of request and whether it requires the review of a procedure and documentation of comments. Based on historical data, the Agreement States will expend an estimated average of 8 hours per response.

The following table estimates the average annual burden and responses for requests to Agreement States for Information, based on a response rate of 30% and an average burden of 8 hours per request. The total annual burden is estimated to be 3,374.4 hours and 421.8 responses. Over the three year clearance period, the estimated burden would be 10,123.3 hours and 1265.4 responses.

	Respondents	Annual	Responses	Total	Burden	Total	Cost at
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<sup>1</sup> The NRC relinquishes authority with regard to regulating radioactive material to the Agreement States, each Agreement State is a co-regulator. The NRC may provide information and request a response, but Agreement State responses are voluntary. As a result, the NRC has not achieved response rates above 30% in the past.

		Requests	per respondent	Respon ses	per Respon se	Burden	\$279/hr
Information Requests	37	20	0.3	222.0	8.0	1,776.0	\$495,504
Comment requests	37	18	0.3	199.8	8.0	1,598.4	\$445,954
Annual Total	37	38		421.8		3,374.4	\$941,458
<b>Total Over the 3- Year Clearance Period</b>	<b>37</b>	<b>114</b>		<b>1265.4</b>		<b>10,123.2</b>	<b>\$2,824,372.80</b>

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

Based upon staff estimates, the NRC will spend about 875 professional hours annually on the exchange of information with the 37 Agreement States. Using the staff hourly rate of \$279, the annual cost to the NRC is approximately \$244,125 (875 hours x \$279 per hour). Included in this cost estimate is management review and clerical staff support.

15. Reasons for Change in Burden

The annual burden decreased by 315.6 hours, from 3,690 hours to 3,374.4 hours. This change is due to the fact that exchange of information required for Agreement State participation in NRC-sponsored training courses was included in the last submission. At that time, OMB determined that the correspondence associated with NRC training did not represent an information collection. For that reason, training correspondence is no longer included in the burden totals.

Correspondence associated with training was generally low burden but of high frequency, meaning that the burden decreased slightly but the number of annual responses decreased more dramatically. The number of annual responses has decreased from 738 to 421.8 due to the removal of the training responses associated with training activities. The last submission included 540 responses associated with training activities, whereas the current submission includes 0 responses associated with training activities.

In this submission, the NRC has used a burden estimate of 8 hours per response for all Agreement State responses. The previous estimate was 5 hours, based on the average response time to respond to training correspondence and other information requests. The NRC staff feels that 8 hours better reflects Agreement State effort in responding to information requests, because the training correspondence was generally of lower burden than other requests. Finally, the NRC is seeking to revise this information collection to be a plan for a

generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. To account for all Agreement State burden over the three-year clearance period, NRC has tripled the annual burden to 10,123.2 hours and 1265.4 responses (an increase of 6,433.2 hours and 527.4 responses).

In addition, the professional staff hourly rate increased from \$274 to \$279 per hour.

16. Publication for Statistical Use

This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The expiration date will be displayed on all letters to Agreement States. In the case of an exigent or unique circumstance which would trigger a telephonic NRC survey of Agreement States, the expiration date for OMB approval will be verbally transmitted.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.