

DRAFT OMB SUPPORTING STATEMENT  
FOR  
THE OFFICE OF NUCLEAR MATERIAL SAFETY AND  
SAFEGUARDS REQUESTS TO  
AGREEMENT STATES FOR INFORMATION  
(3150-0029)

REVISION

Description of the Information Collection

Prior to 1954, 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 with respect to radioactive materials. 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. To date, 37 states have become "Agreement States" with another 2 states submitting applications to become Agreement States. These Agreement States now regulate approximately 86 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 19,330 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 Agreement States, information on radioactive materials licensing and inspection practices, and/or incidents, and other technical and training-related information related to the regulation of radioactive materials is voluntarily exchanged every year. These exchanges include NRC-initiated information collection requests to the 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 (IMPEP).

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 (including nonmilitary radium). The NRC also gives the Agreement 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, IMPEP reviews and schedules, NRC draft environmental assessments related to licensing actions, 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 19,330 specifically licensed users of radioactive materials is shared between the NRC and the 37 Agreement States (the Division of Materials Safety, Security, State, and Tribal Programs (MSST) is currently reviewing two Agreement State Applications from the States of Wyoming and Vermont). Section 274 of the AEA 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.

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

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 (EIE) process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail. It is estimated that approximately 80% of the 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.

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 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 2.390(b) and 10 CFR 9.17(a). 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 10 requests annually to the 37 Agreement States. The NRC staff is currently reviewing two Agreement State applications and expects there will be 39 Agreement States in FY2019. 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 20 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.

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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.

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 2,808 hours and 351 responses. Over the three year clearance period, the estimated burden would be 8,424 hours and 1053 responses.

	Respondents	Annual Requests	Responses	Total Responses	Burden per Response	Total Burden	Cost at \$263/hr
Information Requests	39	10	0.3	117.0	8.0	936.0	\$246,168
Comment requests	39	20	0.3	234.0	8.0	1872.0	\$492,336
Annual Total	39	30		351		2,808	\$738,504
<b>Total Over the 3-Year Clearance Period</b>	<b>39</b>	<b>90</b>		<b>1053.0</b>		<b>8,424</b>	<b>\$2,215,512</b>

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

The \$263 hourly rate used in the burden estimate is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per professional staff-hour." For more information on the basis of this rate, see the *Federal Register* notice at: 82 FR 30682 (June 30, 2017)"

15. Reasons for Change in Burden

The annual burden decreased by 566 hours, from 3,374 hours to 2,808 hours.

In this submission, the NRC has used a burden estimate of 8 hours per response for all Agreement State responses. The NRC staff now estimates that 8 hours better reflects Agreement State effort in responding to information requests. 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 the Agreement State burden over the three-year clearance period, NRC has lowered the annual burden to 8,424 hours and 1053 responses (decrease of 1,699.2 hours and 212.4 responses).

BURDEN HOURS			
	Previously approved	Current Request	Change
TOTAL	10,123	8,424	1,699

RESPONSES			
	Previously approved	Current Request	Change
TOTAL	1265	1053	212

In addition, the staff hourly rate decreased from \$279 to \$263 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.