

1FINAL 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)

EXTENSION

Description of the Information Collection

1States 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 Nuclear Material Safety and Safeguards (NMSS) 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” (noticed in the *Federal Register* 46 FR 7540, January 23, 1981; as amended by policy statements published at 46 FR 36969, July 16, 1981; 48 FR 33376, July 21, 1983; and 82 FR 48535, October 18, 2017). This policy statement identifies the factors considered by NRC prior to approving new or amended Agreements. A State that has entered into such an Agreement is referred to as an Agreement State. Presently, there are 39 Agreement States, which regulate approximately 86 percent of the byproduct, source, and certain special nuclear material licensees in the United States.

The 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. The NRC 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 for adequacy and compatibility. These performance-based reviews are conducted in accordance with Management Directive 5.6, “Integrated Materials Performance Evaluation Program (IMPEP)” and are routinely conducted approximately every 4 years. A questionnaire (Attachment 1) is used 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 determining the compatibility of the program with the 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 questionnaire 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. Legislation, Regulations, and Other Program Elements

- 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

1Section 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 NRC and the Governor of the State and issuance of an exemption to licensed persons in accordance with 10 CFR 150.10. The Act requires the NRC to perform periodic reviews of each Agreement State to ensure that its RCP remains adequate and compatible with the requirements of the Act.

The information covered by this request is required by 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 NRC's program.

2. Agency Use of Information

1As required by the Act, information received from the 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 NRC's program.

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 99% of the responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements.

5. Effort to Reduce Small Business Burden

1These information collections do not affect small businesses.

6. Consequences to Federal Program or Policy Activities if the Collection Is Not Conducted or Is Conducted Less Frequently

The 1collection of information less frequently than in association with periodic IMPEP reviews of Agreement States, which are currently conducted approximately every 4 years, would significantly reduce the efficiency and effectiveness of those reviews. The NRC believes that 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. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on August 8, 2019 (84 FR 39023). Agreement State representatives from the Commonwealth of Pennsylvania, and the States of California, Illinois, New Jersey, Texas, and Utah were also contacted directly as part of the consultation process. No responses or comments were received as a result of the FRN or the staff's direct solicitation of comment.

9. Payment or Gift to Respondents

1Not applicable.

10. Confidentiality of 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

This information collection affects 40 respondents during the 3-year clearance period: 39 existing Agreement States and 1 anticipated new application.

1Questionnaire

The NRC has requested approximately 12 of the existing 39 Agreement States to respond to an IMPEP questionnaire annually. They expend an average of 53 hours per Agreement State program, or a total of 636 hours annually, for a cost of \$174,900 (636 hours x \$275/hour). This estimate includes the recordkeeping burden for the IMPEP questionnaire. 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

New Agreement State Applications. The NRC estimated that a State seeking an Agreement expends approximately 6,750 hours over a 3-year period or 2,250 hours annually (6,750 hours divided by 3 years) preparing a proposal for a new Agreement. As a planning assumption the NRC staff anticipates receiving one new Agreement State application over the next three years at an annual cost of \$618,750 (2,250 hours x

\$275/hour). There is no additional recordkeeping burden associated with new Agreement State applications.

Participation in IMPEP Reviews. IMPEP review teams are composed of NRC and Agreement State staff. The Agreement State team members participate annually in 10 Agreement State IMPEP reviews, 1 NRC Regional review and 2 Agreement State follow-up reviews. Each review is estimated to take 180 hours for a total of 2,340 staff hours per year (180 hours x 13 reviews). This estimate is based on the length of time for States to conduct the entire review (prepare, conduct, and document the review). The NRC estimated that 20 percent or a total of 468 hours annually (0.2 x 2,340 hours) of this burden is spent on the information collection activities. Thus, the average burden per review is 36 hours (468 hours per year divided by 13 reviews). The annual cost for participation in the IMPEP program is estimated to be \$128,700 (468 hours x \$275/hour). There is no additional recordkeeping burden associated with participation in IMPEP reviews.

Agreement State Program Maintenance. The number of hours to maintain Agreement State programs (expressed in full-time equivalents or FTE) varies depending on the number of licensees in the State and the scope of their Agreement (for example, some States have authority for special programs like low-level waste or uranium recovery that would require additional FTE). The NRC estimates that it takes the Agreement States approximately 10.5 FTE to maintain their programs, or a total of 409.5 FTE annually (10.5 FTE per state for a total of 39 Agreement States). As such, the total effort for the 39 Agreement States is estimated to be 737,100 hours annually (409.5 FTE x 1,800 hours per FTE). For the purpose of this analysis, the NRC estimated that 40 percent of this burden is spent on information collection activities associated with the Agreement State program implementation. This will constitute a total paperwork burden of 294,840 hours per year (0.40 x 737,100). This estimate includes any burden associated with recordkeeping.

The NRC estimated that the average burden for each Agreement State is 7,560 hours per year (294,840 hours per year divided by 39 Agreement States). The annual cost for Agreement State program maintenance is therefore estimated to be \$81,081,000 (294,840 hours x \$275 hour).

The following summary table 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. The total burden for this information collection is estimated to be 298,194 hours with a cost of \$82,003,350 (298,194 hours x \$275 hour), or an average of 7,455 hours per respondent.

Description	Number of Responses	Burden Hours Per Response	Total Annual Burden Hours	Cost @\$275/hour
Agreement State Questionnaires	12	53	636	\$174,900
New Agreement State Applications	1	2,250	2,250	\$618,750
Participation in IMPEP Reviews	13	36	468	\$128,700
Agreement State Program Maintenance	39	7,560	294,840	\$81,081,000
TOTAL	65		298,194	\$82,003,350

The \$275 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 Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018 (83 FR 29622, June 25, 2018).

13. Estimate of Other Additional Costs

1There are no additional costs.

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.

Based on data from the agency's time and labor reporting system, 1NRC staff expends approximately 8,598 staff-hours annually evaluating review information of established Agreement States in support of the IMPEP review program. Of these 8,598 hours, it is estimated that approximately 30 percent or a total of 2,579 hours (0.30 x 8,598 hours) is expended on information collection activities. Based upon current estimates, using the rate of \$275 per hour, the annual cost to the Federal Government is approximately \$709,225 (2,579 hours x \$275/hour).

The NRC expends approximately 7,589 staff-hours annually evaluating information submitted by established Agreement States in maintenance of their program. Of these 7,589 hours, the NRC estimated that approximately 25 percent or a total of 1,897 hours (0.25 x 7,589 hours) is expended on information collection activities. Based on current estimates, using rate of \$275 per hour, the annual cost to the Federal Government is approximately \$521,675 (1,897 hours x \$275/hour).

The NRC expends approximately 1,575 staff-hours annually evaluating a State application to become an Agreement State. Of these 1,575 hours, it is estimated that approximately 20 percent or a total of 315 hours (0.20 x 1,575 hours) is expended on information collection activities. Based upon the above noted rates, the annual cost to Federal Government is approximately \$86,625 (315 hours x \$275/hour) per application.

The total annual cost to the Federal Government for one State application is approximately \$86,625 (\$86,625 multiplied by 1 State applications).

Therefore, the total annual cost to the Federal Government to review new and existing Agreement States is approximately \$1,317,525 (\$709,225 + \$521,675 + \$86,625).

15. Reasons for Change in Burden or Cost

1There has been an increase in the overall burden of 10,301 hours from 287,893 hours to 298,194 hours annually. This increase is primarily due to the addition of the State of Wyoming as the 38th Agreement State in September 2018, and the addition of the State of Vermont Agreement as the 39th Agreement State in September 2019, resulting in an 10,236 hour increase in the burden associated with Agreement State Program Maintenance. Other factors impacting the overall burden include:

- An increase in the estimated number of Agreement State questionnaires is 12, up from 9, resulting in an increase overall burden of 159 hours annually.
- A decrease in the estimated number of new Agreement State applications and the level of effort required for the States to complete these applications. While several States have indicated that there is interest in becoming Agreement States, the NRC has not received any letters of intent for pending new Agreement State applications. The NRC has also determined that the level of effort required to complete the new application process has been reduced by 500 hours due to efficiencies gained during the recent development and review of several new Agreement State applications (e.g., WY and VT). As such, the NRC is estimating an overall reduction in burden of 2250 hours annually.
- An increase in the participation in IMPEP reviews from 11 to 13, resulting in an increase in overall burden on 72 hours.
- An increase in the hourly rate changed from \$268 per hour to \$275 per hour.

16. Publication for Statistical Use

2This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

1The NRC believes that 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." By supplying the expiration, the NRC would be required to republish the policy statement every time a renewal of the information collection requirements is approved by OMB. The expiration date appears on the IMPEP questionnaire.

18. Exceptions to the Certification Statement

1No exceptions

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

1Statistical methods are not used in this collection of information.

INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM
QUESTIONNAIRE

Reporting Period:

Note: If there has been no change in the response to a specific question since the last IMPEP questionnaire, the State or Region may copy the previous answer, if appropriate.

A. GENERAL

1. Please prepare a summary of the status of the State's or Region's actions taken in response to each of the open recommendations from previous IMPEP reviews.

B. COMMON PERFORMANCE INDICATORS

- I. Technical Staffing and Training
2. Please provide the following organization charts, including names and positions:
 - (a) A chart showing positions from the Governor down to the Radiation Control Program Director;
 - (b) A chart showing positions of the radiation control program, including management; and
 - (c) Equivalent charts for sealed source and device evaluation, low-level radioactive waste and uranium recovery programs, if applicable.
3. Please provide a staffing plan, or complete a listing using the suggested format below, of the professional (technical) full-time equivalents (FTE) applied to the radioactive materials program by individual. Include the name, position, and, for Agreement States, the fraction of time spent in the following areas: administration, materials licensing & compliance, emergency response, low-

¹²Estimated burden per response to comply with this voluntary collection request: 53 hours. Send comments regarding the burden estimate to the Information Services Branch (T-6 A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0183), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

level radioactive waste, uranium recovery, other. If these regulatory responsibilities are divided between offices, the table should be consolidated to include all personnel contributing to the radioactive materials program.

If consultants were used to carry out the program's radioactive materials responsibilities, include their efforts. The table heading should be:

<u>Name</u>	<u>Position</u>	<u>Area of Effort</u>	<u>FTE%</u>
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4. Please provide a listing of all new professional personnel hired into your radioactive materials program since the last review, indicate the date of hire; the degree(s) they received, if applicable; additional training; and years of experience in health physics or other disciplines, as appropriate.
5. Please list all professional staff who have not yet met the qualification requirements for a radioactive materials license reviewer or inspector. For each, list the courses or equivalent training/experience they need and a tentative schedule for completion of these requirements.
6. Identify any changes to your qualification and training procedure that occurred during the review period.
7. Please identify the technical staff that left your radioactive materials program during the review period and indicate the date they left.
8. List any vacant positions in your radioactive materials program, the length of time each position has been vacant, and a brief summary of efforts to fill the vacancy.
9. For Agreement States, does your program have an oversight board or committee which provides direction to the program and is composed of licensees and/or members of the public? If so, please describe the procedures used to avoid any potential conflict of interest.

II. Status of Materials Inspection Program

10. Please identify individual licensees or categories of licensees the State is inspecting less frequently than called for in NRC's Inspection Manual Chapter (IMC) 2800 and explain the reason for the difference. The list only needs to include the following information: license category or licensee name and license number, your inspection interval, and rationale for the difference.
11. Please provide the number of routine inspections of Priority 1, 2, and 3 licensees, as defined in IMC 2800 and the number of initial inspections that were completed during each year of the review period.
12. Please submit a table, or a computer printout, that identifies inspections of Priority 1, 2, and 3 licensees and initial inspections that were conducted overdue.

At a minimum, the list should include the following information for each inspection that was conducted overdue during the review period:

- (1) Licensee Name
- (2) License Number
- (3) Priority (IMC 2800)
- (4) Last inspection date or license issuance date, if initial inspection
- (5) Date Due
- (6) Date Performed
- (7) Amount of Time Overdue
- (8) Date inspection findings issued

13. Please submit a table or computer printout that identifies any Priority 1, 2, and 3 licensees-and initial inspections that are currently overdue, per IMC 2800. At a minimum, the list should include the same information for each overdue inspection provided for Question 12 plus your action plan for completing the inspection. Also include your plan for completing the overdue inspections.
14. Please provide the number of reciprocity licensees that were candidates for inspection per year as described in IMC 1220 and indicate the number of reciprocity inspections of candidate licensees that were completed each year during the review period.

III. Technical Quality of Inspections

15. What, if any, changes were made to your written inspection procedures during the reporting period?
16. Prepare a table showing the number and types of supervisory accompaniments made during the review period. Include:

<u>Inspector</u>	<u>Supervisor</u>	<u>License Category</u>	<u>Date</u>
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17. Describe or provide an update on your instrumentation, methods of calibration, and laboratory capabilities. Are all instruments properly calibrated at the present time? Were there sufficient calibrated instruments available throughout the review period?

IV. Technical Quality of Licensing Actions

18. How many specific radioactive material licenses does your program regulate at this time?
19. Please identify any major, unusual, or complex licenses which were issued, received a major amendment, were terminated, decommissioned, submitted a bankruptcy notification or renewed in this period.
20. Discuss any variances in licensing policies and procedures or exemptions from the regulations granted during the review period.

21. What, if any, changes were made in your written licensing procedures (new procedures, updates, policy memoranda, etc.) during the reporting period?
22. Identify by licensee name and license number any renewal applications that have been pending for one year or more. Please indicate why these reviews have been delayed and describe your action plan to reduce the backlog.

V. Technical Quality of Incident and Allegation Activities

23. For Agreement States, please provide a list of any reportable incidents not previously submitted to NRC (See Procedure SA-300, *Reporting Material Events*, for additional guidance, OMB clearance number 3150-0178). The list should be in the following format:

<u>Licensee Name</u>	<u>License #</u>	<u>Date of Incident/Report</u>	<u>Type of Incident</u>
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24. Identify any changes to your procedures for responding to incidents and allegations that occurred during the period of this review.

C. **NON-COMMON PERFORMANCE INDICATORS**

I. Compatibility Requirements

25. Please list all currently effective legislation that affects the radiation control program. Denote any legislation that was enacted or amended during the review period.
26. Are your regulations subject to a "Sunset" or equivalent law? If so, explain and include the next expiration date for your regulations.
27. Please review and verify that the information in the enclosed State Regulation Status (SRS) sheet is correct. For those regulations that have not been adopted by the State, explain why they were not adopted, and discuss actions being taken to adopt them. If legally binding requirements were used in lieu of regulations and they have not been reviewed by NRC for compatibility, please describe their use.
28. If you have not adopted all amendments within three years from the date of NRC rule promulgation, briefly describe your State's procedures for amending regulations in order to maintain compatibility with the NRC, showing the normal length of time anticipated to complete each step.

II. Sealed Source and Device (SS&D) Evaluation Program

29. Prepare a table listing new and amended (including transfers to inactive status) SS&D registrations of sources and devices issued during the review period. The table heading should be:

<u>SS&D Registry Number</u>	<u>Manufacturer, Distributor or Custom User</u>	<u>Product Type or Use</u>	<u>Date Issued</u>	<u>Type of Action</u>
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30. Please include information on the following questions in Section A, as they apply to the SS&D Program:

Technical Staffing and Training - Questions 2-9
 Technical Quality of Licensing Actions - Questions 18-22
 Technical Quality of Incident and Allegation Activities - Questions 23-24

III. Low-level Radioactive Waste Disposal Program

31. Please include information on the following questions in Section A, as they apply to the Low-Level Radioactive Waste Disposal Program:

Technical Staffing and Training - Questions 2-9
 Status of Materials Inspection Program - Questions 10-14
 Technical Quality of Inspections - Questions 15-17
 Technical Quality of Licensing Actions - Questions 18-22
 Technical Quality of Incident and Allegation Activities - Questions 23-24

IV. Uranium Recovery Program

32. Please include information on the following questions in Section A, as they apply to the Uranium Recovery Program:

Technical Staffing and Training - Questions 2-9
 Status of Materials Inspection Program - Questions 10-14
 Technical Quality of Inspections - Questions 15-17
 Technical Quality of Licensing Actions - Questions 18-22
 Technical Quality of Incident and Allegation Activities - Questions 23-24

MATERIALS REQUESTED TO BE AVAILABLE FOR THE ON-SITE PORTION OF AN IMPEP REVIEW

Please have the following information available for use by the IMPEP review team when they arrive at your office:

- List of open license cases, with date of original request, and dates of follow-up actions.
- List of licenses terminated during review period.
- Copy of current log or other document used to track licensing actions.
- List of all licensing actions completed during the review period (sorted by license reviewer, if possible).
- Copy of current log or other document used to track inspections.
- List of all inspections completed during the review period (sorted by inspector, if possible).
- List of inspection frequencies by license type.
- List of all allegations occurring during the review period. Show whether the allegation is open or closed and whether it was referred by NRC.
- List of all licenses that your agency has imposed additional security requirements upon.

ALSO, PLEASE HAVE THE FOLLOWING DOCUMENTS AVAILABLE:

- All State regulations
- Statutes affecting the regulatory authority of the State program
- Standard license conditions
- Technical procedures for licensing, model licenses, review guides
- SS&D review procedures, guides, and standards
- Instrument calibration records
- Inspection procedures and guides
- Inspection report forms

- Documented training plan, if applicable
- Records of results of supervisory accompaniments of inspectors
- Emergency plan and communications list
- Procedures for investigating allegations
- Procedures for investigating incidents
- Enforcement procedures, including procedures for escalated enforcement, severity levels, civil penalties (as applicable)
- Job description