

FINAL OMB SUPPORTING STATEMENT  
FOR  
REQUESTS TO  
NON-AGREEMENT STATES FOR INFORMATION

(3150-0200)

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. 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. However, 15 states or territories have not signed Section 274(b) Agreements with the NRC. These are:

- Vermont
- Connecticut
- Delaware
- West Virginia
- Michigan
- Indiana
- Missouri
- South Dakota
- Wyoming
- Montana
- Idaho
- Alaska
- Hawaii
- District of Columbia
- Commonwealth of Puerto Rico

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 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).

The NRC is seeking to revise this information collection to be a plan for a generic collection of information. 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. Requests to non-Agreement States for information will be uncontroversial and low-burden. All surveys and requests for information will be submitted to the Office of Management and Budget for review prior to being sent to non-Agreement States.

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.

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

Not applicable. 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 actions, 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, may be requested on a voluntary basis in less than 30 days to provide timely input into an issue.

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 8, 2015 (80 FR 1051). Comments were to be submitted by March 9, 2015. Additionally, six individuals (consisting of State Liaison Officers and State Radiation Program Directors) from non-Agreement States were emailed requests for public comment. 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

No sensitive information will be requested.

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.

Each request is estimated to require 8.25 hours of professional staff time per State to respond. The NRC estimates that 8 requests per year will be issued for a total annual burden of 990 professional hours (15 Non-Agreement States x 8 responses x 8.25 burden hours per response) based on Agreement State experience, at a cost of \$276,210 (990 hours x \$279 per professional hour).

The requests will be analyzed by professional staff with support from clerical staff and responses formulated and sent to the NRC. The NRC estimates that the clerical support will be approximately 10 percent of the professional hours required for the response. Therefore, the NRC staff estimates that the annual clerical time will be 99 hours (990 hours x 10 percent). The estimated clerical costs are estimated to be \$4,653 (99 hours x \$47 per clerical rate).

The total estimated annual burden for Non-Agreement States is 1,089 hours (990 professional hours + 99 clerical hours) at a cost of \$280,863 (\$276,210 + \$4,653). The total burden over the full three-year clearance period is estimated to be 3,267 hours (\$280,863 x 3 years) at a cost of \$842,589.

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The NRC professional staff will compile and analyze the responses or comments, and respond to the States, as applicable. Clerical staff will support professional staff. The NRC professional and clerical hours to analyze responses are estimated to be 10 percent of the effort of non-Agreement State professional and clerical staff. For eight requests with 15 Non-Agreement States responding, the estimated annual professional staff cost to the Federal government is \$27,621 [99 total annual burden hours (about 10 percent of the Non-Agreement State professional staff total annual burden hours shown in item 12) x \$279 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 \$28,086 (\$27,621 professional cost + \$465 clerical cost).

15. Reasons for Change in Burden

The NRC is seeking to revise this information collection to be a plan for a generic collection of information. The estimated total annual burden is the same as that reported in the 2011 OMB supporting statement for requests to Non-Agreement States for information. The number of Non-Agreement States remains the same (13 States, the District of Columbia and the Commonwealth of Puerto Rico), and based on analysis of requests from 2012-2014 the number of requests made to Non-Agreement States remains constant at an average of 8 requests annually. The total number of responses has remained constant at 120 responses (15 non-Agreement states x 8 responses annually). Although the annual burden has not changed, the total burden in ROCIS has tripled because generic Information Collection Requests must reflect three years of burden.

The professional staff fee rate increased in this clearance statement compared to the 2011 supporting statement, from \$273 to \$279 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. 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.