

FINAL OMB SUPPORTING STATEMENT
FOR
REQUESTS TO
AGREEMENT STATES FOR INFORMATION
(3150-0029)

EXTENSION

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 (AEA) 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 with respect to radioactive materials. In 1959, Section 274 of the AEA 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. To date, 39 states have become "Agreement States." These Agreement States now regulate approximately 88 percent of byproduct, source and special nuclear material licenses in the United States, as permitted by Section 274 of the AEA.

Ultimately, the responsibility for regulating the approximate 18,900 specifically licensed users of radioactive materials is shared between the NRC and the 39 Agreement States. As part of the NRC cooperative post-agreement program with the Agreement States, information on radioactive materials licensing and inspection practices, and/or incidents, and other technical and training-related information related to the regulation of radioactive materials is voluntarily exchanged every year. These exchanges include the NRC-initiated information collection requests to the Agreement States.

A. JUSTIFICATION

1. Need for and Practical Utility of the Information Collection

Section 274(g) of the AEA authorizes and directs the NRC to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and the NRC programs will be coordinated and compatible. As part of the NRC cooperative post-agreement program with the States, information on licensing and inspection practices, incidents, and other technical and training-related information is exchanged. The Agreement State comments are also solicited in proposed implementing procedures and guidance documents relative to the NRC Agreement State program policies. The information requests take the form of one-time requests, questionnaires or surveys (e.g., telephonic and electronic surveys/polls and facsimiles). The information collection requests

have been expanded to take into account the impact of the NRC and Agreement State working groups and the re-defining of the Agreement State Program through the "Agreement State Program Policy Statement" and the associated implementing procedures, including the Integrated Materials Performance Evaluation Program (IMPEP).

Historically, the NRC has requested information from the Agreement States that require them to verify the number of specific radioactive materials licenses that are currently active under their jurisdiction, information on low-level radioactive waste disposal and associated notice of public meetings published in the *Federal Register*, and the opportunity to comment and provide guidance on the draft International Atomic Energy Act (IAEA) safety guide. The NRC also requests Agreement States to update information submitted in support of the implementation of the NRC's Integrated Source Management Portfolio and update the status of decommissioning activities at materials and uranium recovery sites (including nonmilitary radium). The NRC also gives the Agreement States the opportunity to comment on proposed and final rules. Some examples include letters to Radiation Control Program Directors (RCPDs) in the Agreement States providing opportunities to comment on draft NRC documents such as white papers, safety guides, guidance documents, NRC reports or plans, IMPEP reviews and schedules, NRC draft environmental assessments related to licensing actions, and NRC rulemaking prioritization and schedules. Radiation Control Program Directors may also be asked to comment on draft proposed rule language and draft final rule language. The RCPDs may be asked for general information on the licensees they regulate, such as the number of licensees in their states, or for information on their licensing and inspection practices. In the case of an unanticipated event associated with a safety or security concern, RCPDs may be asked for information on licensees in their state related to the specific safety or security concern.

The information is needed because the responsibility for regulating the approximate 18,900 specifically licensed users of radioactive materials is shared between the NRC and the 39 Agreement States. Section 274 of the AEA directs the Commission to cooperate with the Agreement States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

2. Agency Use of Information

The periodic one-time collection of data from the individual Agreement States enables the NRC and States to identify issues and plan and evaluate options for future actions. The data is also utilized in preparing responses to Congressional inquiries and requests for information from other sources. There is no source for obtaining such necessary information other than from the Agreement States.

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 Submittals application, 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. The Electronic Submittals application allows electronic transmission of information to the NRC pertaining to licensing actions, associated hearings, and other regulatory matters. The application ensures that information sent to the NRC via the Internet is secure and unaltered during transmission. It operates 24 hours a day, except when it is taken down for scheduled maintenance. The application serves as a secure portal that respondents may use to transmit documents to the NRC, but is not an information collection instrument in and of itself.

The NRC staff estimates that approximately 100% of the responses will be filed electronically.

4. Efforts 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

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 a one-time or as-needed action, which address specific issues generic to the Agreement States. The consequences of not collecting information, such as licensing and inspection practices, incidents, other technical, statistical and training information, could potentially impact the 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 Agreement State review and comment on proposed policy and program updates and revisions would not be timely or could not be sought if the collection is conducted less frequently or not conducted.

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.

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 16, 2020 (85 FR 14979).

The following respondents were contacted as part of the consultation process by email:

Paul Orlando of the New Jersey Department of Environmental Protection
Adnan Khayyat of the Illinois Emergency Management Agency
Rusty Lundberg of the Utah Department of Environmental Quality
Dave Allard of the Pennsylvania Department of Environmental Protection
Charlotte Sullivan of the Texas Department of State Health Services
Gonzalo Perez of the California Department of Health Services

No comments or responses were received as a result of these consultations.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with the NRC regulations at 10 CFR 2.390(b) and 10 CFR 9.17(a). However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

The NRC does not require the Agreement States to submit any sensitive information.

12. Estimated Burden and Burden Hour Cost

The NRC issues about 10 information requests annually to the 39 Agreement States and also provides the Agreement States the opportunity to comment on about 20 guidance documents, procedures, policies and regulations annually.

The Agreement State staff burden hours expended on each request varies greatly depending on the type of request and whether it requires the review of a procedure and documentation of comments. Based on historical data, the Agreement States will expend an estimated average of 8 hours per response. Following is a summary of estimated burden and responses, based on a 30% response rate.

Table 1: Estimated Reporting Burden							
	Respondents	Annual Requests	Response rate	Total Responses	Burden per Response	Total Burden	Cost at \$275/hr
Information Requests	39	10	1	390	8	3,120	\$858,000
Comment requests	39	20	0.3	234	8	1,872	\$514,800
Annual Total	39	30		624		4,992	\$1,372,800
Total Over the 3-Year Clearance Period	39	90		1,872		14,976	\$4,118,400

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 2019 (84 FR 22331, May 17, 2019).

13. Estimate of Other Additional Costs

There 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 include the burden needed to review, analyze, and process the collected information and any relevant operational expenses.

Based upon staff estimates, the NRC will spend about 700 hours annually on the exchange of information with potentially 39 Agreement States. Using the staff hourly rate of \$275, the annual cost to the NRC is approximately \$192,500 (700 x \$275 per hour).

15. Reasons for Change in Burden

The burden for the 3-year clearance period has increased from 8,424 hours and 1,053 responses to 14,976 hours and 1,872 responses, an increase of 6,552 hours and 819 responses.

The NRC is renewing this clearance prior to the current expiration date due to a higher than anticipated depletion rate of the estimated burden "bank" for this clearance's generic information collections (IC). This is due to several unexpected higher burden ICs and the method used to calculate burden.

- During the last clearance period, submissions of generic ICs (Agreement State letters) to OMB included burden for all potential respondents

(100% of Agreement States), rather than the anticipated 30% of Agreement States who were anticipated to respond. To rectify this, the NRC staff has modified the generic submission template used to submit these requests so that it includes a calculation for anticipated response rate.

- To further ensure that the agency's "bank" of hours for this clearance is not prematurely depleted prior to the end of the clearance period, the NRC staff has increased the total burden to an estimate more reflective of recent activities, assuming that the agency will continue to request comments from Agreement States at the same current annual rate.

In addition, the staff hourly rate increased from \$263 to \$275 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 on all letters to Agreement States. In the case of an exigent or unique circumstance which would trigger a telephonic NRC survey of Agreement States, the expiration date for OMB approval will be verbally transmitted.

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.