FINAL SUPPORTING STATEMENT FOR
NRC'S POLICY OF COOPERATION WITH STATES AT
COMMERCIAL NUCLEAR POWER PLANTS
AND OTHER NUCLEAR PRODUCTION AND UTILIZATION FACILITIES

(3150-0163)

REVISION

Description of the Information Collection

The Atomic Energy Act of 1954 (AEA) includes Section 274, "Cooperation with States," which authorizes the U.S. Nuclear Regulatory Commission (NRC) to enter into agreements with any State, or group of States, to perform health and safety inspections or other functions on a cooperative basis, as the Commission deems appropriate. Also, Section 161 of the AEA allows the NRC to "...utilize or employ the services of personnel of any government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable."

The information collection requirements for which renewal of the Office of Management and Budget (OMB) approval is being sought are contained in an existing NRC policy statement entitled, "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" ("Cooperation with States"), which was published at 57 *Federal Register* (FR) 6462 on February 25, 1992. The "Cooperation with States" policy statement sets a uniform means for States to observe and participate in NRC inspections at NRC-licensed facilities. Further, federally recognized Indian Tribes may also observe and participate in NRC inspections at NRC-licensed facilities; however, this is a very infrequent occurrence.[1] Therefore, this supporting statement refers to States as the respondents to the information collection, although one federally recognized Indian tribe is included among the respondents to the information collection.

States that request to participate in inspections are expected to sign an instrument of cooperation (e.g., a memorandum of understanding) with the NRC and provide information as requested by the policy statement. Entering into an instrument of cooperation with the NRC is voluntary and a State is only subject to the information collection requirements if it wishes to sign an instrument of cooperation with the NRC. Currently, the NRC has 22 instruments of cooperation with 10 different States. States that would like to observe inspections and/or inspection entrance and exit meetings must submit a written request to the NRC but are not required to enter into an instrument of cooperation with the NRC.

An instrument of cooperation and the associated information requirements from a State are also required when a State wishes to assign a State Resident Engineer at an NRC-licensed facility. There are 93 operating power reactors located in 28 States (with two reactors currently under construction); however, only one State (Illinois) has signed an instrument of cooperation with the NRC regarding Resident State Engineers.

[1] In 1997, after the Prairie Island Indian Community (PIIC) expressed interest in accompanying NRC inspectors during inspections at Prairie Island Nuclear Generating Plant, the Commission determined that tribal representatives could observe NRC inspections at the plant. The PIIC was authorized to observe NRC radiation protection inspections later that year.

NRC Management Directive 5.2, “Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities” and the Directive Handbook (Agencywide Documents Access and Management System Accession No. ML18073A141) put the NRC’s “Cooperation with States” policy into action and outline how the NRC will interact with States on matters pertaining to nuclear power plants and other nuclear production or utilization facilities.

States that wish to observe NRC inspections and/or inspection entrance and exit meetings are subject to the following information requests—

1) Requests should be made in writing and should identify the specific inspection the State wishes to observe;

2) States must review and sign a “Protocol Agreement for State Observation of NRC Inspections” prior to conducting an observation; and

3) Prior to the inspection, the State will make advance arrangements with the licensee for site access training, badging, and obtaining the appropriate security clearance (if necessary). This typically involves coordinating with the licensee to provide identity information and taking a short site access training course either in-person at the site or online.

States that wish to participate in NRC inspections must propose an instrument of cooperation identifying the specific inspections with which they wish to assist the NRC, and containing specific elements, including specifying minimum education, experience, training, and qualifications requirements for State representatives. States that enter into an instrument of cooperation with the NRC regarding participation in NRC inspections may be subject to the following information requests—

1) Provide recommendations for NRC inspection plans on a monthly basis;

2) Allegations received by State Resident Engineers will be provided to the NRC;

3) Results of State inspections will be discussed in a timely manner with the NRC;

4) Situations with immediate safety or security significance will be immediately communicated to the licensee and the NRC;

5) Any written communications to the licensee will be made through the NRC;

6) The State and the NRC will meet periodically (at least annually) to exchange information on matters of common concern pertinent to the instrument of cooperation; and

7) Press releases regarding the State’s activities under the instrument of cooperation will be provided to the NRC before issuance.

The frequency of these information requests is dependent on whether an instrument of cooperation is being signed, and is primarily driven by the frequency of inspections and/or inspection entrance and exit meetings the State would like to either observe or participate in. Question number 12 below, “Estimated Burden and Burden Hour Costs,” estimated that among the 33 States that host NRC-licensed facilities, each State may wish to observe two inspections (and associated entrance and exit meetings) per year. Entering into an instrument of

cooperation with the NRC is not considered to be a frequent event (23 of these instruments of cooperation have already been signed with 10 different States and thus are already in effect); and the NRC estimated potentially one new additional instrument of cooperation every 10 years). Because no new instruments of cooperation are anticipated during the three-year clearance period, no burden was included for this requirement.

This current information collection clearance request does not include any estimated burden for reimbursable inspections conducted under Section 274i. of the AEA. Since the NRC's 2016 application for extension of the OMB clearance for "Cooperation with States," all Agreement States have adopted regulations adequate and compatible with the requirements at Title 10 of the *Code of Federal Regulations* (10 CFR), Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material" (10 CFR Part 37). Subsequently, the NRC rescinded the NRC security orders issued under the NRC's common defense and security authority, and reimbursable inspections conducted under Section 274i. of the AEA ceased due to the Agreement States now having the authority to conduct the inspections under their own regulations. The NRC does not anticipate entering into new agreements for reimbursable inspections in the 2023-2026 time period, however, future clearance requests could again include estimates of burden for these agreements.

A. JUSTIFICATION

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

States are involved and interested in monitoring the safety status of NRC-licensed facilities. This involvement is, in part, in response to the States' public health and safety responsibilities and, in part, in response to their citizens' desire to become more knowledgeable about the safety of nuclear power plants and other nuclear production or utilization facilities. States have identified NRC inspections as one possible source of knowledge for their personnel regarding NRC-licensed facility activities, and the NRC, through the policy statement on "Cooperation with States," has been amenable to accommodating the States' needs in this regard.

The information collected is necessary to: 1) allow the States and the NRC to reach an agreement covering cooperative activities; 2) ensure clear roles for the State; 3) allow the needed coordination between States and the NRC for the conduct of inspections; 4) ensure that the State inspectors (i.e., State Resident Engineers) are qualified; 5) ensure that the information can be used by the NRC; and 6) address the results of the State activities (e.g., inspection results, inspection observations, and potential licensee violations identified as a result of the State inspection activities).

2. Agency Use of the Information

The information collected in accordance with "Cooperation with States" will be used to: 1) achieve a better understanding of the interests of States; 2) enable State observation or participation in inspections and/or entrance and exit meetings; 3) contribute to the NRC's oversight of regulated activities at nuclear power plants and nuclear production or utilization facilities; 4) develop inspection procedures; 5) identify potential violations of NRC regulatory requirements,

non-conformances, and allegations; and 6) enable States to participate in the assessment and disposition of potential enforcement issues.

3. Reduction of Burden through Information Technology

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 email. It is estimated that approximately 90 percent of the potential responses made under this clearance are filed electronically. However, some responses, such as those responding to requests for additional information related to inspections or communications to NRC licensees may be verbal through discussions with NRC staff.

4. Effort to Identify Duplication and Use of Similar Information.

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

5. Effort to Reduce Small Business Burden.

Federally recognized Indian Tribes, which may have less resources than States, may also request to observe inspections and/or inspection entrance and exit meetings. The NRC has made efforts to minimize the requirements for inspection observation by both States and Federally recognized Indian Tribes. Site access training, badging, and obtaining the appropriate security clearance are necessary to observe an NRC inspection, however these activities are arranged by the NRC licensee and only require coordination on the part of the interested State or federally recognized Indian Tribe. Furthermore, the NRC allows States and Federally recognized Indian Tribes to determine the technical and professional competence of its representatives.

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

The frequency of these information requests are dependent on whether an instrument of cooperation is being signed, and are primarily driven by the frequency of inspections and/or inspection entrance and exit meetings the State would like to either observe or participate in. Information to initiate an instrument of cooperation is collected once upon development of the instrument of cooperation, and subsequently only if there are State personnel changes. Information is collected each time a State would like to observe and/or participate in an inspection, or an inspection entrance or exit meeting, at a commercial nuclear power plant or other nuclear production or utilization facility.

Not collecting this information or collecting it on a less-frequent basis would harm the States by limiting their ability to become knowledgeable about the safety of nuclear power plants and other nuclear production or utilization facilities

operating in, or near, their State, and it would reduce the NRC's ability to be responsive to States' interests in performing health and safety inspections at NRC-licensed facilities. Because this information is required for initiation of the State's proposed instrument of cooperation, the frequency of the information collection cannot be changed. Furthermore, without the information collection, States would not be permitted to observe or participate in inspections and/or inspection entrance and exit meetings.

7. Circumstances Which Justify Variation from OMB Guidelines.

There is no variation from OMB Guidelines.

8. Consultations Outside the NRC.

Opportunity for public comment on the information collection requirements for this clearance package was published In the *Federal Register* on April 25, 2022 (87 FR 24348).

The following respondents were contacted as part of the consultation process by email:

Jack Priest of the Massachusetts Bureau of Environmental Health
Adnan Khayyat of the Illinois Emergency Management Agency
Mike Snee of the Ohio Department of Health
James Grice of the Colorado Department of Public Health and the Environment
Charlotte Sullivan of the Texas Department of State Health Services
Ashley Forbes of the Texas Commission on Environmental Quality

No comments were received in responses to these consultations.

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).

11. Justification for Sensitive Questions.

Not applicable.

12. Estimated Burden and Burden Hour Cost.

There are 32 respondents to the information collection, including:

- 28 States with nuclear power plants or within 10 miles of a plant
- 3 States with non-nuclear power plant facilities (i.e., fuel cycle facilities), and

- One Federally recognized Tribe within 10 miles of an NRC-licensed facility (i.e., Prairie Island).

The estimated annual burden for the information collection is as follows:

	Respondents	Responses per respondent	Responses	Burden per response	Total burden	Cost at $288/hr
Observing NRC Inspections at Nuclear Power Plants	32	2	64	9	576	$165,888
Participating in NRC Inspections at Nuclear Power Plants	1	143	143	5	715	$205,920
Developing a New Instrument of Cooperation	0	0	0	500	0	$0
Total	33		207		1,291	$371,808

Hours Spent on Submission of Information Collections for Observing NRC Inspections at Nuclear Power Plants – 576 hours

32 State respondents at 2 responses per State respondent = 64 responses

64 inspections x 9 hours per response = 576 hours
Total annual cost = $165,888 (576 hours/year x $288/hour).

(Information collection for observations of NRC inspections at nuclear power plants includes: submitting written requests to observe inspection(s); reviewing and signing protocol agreement; and complying with licensee site access requirements.)

Hours Spent on Submission of Information Collections for Participating in NRC Inspections at Nuclear Power Plants – 715 hours

1 State respondent (host to 3 nuclear power plants) at 143 responses per year = 143 responses
143 responses x 5 hours per response = 715 hours
Total annual cost = $205, 920 (715 hours/year x $288/hour)

Information collection includes providing input on NRC inspection plans; modifying State inspections; providing allegation information to NRC; discussing inspection results with NRC; reporting immediate safety or security concerns to the NRC; meeting with NRC to discuss matters of concern common to the instrument of cooperation; providing press releases to the NRC (if applicable); and providing written communication to the licensee through the NRC.

Hours Spent on Submission of Information Collections for Developing a New Instrument of Cooperation – 0 hours. No responses are anticipated during the clearance period. In the future, if a response is received, the NRC estimates that it would require 500 hours of burden.

Information collection includes specifying minimum education, experience, training, and qualifications requirements for State representatives; and specifying cooperative activities and roles for the State.

13. Estimate of Other Additional Costs.

The NRC used to charge the States for this training. The NRC does not charge the States for this training.

The estimated additional costs went from $27,024 to $0 due to the implementation of the policy of not charging the States for training.

14. Estimated Annualized Cost to the Federal Government.

It is estimated that the NRC staff expends an average of 545 professional hours annually in support of this program, resulting in a cost of $156,960 (545 hours x $288/hr.).

15. Reasons for Changes in Burden or Cost.

Based on changes in the nuclear industry, the NRC expects that the number of expected respondents observing NRC inspections at nuclear power plants will decrease by one from the previous submission. This reduces the number of responses by 2 with a corresponding decrease in burden of 18 hours.

The estimated burden per response for States observing or participating in inspections (9 hours for observing inspections and 5 hours for participating in inspections) has not changed.

In addition, the fee rate has increased from $279 to $288/hr.

16. Publication for Statistical Use.

There is no application of statistics in the information collection. There is no publication of this information.

17. Reason for Not Displaying the Expiration Date.

The Paperwork Reduction Act Statement is in the policy statement; however, it is impractical to put the expiration date in the policy statement (last published in 1992). Doing so would require republishing the policy statement every time a renewal of the information collection requirements was approved by OMB.

18. Exceptions to the Certification Statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.