

FINAL1 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, 17 States, or Territories with NRC licensees that possess and use radioactive material have not signed Section 274(b) Agreements with the NRC. These are:

- Connecticut
- Delaware
- West Virginia
- Michigan
- Indiana
- Missouri
- South Dakota
- U.S. Virgin Islands
- Montana
- Idaho
- Alaska
- Hawaii
- District of Columbia
- Commonwealth of Puerto Rico
- Guam
- Commonwealth of the Northern Mariana Islands
- American Samoa

It should be noted that the State of Vermont submitted a draft application, to the NRC, to become an Agreement State. Staff estimates that the agreement will be signed by the end of FY 2018.

Occasionally, requests may be made of Non-Agreement States to provide a more complete overview of the national program for regulating radioactive materials. 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 Information Collection

The current Non-Agreement States may be asked for information which 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.

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 90% of the 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.

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 April 2, 2018 (83 FR 14064). There was 1 comment received from 1 Non-Agreement State. The NRC received 1 comment from one of the 5 consultants that were contacted by e-mail. Comment: The commenter agreed that the collection of information is important for the NRC. The commenter indicated that the estimate burden is reasonable to allow the NRC to have the flexibility it will need to make multiple requests that require responses of varying complexity; NRC Response: The NRC appreciates the commenter's input and agrees with their comments.

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 estimates are based on submittals to and reviews by NRC in past years. The NRC anticipates issuing 8 requests annually to 17 Non-Agreement States. A one hundred percent response rate is estimated because of the importance of the requests. Each request is estimated to require 7 hours per State to respond. The NRC estimates that 8 requests per year will be issued for a total annual burden of 952 hours (17 Non-Agreement States x 8 responses x 7 burden hours per response), at a cost of \$250,376 (952 hours x \$263 per hour). The total burden over the full three-year clearance period is estimated to be 2,856 hours (\$250,376 x 3 years) at a cost of \$751,128.

The \$263 hourly rate used in the burden estimates 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).

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

The staff has developed estimates of annualized costs to the Federal Government related to the conduct of this collection of information. These estimates are based on staff experience and subject matter expertise and include the burden needed to review, analyze, and process the collected information and any relevant operational expenses.

The NRC staff will compile and analyze the responses or comments, and respond to the States, as applicable. The NRC hours to analyze responses are estimated to be 10 percent of the effort of non-Agreement State staff. For 8 requests with 17 Non-Agreement States responding, the estimated annual staff cost to the Federal government is \$24,985 [95 total annual burden hours (about 10 percent of the Non-Agreement State staff total annual burden hours shown in item 12) x \$263 fee rate per hour].

15. Reasons for Change in Burden and Cost

The total burden for this generic information collection over the three-year clearance period has decreased from 3,267 hours to 2,856 hours, a decrease of 411 hours. The number of responses over the three-year clearance period will increase from 360 to 408 (136 x 3), based on 17 Non-Agreement States.

It should be noted that there is a difference in the calculation from the previous OMB clearance. Section 274n of the Atomic Energy Act states: "As used in this section, the term "State" means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia." Therefore, Guam, U.S. Virgin Islands, Northern Mariana Islands, and American Samoa should have been included in the list of States and Territories, with a total of 17 Non-Agreement States.

The number of requests made to Non-Agreement States is expected to increase at an average of 8 requests annually, with a total number of 136 responses (17 non-Agreement states x 8 responses annually).

The burden per response has decreased from approximately 9 hours per response to 7 hours per response based on staff experience with this program since the last renewal of this information collection. In the past two years, the NRC has issued two letters with an estimated burden of 8 hours per response and one letter with an estimated 1 hour of burden per response. The current burden estimate is supported by the comment received in response to the initial *Federal Register* notice and the solicited comment.

The staff fee rate decreased in this clearance statement 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. 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.