
Supporting Statement for Noncompliance Tracking System

Part A: Justification

OMB No. 1910-XXXX

Collection Instruments

Department of Energy Noncompliance Tracking System (NTS)

February 2023

U.S. Department of Energy
Washington, DC 20585

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Introduction

Provide a brief introduction of the Information Collection Request. Include the purpose of this collection, note the publication of the 60-Day Federal Register Notice, and provide the list of forms within this collection.

The purpose of the Information Collection Request is to provide a method for contractors operating at Department of Energy (DOE) sites to voluntarily report nuclear safety and worker safety and health regulatory noncompliances to DOE as described in 10 C.F.R. Part 820, *Procedural Rules for DOE Nuclear Activities*, and 10 C.F.R. Part 851, *Worker Safety and Health Program*. The collected information allows DOE to monitor contractor compliance with regulatory safety requirements, provide incentives for noncompliance self-reporting and correction, and determine when to initiate enforcement proceedings against a contractor for violating applicable requirements. Information is collected through DOE's **Noncompliance Tracking System (NTS)**. All respondents who elect to submit information to the collection do so electronically.

The information collection in this request has been part of DOE's Environment, Health, Safety, and Security collection under OMB Control Number 1910-0300 for many years. It is being removed from that collection because it is administered by the Office of Enterprise Assessments, a different DOE office than the other collections associated with that control number.

The Department published a 60-day Federal Register Notice and Request for Comments concerning this collection in the Federal Register on September 6, 2022, volume 87, number 171, page 54486.

A.1. Legal Justification

Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.

Sections 234A (42 U.S.C. § 2282a) and 234C (42 U.S.C. § 2282c) of the Atomic Energy Act of 1954, as amended (AEA), authorize the Secretary of Energy to impose monetary penalties on DOE contractors that violate certain nuclear safety or worker safety and health requirements. Title 10 C.F.R. Parts 820 and 851 establish the procedural rules for DOE to implement these AEA provisions. Appendix A to Part 820 and appendix B to Part 851 describe DOE's use of a voluntary Noncompliance Tracking System to allow DOE contractors to elect to report regulatory noncompliances. DOE uses this information, in part, to determine when to initiate an enforcement proceeding against a contractor that has violated regulatory safety requirements.

A.2. Needs and Uses of Data

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection

DOE's Office of Enforcement uses the collected information to monitor contractor compliance with regulatory safety requirements in lieu of an onsite inspection program. DOE uses the information to

monitor trends in contractor regulatory performance, incentivize contractor self-reporting of noncompliances, ensure correction of noncompliances, and decide when to initiate enforcement proceedings against contractors. DOE has established thresholds for expected reporting into the NTS. The most serious noncompliances reported in the system may lead to an enforcement action, with the imposition of a monetary penalty, against a contractor. Reporting into the system is voluntary, but contractors that self-report noncompliances in accordance with the Department's expectations may be granted discretion (no enforcement action) or a reduction in penalties for noncompliances that result in an enforcement action. DOE's Office of Enforcement and DOE Field Element representatives also use the collected information to ensure that contractors take appropriate actions to correct noncompliances to prevent adverse safety conditions from recurring.

A.3. Use of Technology

Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

One hundred percent of the information is collected electronically using a web-based data entry form. The data collection form and database functionality are evaluated periodically and updated when warranted based on user feedback and Departmental needs to simplify data entry and enhance user search and analysis capabilities to maximize database utility.

A.4. Efforts to Identify Duplication

Describe efforts to identify duplication.

The information in other DOE collections cannot be used or modified because those collections are based on mandatory reporting required by internal DOE directives. This collection is voluntary and for purposes associated with a function prescribed by federal regulations.

A.5. Provisions for Reducing Burden on Small Businesses

If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have a significant economic impact on small businesses or small entities. For DOE contractors and subcontractors that are small businesses, DOE permits the cognizant DOE field element or DOE prime contractor to submit reports on behalf of contractors that wish to submit a report to the collection. Small businesses are also encouraged to contact the Office of Enforcement directly for assistance in submitting to the collection.

A.6. Consequences of Less-Frequent Reporting

Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Submittal of information to the collection is voluntary. However, if contractors elect to not voluntarily report noncompliances to the collection, DOE would be compelled to establish other methods to monitor contractor regulatory compliance. This would likely include periodic inspections at all DOE field

sites to assess compliance. Such a program would be costly and resource intensive. Collection of this information has been a foundational element of the Department's philosophy and approach to the enforcement of safety requirements since the program's inception in 1995. The thresholds for reporting are reviewed routinely to ensure the reporting burden is minimized but sufficient to meet Departmental needs for monitoring worker and public safety.

A.7. Compliance with 5 CFR 1320.5

Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines:

- (a) requiring respondents to report information to the agency more often than quarterly;**
- (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- (c) requiring respondents to submit more than an original and two copies of any document;**
- (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years;**
- (e) in connection with a statistical survey, that is not designed to product valid and reliable results that can be generalized to the universe of study;**
- (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- (g) that includes a pledge of confidentiality that is not supported by authority established in stature of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

(a) Reporting to this collection is event-based, although voluntary. Respondents are expected to submit information to the collection when safety events that meet certain criteria occur. This could be more often than quarterly.

A.8. Summary of Consultations Outside of the Agency

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5CFR 320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOE to obtain their views on the availability of data, frequency of collection, the clarity of instructions and

recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or report.

The Department published a 60-day Federal Register Notice and Request for Comments concerning this collection in the Federal Register on September 6, 2022, volume 87, number 171, page 54486. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. No comments were received.

DOE did not consult with entities outside the agency as all respondents are under contract to DOE or are a subcontractor to a DOE contractor. DOE routinely discusses the purpose and content of the collection with the respondent community and makes changes based on respondent feedback. The collection is a standard topic of discussion at DOE's annual enforcement workshop attended by most respondents.

A.9. Payments or Gifts to Respondents

Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no remuneration given for submission of any of the information other than the fact that the expense of responding is treated as an allowable cost for contractors and contractors may be granted a reduction in monetary penalties for regulatory violations that have been voluntarily reported to the collection.

A.10. Provisions for Protection of Information

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The collection does not contain personally identifiable information (PII). The confidentiality of information provided by respondents is assured by the Department's practices that comply with the law and policies listed below. Access to and within the collection database is strictly controlled based on a respondent's job function and need to know.

- Privacy Act of 1974, as amended
- DOE Order 206.1, *Department of Energy Privacy Program*, 11/1/18
- DOE Order 205.1C, *Department of Energy Cyber Security Program*, 2/3/22
- DOE Order 200.2, *Information Collection Management Program*, 10/11/06

A.11. Justification for Sensitive Questions

Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOE considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection **does not** request information pertaining to sexual behavior and attitudes, religious beliefs, or any other personal or private matters. It also does not contain PII.

A.12A. Estimate of Respondent Burden Hours

Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

The estimated burden is based on the average number of reports submitted over the past 3 years and the professional judgment of individuals who interact with the respondents and review their submittals. DOE received 222 reports in 2019, 194 reports in 2020 and 213 reports in 2021 in the collection. The estimated burden has increased over previous years due to greater complexity and detail in the information voluntarily submitted to the collection by respondents. The estimated burden reflected in the disclosure statement for the existing data collection instrument will be updated when a new OMB control number is obtained.

Table A1. Estimated Respondent Hour Burden

Form Number/Title (and/or other Collection Instrument name)	Type of Respondents	Number of Respondents	Annual Number of Responses	Burden Hours Per Response	Annual Burden Hours	Annual Reporting Frequency
NTS	Federal contractors	30	210	12	2,520	7
TOTAL		30	210		2,520	

A.12B. Estimate of Annual Cost to Respondent for Burden Hours

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under ‘Annual Cost to Federal Government’.

The fully burdened hourly wage rate was determined from the March 2022 Bureau of Labor Statistics data for private industry workers in business occupations within the trade, transportation, and utilities industry of the service-providing industries.¹

Table A2. Estimated Respondent Cost Burden

Type of Respondents	Total Annual Burden Hours	Hourly Wage Rate	Total Respondent Costs
NTS	2,520	\$74	\$186,480
TOTAL	2,520		\$186,480

¹ [Employer Costs for Employee Compensation - March 2022 \(bls.gov\)](https://www.bls.gov/news.release/empcost.pdf)

A.13. Other Estimated Annual Cost to Respondents

Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no additional costs to respondents. The information is collected using computer equipment that has been provided to respondents for other purposes (i.e., daily work activities).

A.14. Annual Cost to the Federal Government

Provide estimates of annualized cost to the Federal government.

The estimated annualized cost to the Federal government is based on the estimated time and cost for Federal employees in the Office of Enforcement and at DOE field sites to evaluate respondent submittals, the time and cost of Federal and contractor support to assist respondents, and annualized information technology (IT) support costs for system maintenance and updates.

The review of respondent submittals and record keeping burden is estimated at 3 hours per response for Office of Enforcement staff and 1 hour per response for DOE field personnel. The cost of this burden is estimated at \$108 per hour for enforcement staff based on the 2022 GS-15, Step 5 salary for the Washington, D.C. locality, and \$81 per hour for DOE field staff based on the 2022 GS-14, step 5 salary for the rest of the U.S. locality, which include 34% for employee fringe benefits and overhead costs.

The cost of federal and contractor support to assist respondents is estimated at 30 percent of each employee's time; one at a 2022 GS-13, step 10, Washington, D.C. locality area fully burdened rate of \$89 per hour; and one at a fully burdened support contractor rate of \$54 per hour.

- Estimated government cost to review collection submittals is \$108/hour for 630 hours (\$68,040) and \$81/hour for 210 hours (\$17,010): \$85,050
- Estimated cost of government support to respondents is \$89/hour for 624 hours (\$55,536) and \$54/hour for 624 hours (\$33,696): \$89,232
- Estimated annualized Federal IT system cost: \$25,000
- Total estimated annualized cost for this package: \$199,282

This total has been rounded up to \$200,000.

A.15. Reasons for Changes in Burden

Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

This is a new collection.

A.16. Collection, Tabulation, and Publication Plans

For collections whose results will be published, outline the plans for tabulation and publication.

None of the information associated with this collection will be published.

A.17. OMB Number and Expiration Date

If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The OMB number and expiration date will be displayed in the system for this collection.

A.18. Certification Statement

Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

The Department of Energy is not requesting any exceptions to the certification statement provided in Item 19 of OMB Form 83-I.