

FINAL OMB SUPPORTING STATEMENT FOR  
REQUESTS TO  
NON-AGREEMENT STATES FOR INFORMATION  
(3150-0200)  
EXTENSION WITH REVISION

Description of the Information Collection

Occasionally, requests may be made of Non-Agreement States that are similar to those of Agreement States to provide a more complete overview of the national program for regulating radioactive materials. This information would be used in the decision-making of the Commission. The legal basis is that Section 274(a)(3) of the Atomic Energy Act authorizes and directs the U.S. Nuclear Regulatory Commission (NRC) to cooperate with the States to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials. With Agreement States and as part of the NRC cooperative post-agreement program with the States pursuant to Section 274(b), information on licensing and inspection practices, and/or incidents, and other technical and statistical information are exchanged. Agreement State comments are also solicited in the areas of proposed implementing procedures relative to NRC Agreement State program policies. Therefore, like Agreement States, information requests sought from Non-Agreement States may take the form of one-time surveys, e.g., telephonic and electronic surveys/polls and facsimiles (questionnaires).

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection Information

The 15 Non-Agreement States (defined as the 13 States, the District of Columbia and the Commonwealth of Puerto Rico) may be asked for information similar to that requested of Agreement States. These information requests will primarily refer to certain naturally occurring and accelerator-produced radioactive materials which currently may be subject to State regulations. The reason for requesting such information is that the information can assist the Commission in its considerations and decisions involving Atomic Energy Act materials programs in an effort to make the national nuclear materials program more uniform and consistent in view of Section 651(e) of the Energy Policy Act of 2005.

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 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 Agreements with 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.

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 statistical information are voluntarily exchanged.

2. Agency Use of Information

The collection of data from the individual Non-Agreement States enables the NRC and States to identify issues and plan and evaluate options for future actions. The data are also utilized in preparing responses to Congressional inquiries and requests for information from other sources. There is no ready source, other than the Conference of Radiation Control Program Directors, Inc., for obtaining such necessary information other than from the Non-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 new automated 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. Effort to Identify Duplication and Similar Use 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

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 as-needed action, which address specific issues generic to the Non-Agreement States. The consequences of not collecting information, such as licensing and inspection practices, incidents and other technical and statistical information, could potentially impact the American 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 Non-Agreement State review and comment on proposed policy and program updates, and revisions would not be timely or would be eliminated all together.

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. Further, the opportunity for valuable Non-Agreement State review and comment on proposed policy and program updates, and revisions would not be timely or would be eliminated altogether.

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 March 5, 2012 (77 FR 13156). No comments were received.

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

It is unlikely that any sensitive information would be required to be collected from Non-Agreement States because 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 anticipates issuing eight requests annually to 15 Non-Agreement States. A one hundred percent response rate is estimated because of the importance of the requests. For eight requests, the Non-Agreement States will take 8.25 hours per State per request to respond for a total annual burden of 990 hours (15 Non-Agreement States x 8 responses x 8.25 burden hours per response) based on Agreement State experience. Virginia was the last Non-Agreement State to become an Agreement State therefore decreasing the number of Agreement States from 16 to 15 Non-Agreement States.

The requests will be analyzed by professional staff with support from clerical staff and responses formulated and sent to the NRC. For professional staff, the estimated cost is \$270,270 (990 total annual burden hours x \$273 fee rate per hour for professional staff). For clerical support, the estimated cost is \$4,653 (99 hours (10 percent of professional cost time) x \$47 per clerical staff hours).

The total estimated burden for Non-Agreement States is 1,089 hours at a cost of \$274,923.

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The professional staff will compile and analyze the responses or comments, and respond to the States, as applicable. Clerical staff will support professional staff. For eight requests with 15 Non-Agreement States responding, the estimated annual professional staff cost to the Federal government is \$27,027 [99 total annual burden hours (about 10 percent of the Non-Agreement State professional staff total annual burden hours shown in item 12) x \$273 fee rate per hour]. For clerical support, the estimated cost is \$465 [9.9 total annual burden hours (10 percent of professional total annual burden hours) x \$47 fee rate per hour]. The total Federal government cost is estimated to be \$27,492 (\$27,027 professional cost + \$465 clerical cost).

15. Reasons for Change in Burden

The estimated total annual burden has decreased by 73 hours from 1,162 to 1,089 hours because NRC's initial estimate changed from 16 Non-Agreement States (14 States and the District of Columbia and the Commonwealth of Puerto Rico) in the last clearance package, to 15 Non-Agreement States (13 States, the District of Columbia and the Commonwealth of Puerto Rico), of which Virginia became an Agreement State. The number of requests per State is assumed to stay constant at 8 requests annually, therefore, the total number of responses decreased by 8 since the last clearance renewal from 128 responses to 120 responses. The NRC continues to have regulatory authority over the use of accelerator-produced radioactive materials and discrete sources of radium-226 and other naturally occurring radioactive material as specified by the Commission.

The professional staff fee rate increased from \$238 to \$273 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 Non-Agreement States, the expiration date for OMB approval will be verbally transmitted.

18. Exceptions to the Certification Statement

Not applicable.

B. Collections of Information Employing Statistical Methods

Not applicable.