FINAL OMB SUPPORTING STATEMENT
FOR
REQUESTS TO
AGREEMENT STATES AND NON-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.

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).

As of the date of this package submission to OMB, there are 39 Agreement States. Three additional states are in the process of becoming Agreement States (Indiana, Connecticut, and West Virginia) and there are 10 non-Agreement States (including U.S. Territories). Over time, the Agreement State number may change, if additional non-Agreement States elect to participate in the Agreement State program.

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 17,280 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.

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 periodic one-time collection of data from the individual Agreement States and non-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 percent 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 and non-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 and non-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 June 13, 2024 (89 FR 50380). Four states' Radiation Control Program Directors were contacted via email as part of the consultation process. No comments were received in response to the FRN or the consultation emails.

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 submission of any sensitive information.

12. Estimated Burden and Burden Hour Cost

The NRC issues about 10 information requests annually to the 39 Agreement States and Connecticut, Indiana, and West Virginia 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. The NRC anticipates issuing 4 requests annually to 10 Non-Agreement States. Each request is estimated to require 8 hours per State to respond.

Non-Agreement States can elect to become an Agreement State. Changes in the number of Agreement States vs. Non-Agreement States will correspondingly alter the annual burden hours based on the above Agreement States and Non-Agreement States estimated burden hours.

Following is a summary of estimated burden and responses, based on a 30 percent response rate for comment requests and a 100 percent response rate for information requests.

	Respondents	Annual Requests	Response rate	Total Responses	Burden per Response	Total Burden
AS Information Requests	42	10	1	420	8	3,360
AS Comment requests	42	20	0.3	252	8	2,016
Non-AS requests	10	4	0.3	12	8	96
Annual Total	52	34		684		5,472
Total Over the 3-Year Clearance Period	**52**	**102**		**2,052**		**16,416**

The total estimated burden for the collection is 16,416 hours and 2,052 responses over the three-year clearance period at cost of $4,924,800 (16,416 hours x $300/hr).

The $300 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 2023 (88 FR 39120, June 15, 2023).

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 750 hours annually on the exchange of information with Agreement and non-Agreement states. Using the staff hourly rate of $300, the annual cost to the NRC is approximately $209,250 (750 x $300 per hour).

15. Reasons for Change in Burden

The burden imposed on Agreement States increased from 5,120 hours to 5,376 hours annually (from 15,720 to 16,416 hours over the three year clearance period.) This is due to the number of Agreement States and the number of Agreement State applicants increasing from 40 to 42. The burden imposed on Non-Agreement States decreased from 120 hours to 96 hours annually due to decrease in the number of Non-Agreement States from 12 to 10.

In addition, the appearance of a change in the burden cost is due to a data entry correction. In the last renewal, the burden cost was entered as the agency's fee rate times the burden hours, rather than the additional costs (i.e., equipment, recordkeeping costs). There are no additional costs (burden cost) associated with this collection.

Finally, the staff hourly rate increased from $279 to $300 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 and non-Agreement States. In the case of an exigent or unique circumstance which would trigger a telephonic NRC survey of respondents, 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.