

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

EXTENSION

Description of the Information Collection

Section 274(g) of the Atomic Energy Act authorizes and directs the U.S. Nuclear Regulatory Commission (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."

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 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.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection Information

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 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. Thirty-seven 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.

In 2007, the Commission approved a change in policy to enhance the national consistency in the implementation of the materials licensing and inspection programs. The policy change allowed the NRC to fund the training for the Agreement State materials licensing and inspection staff and associated travel to attend the current courses offered through the NRC training program. The development of this funding increased the amount of information exchange between the NRC and Agreement States since NRC requests information for processing travel and enrollment to these classes.

Ultimately, the responsibility for regulating the approximate 22,000 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.

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 has been published in the Federal Register.

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 on a systematic basis.

12. Estimated Burden and Burden Hour Cost

The NRC issues about 64 requests annually to the Agreement States. The amount of responses received for each request varies greatly based on the type of request. Most of the information collection activities are associated with exchange of information for each NRC-sponsored training class offering. The NRC issues annually approximately 45 acceptance letters that provides the names of each Agreement State individual accepted to participate in a NRC-sponsored training class. Each Agreement State participant is requested to submit information to the NRC to process enrollment and travel expenses. With an average of 12 Agreement State participants per class, the NRC estimates a total of 540 responses annually (45 annual requests x 12 responses per request) from Agreement States associated with training activities.

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. The NRC estimates that it will receive 198 Agreement State responses (18 requests x 11 responses per request) annually providing comments on NRC guidance documents, procedures, policies and regulations.

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, or just providing student information for enrollment in training classes. Based on historical data, the Agreement States may expend an average of 5 hours per response. With a total estimate of 738 Agreement State responses annually (198 + 540), the NRC receives an average of 20 responses per respondent (738 divided by 37 equals approximately 20 responses per respondent); although not all Agreement States respond to each request.

The Agreement States spend 3,690 hours annually on these requests for information (an average of 738 responses annually multiplied by 5 hours per response equals an approximate 3,690 hours). The annualized professional cost is about \$1,011,060 (\$274 per professional staff hour multiplied by 3,690 staff hours). Included in this cost estimate is management review and clerical staff support.

13. Estimate of Other Additional Costs

The NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden and, therefore, can be used to calculate approximate records storage costs. Based on the number of pages maintained

for a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost. Because the recordkeeping burden is estimated to be 0 hours, the storage cost for this clearance is \$00.00 (0 hours x 0.0004 x \$274 per hour).

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 \$274, the annual cost to the NRC is approximately \$239,750 (875 hours x \$274 per hour). Included in this cost estimate is management review and clerical staff support.

15. Reasons for Change in Burden

The overall burden increased by 2,210 hours, from 1,480 to 3,690 hours, and an increase in the number of responses from 197 to 738 because of an increase in exchange of information required for Agreement State participation in NRC-sponsored training courses, new regulations and their implementation, and the revisions of the policies and procedures that established the foundation for NRC's interactions with and oversight of the Agreement State programs.

The number of training courses offered in a calendar year and the number of the Agreement State participants in each course has increased in response to (1) an increase of junior staff hiring in the Agreement State programs due to personnel turnover; (2) an increase in regulatory requirements; (3) and as a result of increased training requirements to get qualified as an inspector and license reviewer. Consequently, the number of Agreement State responses has increased due to exchange of information for training purposes, such as, student travel submissions.

In addition, new regulations adopted by the NRC, which include the security of radioactive material and distribution of byproduct material, will need to be adopted by the Agreement States. The implementation and review of these regulations will require exchange of information between the NRC and all Agreement States.

NRC staff is currently revising the "Statement of Principles and Policy for the Agreement State Program," and the "Policy Statement on the Adequacy and Compatibility of Agreement State Programs," and the associated implementing procedures, including the agency's primary oversight program of the Agreement States, the "Integrated Materials Performance Evaluation Program." Since these policies and procedures are the framework for the interactions and oversight of Agreement State programs, the NRC and Agreement State staffs are working together in updating these policies and procedures by providing every opportunity available to receive input from the Agreement States. Such involvement yields an increase amount of NRC requests and Agreement State responses.

In addition, the professional staff hourly rate increased from \$257 to \$274 per hour.

16. Publication for Statistical Use

This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

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.