

FINAL SUPPORTING STATEMENT FOR
COLLECTION OF RESEARCH CODE
NON- DISCLOSURE AGREEMENT
INFORMATION
(3150-0240)

Extension

Description of the Information Collection

The collection instrument is a non-disclosure agreement (NDA) used for domestic and foreign entities to obtain and use the U.S. Nuclear Regulatory Commission's (NRC's) nuclear safety and analytical computer codes. These computer codes are used to model and evaluate fuel behavior, materials performance, reactor kinetics and thermal-hydraulic conditions, severe accident progression, time-dependent dose for design-basis accidents, radionuclide transport and dispersion, emergency preparedness and response modeling, and health effects consequences during various postulated accident conditions. Foreign and domestic licensees, universities, and corporations requesting access to the codes must provide the following information on the NDA:

- Name of entity requesting access
- Ownership (foreign or domestic) of entity requesting access
- Name of person completing the form
- Title
- Position
- Email address
- Citizenship of requestor
- Mailing address
- Company website (if applicable)
- Planned use of codes
- NRC Contractor number (if applicable)

Entities submit revised NDAs when that user no longer requires access to the codes.

The NDA also includes terms and conditions for code use and asks for notification to NRC of code errors, code modifications, and updated user information. An officially signed and executed NDA of users agreeing to the terms and conditions is current NRC practice for allowing access to NRC-developed computer codes. Once the NDA has been signed, received, reviewed, and accepted, the requesting individual or organization is given access to the requested code.

The information requested in the NDA is mandatory in order to obtain a benefit (access to the codes). NRC has the authority to request this information under Section 161c of the Atomic Energy Act of 1954, which states, "In the performance of its functions the Commission is authorized to make such studies and investigations, obtain such

information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this Act, or in

the administration or enforcement of this Act, or any regulations or orders issued thereunder.”

A. JUSTIFICATION

1. Need For and Practical Utility of the Collection of Information

The information collection enables the NRC to ensure that proper procedures and agreements are in place to guide the distribution and use of these codes according to NRC and U.S. Government policies and international agreements such as import-export restrictions and intellectual property rights. Further information collection on code errors and modifications by code users permits NRC to maintain control and quality of its codes in a timely and efficient manner. The NDA is stored in the Agencywide Documents Access and Management System (ADAMS) for easy retrievability and traceability.

Adhering to a practice where users of the code are required to sign an NDA provides the following key benefits to NRC:

- Highlights the terms by which users will not release NRC-developed computer codes to a third party without NRC consent and approval.
- Ensures authenticity and pedigree of NRC computer codes and code results by requiring users to rename a modified code version with a somewhat different name (provided NRC has authorized the development of a modified version).
- Prohibits foreign entities from using the code for the commercial application in the development of a new reactor design or for commercial use in the United States unless performed by its U.S. subsidiary.
- Makes no warranty by NRC, expressed or implied, or assumes any legal liability or responsibility for any use, or the results of such use, or of any information, product, or process included in or calculated by the code, or represents that the use would not infringe privately-owned rights.
- Requires a description of the intended use of the code ensuring the use of the code is not inconsistent with the mission of the NRC.
- Stipulates that code errors be communicated to NRC code developers as well as any nonproprietary improvements or modifications made to the code, including a summary of the impact on representative code calculations.
- Makes all users requesting computer codes identify their country of citizenship to determine eligibility (U.S. citizens and U.S. permanent residents are automatically eligible).

2. Agency Use of Information

The NRC will use the information collected to:

- a. Verify that code users meet all statutory and regulatory requirements.
- b. Improve the codes.
- c. Maintain code integrity.

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 process; which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (e.g. CD-ROM, DVD), by facsimile, or by e-mail. Code users have the option of submitting code errors via e-mail to a resource inbox or through a Bugzilla tracking system, which is operated by Sandia National Laboratories on behalf of the NRC. It is estimated that, approximately 100 percent 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

No small businesses are affected by the information collection requirements.

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

The information collection enables the NRC to ensure that proper procedures and agreements are in place to guide the distribution and use of these codes according to NRC and U.S Government policies and international agreements such as import- export restrictions and intellectual property rights. If the information were not collected, the requestor will not receive access to the code(s); this help avoid the NRC to lose control of who has access to the codes.

7. Circumstances Which Justify Variation from OMB Guidelines

There are no variations from OMB guidelines.

The following are the circumstances and justifications that applies to the information collection:

- Information is collected more often than quarterly: the participants submit a non-disclosure agreement whenever they decide to request access to NRC's code(s). Once the NDA is approved and the code is distributed to

the participant, NRC expects that further information be submitted as required by the NDA including notification of code errors, modifications to the code, and updating of user information.

- Proprietary trade secrets or similar confidential information are required: nuclear power plants and engineering corporations are sensitive about sharing their plant and component design information. This information provided to the NRC and included in codes will be treated as proprietary information to the information providers.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the Federal Register. In addition, six respondents were contacted and given a survey for them to provide any recommendations to the accuracy of burden and cost estimates; and for any clarification to the quality, utility, clarity, or proposals they would like to provide to minimize the burden of the information to be collected. No additional comments were received.

9. Payment or Gift to Respondents

Not Applicable.

10. Confidentiality of Information

Confidential and proprietary information is protected in accordance with the NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

The information being collected under this clearance includes Personally Identifiable Information. This information is necessary to ensure the proper identification of the individual providing the information. The NRC's Privacy Officer reviewed the information collection and determined that it does not need to be included in a System of Records Notice.

11. Justification for Sensitive Questions

Not Applicable.

12. Estimated Burden and Burden Hour Cost

The total estimated cost for the information collection is 962 hours annually, based on the following assumptions:

The NRC staff estimates that the NRC will receive approximately 962 NDAs annually from the following entities:

Licensees/NPPs (Foreign and domestic):	109
Universities (Foreign and domestic):	246
Corporations (Foreign and domestic):	123
Members of the public (Foreign and domestic):	58
Technical support organizations (Foreign):	134

A total of 670 NDAs is expected to be submitted annually. Each NDA is estimated to take 1 hour to complete and submit.

The participating code users are expected to incur the following annual additional burdens, if applicable:

- Submissions of code errors: 39 per year, estimated time is 1 hour per submittal.
- Submissions of code improvements or modifications 36 per year, estimated time is 1 hour per submittal.
- Updating list of code users 217 per year, estimated time is 1 hour per submittal.

Summary of burden and cost for the information collection of NDA’s for code distribution

	Respondents	Responses per Respondent	Responses	Burden per Response	Total Burden	Cost@ \$288/hr
Submission of NDAs	670	1	670	1	670	\$192,960
Submission of Code Errors	39	1	39	1	39	\$11,232
Submission of Code Improvements or Modifications	36	1	36	1	36	\$10,368
Submission of Updated List of Code Users	217	1	217	1	217	\$62,496
TOTAL			962		962	\$277,056

The \$288 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 2021 (86 FR 32146, June 16, 2021).

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

NRC staff are the ones receiving and reviewing NDAs to determine who has access and request contractors to release the codes to users.

The NRC solicited the services of maintaining the database of providing technical support with the average annual cost of \$290,908.80 (962 reports x 1.05hrs x \$288).

15. Reasons for Change in Burden or Cost

This renewal of the collection of NDA information increases the overall annual burden to 962 hours for code users. This is an increase of 332 hours over the current clearance and is primarily due to the increased use of the codes from universities, members of the public, and other technical support organizations. The NRC anticipates increases in the number of NDAs submitted and the number of submissions to update the lists of code users. These increases are partially offset by an expected decrease in the number of code error reports. The information collected on the NDAs will be used by the NRC to verify that code users meet all statutory and regulatory requirements for access to the codes. Information submitted voluntarily about code errors and modifications will be used to improve the codes and maintain code integrity. There was also an increase in hourly fee rate described in item #12 above from \$275 per hour to \$288 per hour.

16. Publication for Statistical Use

Not applicable.

17. Reason for Not Displaying the Expiration Date

The expiration date will be displayed.

18. Exceptions to the Certification Statement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not Applicable.