DRAFT 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 Federal and State Materials and Environmental Management Programs (FSME) 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 NRC prior to approving new or amended Agreements. A State that has entered into such an Agreement is referred to as an Agreement State. Presently, there are 37 Agreement States, which regulate approximately 87 percent of the byproduct, source, and certain special nuclear material licensees in the United States.

The 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. The 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 States in the administration of the Agreement State RCP. Further, this policy statement provides guidance in delineating the NRC's and 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 RCP. Further, this policy statement provides guidance to the Agreement States, NRC staff, and the public to make clear how NRC intends to evaluate the adequacy and compatibility of Agreement State programs.

The 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). The NRC conducts this program using Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)," dated February 26, 2004. These reviews are performance-based evaluations of the programs and, for Agreement States, are routinely conducted

approximately every 4 years. The 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 determining the compatibility of the program with the NRC's regulatory program. The IMPEP questionnaire also includes a request for material to be available for the on-site portion of the IMPEP review. The Agreement States requested that such a questionnaire 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 Materials Inspection Program
c. Technical Quality of Inspections
d. Technical Quality of Licensing Actions
e. Technical Quality of Incident and Allegation Activities
f. Compatibility Requirements
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 NRC and the Governor of the State. The Act requires the NRC to perform periodic reviews of each Agreement State to ensure that its RCP remains adequate and compatible with the requirements of the Act.

The information covered by this request is required by 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 NRC's program.

2. Agency Use of Information

As required by the Act, information received from the 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 NRC's program.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reduce the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. On October 10, 2003, the NRC issued a regulation in the *Federal Register* (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.

The NRC estimated that approximately 90 percent of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

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

These information collections do not affect small businesses, as defined in 10 CFR 2.810.

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

The 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. The NRC believes that gathering information at the time of the review assures that the determination of the adequacy to protect public health and safety and the compatibility of an Agreement State program with NRC's program is based on current information.

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 has been published In the *Federal Register*.

9. Payment or Gift to Respondents

Not applicable

10. Confidentiality of 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 State to submit any sensitive information.

12. Estimated Burden and Burden Hour Cost

Questionnaire

The NRC has requested approximately 9 of the existing 37 Agreement States 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, for a cost of $122,589 (477 hours x $257/hr). This burden does not include the burdens to Agreement State licensees, which are included in OMB clearances for each 10 CFR Part.

Policy Statement and Maintenance of Program

New Agreement State Applications. The NRC estimated that a State seeking an Agreement expends 12,900 hours over a 3-year period or 4,300 hours annually (12,900 hours divided by 3 years) preparing a proposal for a new Agreement. Currently, only one new state (Michigan) has filed a letter of intent to become an Agreement State. Therefore, the NRC estimates that it will receive one application within the next three years for a cost of $1,105,100 (4,300 hours x $257/hr).

Participation in IMPEP Reviews. IMPEP review teams are composed of NRC staff and Agreement State staff. The Agreement State staff team members participate annually in 9 Agreement State IMPEP reviews, one NRC Regional review and one Agreement State followup review. Each review is estimated to take 180 hours for a total of 1,980 staff hours per year (180 x 11 reviews). This estimate is based on the length of time for States to conduct the entire review (prepare, conduct, and document the review.) The NRC 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 approximated average burden per review is 36 hours (396 hours per year divided by 11 reviews). The annual cost for participation in IMPEP is estimated to be $101,772 (396 hours x $257/hr).

Agreement State Program Maintenance. With the addition of Pennsylvania, Virginia, and New Jersey, there are now 37 established Agreement State programs. The number of hours to maintain programs (expressed in full-time equivalents or FTE) varies depending on the number of licensees in the State and the scope of their Agreement (for example, some States have authority for special programs like low-level waste or uranium recovery that would require additional FTE). Based on knowledge of each State's program, the NRC estimates that it takes the Agreement States approximately 391 FTE annually (an average of 10.57 FTE per state) to maintain their programs, or a total of 703,800 hours annually (391 FTE x 1,800 hours per FTE). For the purpose of this analysis, a 40 percent paperwork burden is assumed to be associated with the program implementation or 281,520 hours per year (0.40 × 703,800). From this data, the NRC estimated that the approximated average burden for each Agreement State is 7,608.65 hours per year on paperwork (281,520 hours per year divided by 37 Agreement States). The annual cost for Agreement State program maintenance is therefore estimated to be $72,350,640 (281,520 hours x $257/hr).

The following 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. The total burden for this information collection is estimated to be 286,693 hours with a cost of $73,680,101 (286,693 x $257/hr).

Description	Number of Respondents	Responses Per Respondents	Number of Responses	Burden Hours Per Response	Total Annual Burden Hrs
Questionnaire	9	1	9	53	477
New Agreement States*	1	1	1	4,300	4,300
IMPEP Participation	11	1	11	36	396
Maintaining Existing Agreement States	37	1	37	7,608.65	281,520
TOTAL	38		58		286,693

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The NRC expends approximately 8,748 staff-hours annually evaluating review information of established Agreement States in support of the IMPEP review program. Of these 8,748 hours, it is estimated that approximately 30 percent or a total of 2,624 hours (0.3 x 8,748 staff hours) is expended on information collection activities. Based upon current estimates, using the rate of $257/hour, the annual cost to the Federal Government is approximately $674,368(2,624 hours x $257/hour = $674,368).

The NRC expends approximately 7,953 staff-hours annually evaluating information submitted by established Agreement States in maintenance of their program. Of these 7,953 hours, the NRC estimated that approximately 25 percent or a total of 1,988 hours (0.25 x 7,953 hours) is expended on information collection activities. Based upon current estimates, using rate of, the annual cost

* NRC estimates that a State seeking an Agreement expends 12,900 hours over a 3 year period, or 4,300 hours annually, to prepare a proposal for a new Agreement. NRC anticipates receiving one new Agreement over the next three year period.

to the Federal Government is approximately $510,916 (1,988 hours x $257/hour = $510,916).

The NRC expends approximately 6,362 staff-hours annually evaluating proposal information from new applicants under consideration to become Agreement States. Of these 6,362 hours, it is estimated that approximately 20 percent or a total of 1,272 hours (0.2 x 3,181 hours) is expended on information collection activities. Based upon the above noted rates, the annual cost to Federal Government is approximately $326,904(1,272 hours x $257/hour = $326,904).

Therefore, the total annual cost to the Federal Government to review new and existing Agreement States is approximately $1,512,188 ($674,368 + $510,916 + $326,904).

15. Reasons for Change in Burden or Cost

There has been an overall burden increase of 26,062 hours from 260,631 hours to 286,693 hours annually, because the number of Agreement States has increased from 34 to 37:

- The annual burden for IMPEP questionnaire respondents has increased by 106 hours due to the increase in number of IMPEP reviews performed annually. Two additional reviews will be performed annually at 53 hours each.
- The annual burden for IMPEP participation by Agreement States was re-estimated because of an increase from 10 to 11 reviews, resulting in an increase in burden from 360 to 396 hours (+36 hours).
- The burden for reporting and recordkeeping for maintaining all activities associated with existing Agreement States has increased from 255,600 hours to 281,520 hours (+25,920 hours) based on the addition of three Agreement States (Pennsylvania, Virginia, and New Jersey). The estimated number of burden hours per response increased from 7,518 to 7,609. The burden hours per response is based on the average FTE expended per State to maintain its program. Based on the fact that Pennsylvania and New Jersey are fairly large programs, requiring an above average number of FTE, the average per state increased slightly.

The hourly rate changed from $214/hour to $257/hour.

16. Publication for Statistical Use

This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The NRC believes that 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 Though Agreement.” By supplying the expiration, the NRC would be required to republish the policy statement every time a renewal of the information collection requirements is approved by OMB.

18. Exceptions to the Certification Statement

No exceptions

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.