

**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 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 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 34 Agreement States which regulate approximately 80 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 February 26, 2004. 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 on-site 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 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 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. The NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58792), 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

75% of the potential responses are filed electronically.

4. Effort 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.

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.

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 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. Consultation Outside the NRC.

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on January 5, 2007 (72 FR 585). No comments were received.

The questionnaire was evaluated in FY 06, changes made in response to comments from Agreement States and NRC Offices are reflected in the questionnaire (Attachment 4). The comment resolution can be found in Attachment 5.

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 State to submit any sensitive information.

12. Estimated Burden and Burden Hour Cost.

Questionnaire

Approximately 7 of the existing 34 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 371 hours annually. 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

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 7 Agreement State IMPEP reviews, one NRC Regional review and two Agreement State followup reviews for a total of 1,800 staff hours per year effort. It is estimated that 20 percent or a total of 360 hours annually ($0.2 \times 1,800$ staff hours) of this burden is spent on the information collection activities. Thus, the average burden per review is 36 hours (360 hours per year divided by 10 reviews).

With the addition of Minnesota, there are now 34 established Agreement State programs expending approximately 639,000 hours per year to maintain their full programs. For the purpose of this analysis, a 40 percent paperwork burden is assumed to be associated with the program implementation or 255,600 hours per year ($0.40 \times 639,000$). It can be estimated from this data that the average burden for each Agreement State is 7,517 hours per year on paperwork (255,600 hours per year/34 Agreement States).

The summary table on the next page 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	7	1	7	53 Hrs	371 hrs
New Agreement States	1 every 3 years	1	1	12,900 Hrs/ 3 Yrs	4,300 hrs
IMPEP Participation	10	1	10	36 Hrs	360 hrs
Maintaining Existing Agreement States	34	1	34	7,517 hrs	255,600 hrs
TOTAL	34		52		260,631 hrs

13. Estimate of Other Additional Costs.

None.

14. Estimated Annualized Cost to the Federal Government.

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 ($0.3 \times 8,748$ staff hours) is expended on information collection activities. Based upon current estimates, using the rate of \$214/hour, the annual cost to the Federal Government is approximately \$561,536 ($2,624$ hours \times \$214/hour = \$561,536).

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, it is estimated that approximately 25 percent or a total of 1,988 hours ($0.25 \times 7,953$ hours) is expended on information collection activities. Based upon current estimates, using rate of, the annual cost to the Federal Government is approximately \$425,432 ($1,988$ hours \times \$214/hour = \$425,432).

NRC expends approximately 3,181 staff-hours annually evaluating proposal information from a new applicant under consideration to become an Agreement State. Of these 3,181 hours, it is estimated that approximately 20 percent or a total of 636 hours ($0.2 \times 3,181$ hours) is expended on information collection activities. Based upon the above noted rates, the annual cost to Federal Government is approximately \$136,104 (636 hours \times \$214/hour = \$136,104).

Therefore, the total annual cost to the Federal Government to review new and existing Agreement States is approximately \$1,123,072 ($\$561,536 + \$425,432 + \$136,104$).

15. Reasons for Change in Burden.

There has been an overall burden increase of 3,458 hours from 257,173 hours to 260,631 hours annually, because the number of Agreement States has increased from 33 to 34. Although there was a burden increase, the number of responses

decreased from 54 to 52 because (1) the number of questionnaires dropped from 9 to 7 because of a decrease in the number of routine reviews based on historical/statistical data which resulted in a reduction in burden from 477 to 371 hours (-106 hours); (2) the re-estimation of IMPEP participation by Agreement was reduced from 11 to 10 reviews, based on the actual number of reviews conducted over the past 3 years, which resulted in a reduction in burden from 396 to 250 hours (-36 hours). The burden for maintaining reporting for all activities associated with existing Agreement States has increased from 252,000 hours to 255,600 hours (+3,600 hours) based on the addition of another Agreement State. In addition, the professional hourly rate increased from \$158/hour to \$214/hour.

16. Publication for Statistical Use.

This information will not be published for statistical use.

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.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

Attachments:
As stated