

**FINAL OMB SUPPORTING STATEMENT FOR NRC POLICY STATEMENT,
“CRITERIA FOR GUIDANCE OF STATES AND NRC IN
DISCONTINUANCE OF NRC REGULATORY AUTHORITY
AND
ASSUMPTION THEREOF BY STATES THROUGH AGREEMENT,”
MAINTENANCE OF EXISTING AGREEMENT STATE PROGRAMS,
REQUESTS FOR INFORMATION THROUGH THE INTEGRATED MATERIALS
PERFORMANCE EVALUATION PROGRAM (IMPEP) QUESTIONNAIRE,
AND
AGREEMENT STATE PARTICIPATION IN IMPEP
(3150-0183)
REVISION**

Description of the Information Collection

States seeking to regulate certain Atomic Energy Act (Act) radioactive materials are requested to submit information directly to the Nuclear Regulatory Commission's (NRC) Office of State and Tribal Programs (STP) related to the management, structure and performance of their radiation control programs (RCPs) in accordance with the terms and conditions of Section 274 of the Act and the criteria identified in the NRC Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement" (46 FR 7540, January 23, 1981; as amended by policy statements published at 46 FR 36969, July 16, 1981, and 48 FR 33376, July 21, 1983) (Attachment 1). This policy statement identifies the factors considered by the NRC prior to approving new or amended Agreements. A State which has entered into such an Agreement is referred to as an Agreement State. Presently, there are 33 Agreement States which regulate approximately 79 percent of the byproduct, source and special nuclear material licensees in the United States.

NRC is required to evaluate Agreement State programs to ensure that its RCP remains adequate and compatible with the requirements of Section 274 of the Act. NRC issued two final policy statements: "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on the Adequacy and Compatibility of Agreement State Programs" on September 3, 1997 (62 FR 46517) (Attachment 2). The former policy statement establishes Agreement State program principles and describes the respective roles and responsibilities of the NRC and the States in the administration of the Agreement State RCP. Further, this policy statement provides guidance in delineating the NRC's and the State's respective responsibilities and expectations. The latter policy statement clarifies the meaning and use of the terms "adequate" and "compatible," as applied to an Agreement State radiation control program. Further, this policy statement provides guidance to the Agreement States, NRC staff, and the public to make clear how the NRC intends to evaluate the adequacy and compatibility of Agreement State programs.

NRC has implemented a process, noticed in the Federal Register, known as the Integrated Materials Performance Evaluation Program (IMPEP) to evaluate NRC Regional licensing and inspection programs and Agreement State RCPs in an integrated manner using common performance indicators ("Evaluation of Agreement State Radiation Control Programs," 60 FR 54734, October 25, 1995, and 62 FR 53839, October 16, 1997) (Attachment 3). NRC conducts this program using Management Directive 5.6, "Integrated Materials Performance Evaluation Program" dated November 5, 1999. These reviews are performance-based evaluations of the

programs and, for Agreement States, are routinely conducted approximately, but no less frequently than, every four years. IMPEP review teams are composed of NRC staff and Agreement State staff. A questionnaire (Attachment 4) is utilized by IMPEP review teams to gather information about the RCP to assist the IMPEP team in conducting the evaluation of the adequacy of the State's program to protect public health and safety and in determining the compatibility of the program with NRC's regulatory program. The IMPEP questionnaire also includes a request for material to be available for the onsite portion of the IMPEP review. The Agreement States requested that such a list be developed to facilitate the IMPEP review.

The questionnaire requests information about the following RCP performance indicators:

- a. Technical Staffing and Training
- b. Status of the Material Inspection Program
- c. Technical Quality of Inspections
- d. Technical Quality of Licensing Actions
- e. Response to Incidents and Allegations
- f. Legislation and Program Elements Required for Compatibility
- g. Sealed Source and Device Evaluation Program
- h. Low-Level Radioactive Waste Disposal Program
- i. Uranium Recovery Program

A. JUSTIFICATION

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

Section 274 of the Act permits the NRC to relinquish portions of its regulatory authority to States. The mechanism for this transfer of authority is a formal Agreement between the Governor of the State and the NRC. The Act requires the NRC to perform periodic reviews of each Agreement State to ensure that its RCP remains adequate and compatible with requirements of the Act.

The information covered by this request is required by the NRC in order to evaluate: (1) the adequacy of a State's RCP to protect public health and safety, and (2) the compatibility of a State's RCP with the NRC's program.

2. Agency Use of the Information.

As required by the Act, information received from States under this program assists the NRC in determining: (1) the adequacy of a State's RCP to protect public health and safety, and (2) the compatibility of a State's RCP with the NRC's program.

3. Reduction of Burden Through Information Technology.

There are no legal obstacles to reducing the burden associated with this information collection through the use of information technology. The NRC encourages the respondents to use any innovative technology which would reduce the burden. Each Agreement State is provided with a questionnaire via electronic distribution. This results in a significant decrease in clerical and

reproduction costs. The percentage of responses collected electronically is approximately 100 percent.

4. Effort to Identify Duplication and Similar Use Information.

The Information Requirements Control Automated System (IRCAS) was searched for any agency duplication. None was found. This information collection is unique to each Agreement State, and no similar information exists.

5. Effort to Reduce Small Business Burden.

None of the State agencies affected qualify as small business enterprises or entities.

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

Collection of information less frequently than in association with periodic IMPEP reviews of Agreement States, which are currently conducted no less frequently than every four years, would significantly reduce the efficiency and effectiveness of those reviews. Gathering information at the time of the review assures that the determination of the adequacy of the protection of public health and safety and the compatibility of an Agreement State program with NRC programs are based on current information.

7. Circumstances Which Justify Variation From OMB Guidelines.

There is no variation from OMB guidelines.

8. Consultation Outside the NRC.

The questionnaire was evaluated in FY 03, changes made in response to comments are reflected in the questionnaire (Attachment 4). The comment resolution can be found in Attachment 5. The opportunity for public comments on the information collections was published in the Federal Register on February 11, 2004 (69 FR 6700). No comments were received.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of the Information.

Proprietary information would be handled with confidentiality. All other information would be made part of the public record.

11. Justification for Sensitive Questions.

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

12. Estimated Burden and Burden Hour Cost.

Questionnaire

Approximately nine of the existing 33 Agreement States are requested to respond to an IMPEP questionnaire annually. They expend an average of 53 hours per Agreement State program, or a total of 477 hours annually. This burden does not include the burden to Agreement State licensees, which is included in OMB clearances for each 10 CFR Part.

Policy Statement and Maintenance of Program

It is estimated that a State seeking an Agreement expends 12,900 hours over a three-year period or 4,300 hours annually (12,900 hours divided by 3 years) preparing a proposal for a new Agreement.

Agreement State staff team members participate annually in 9 IMPEP Agreement State reviews, one NRC Regional review and one Agreement State follow-up review for a total of 1,980 staff hours per year effort. It is estimated that 20 percent or a total of 396 hours annually (0.2 x 1,980 staff hours) of this burden is spent on the information collection activities. Thus, the average burden per review is 36 hours (396 hours per year divided by 11 reviews).

With the addition of Wisconsin, there are now 33 established Agreement State programs expending approximately 630,000 hours per year to maintain their full program. For the purpose of this analysis, a 40 percent paperwork burden is assumed to be associated with the program implementation or 252,000 hours per year (0.40 x 630,000). It can be estimated from this data that the average burden for each Agreement State is 7,636 hours per year on paperwork (252,000 hours per year/33 Agreement States).

The summary table indicates the estimated annual burden for the information collection activities as discussed above required by the IMPEP questionnaire, policy statement for new Agreement States, participation in the IMPEP program, and maintenance of the existing Agreement State programs.

Description	Number of Respondents	Responses Per Respondents	Number of Responses	Burden Per Response	Total Annual Burden Hrs
Questionnaire	9	1	9	53 Hrs	477 hrs
New Agreement States	1 every 3 years	1	1	12,900 Hrs/ 3 Yrs	4,300 hrs
IMPEP Participation	11	1	11	36 Hrs	396 hrs
Maintaining Existing Agreement States	33	1	33	7,636 hrs	252,000 hrs
TOTAL	33		54		257,173 hrs

13. Estimate of Other Additional Costs.

None.

14. Estimated Annualized Cost to the Federal Government.

NRC expends about 9,900 professional staff hours annually evaluating review information of established Agreement States in support of the IMPEP review program. Of this 9,900 hours, it is further estimated that approximately 30 percent of that time or a total of 2,970 hours ($0.3 \times 9,900$ staff hours) is expended on information collection activities. Staff experience indicates approximately 297 hours of clerical time is expended annually. Based upon current estimates, using rates of \$158/hour and \$60/hour respectively, the annual cost to the Federal Government is approximately \$487,080 ($2,970 \text{ hours} \times \$158/\text{hour} = \$469,260 + 297 \text{ hours} \times \$60/\text{hour} = \$17,820$).

NRC expends about 10,800 professional staff hours annually evaluating information submitted by established Agreement States in maintenance of their program. Of this 10,800 hours, it is further estimated that approximately 25 percent of that time or a total of 2,700 hours ($0.25 \times 10,800$ hours) is expended on information collection activities. Staff experience also indicates approximately 270 hours of clerical time is also expended annually. Based upon current estimates, using rates of \$158/hour and \$60/hour respectively, the annual cost to the Federal Government is approximately \$442,800 ($2,700 \text{ hours} \times \$158/\text{hour} = \$426,600 + 270 \text{ hours} \times \$60/\text{hour} = \$16,200$).

NRC expends about 3,600 professional staff hours annually evaluating proposal information from a new applicant under consideration to become an Agreement State. This assumption is based on the receipt of a new proposal approximately every three years. Of this 3,600 hours, it is further estimated that approximately 20 percent of that time or a total of 720 hours ($0.2 \times 3,600$ hours) is expended on information collection activities. Staff experience indicates approximately 72 hours of clerical time is also expended annually. Based upon the above noted rates, the annual cost to Federal Government is approximately \$118,080 ($720 \text{ hours} \times \$158/\text{hour} = \$113,760 + 72 \text{ hours} \times \$60/\text{hour} = \$4,320$).

Therefore, the total annual cost to the Federal Government to review new and existing Agreement States is approximately \$1,047,960 ($\$487,080 + \$442,800 + \$118,080$).

15. Reasons for Change in Burden.

The overall burden increased because of the addition of 1 Agreement State. This resulted in an increase in respondents from 32 to 33; an increase in responses from 50 to 54; and an increase in burden (13,085) from 244,088 to 257,173 hours. In addition, the professional staff hourly rate increased from \$143/hour to \$158/hour.

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.

It is impractical to put the expiration date in the Policy Statement for "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement." Doing so would require republishing the policy statement every time a renewal of the information collection requirements is approved by OMB.

18. Exceptions to the Certification Statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.