

FINAL SUPPORTING STATEMENT FOR
NRC'S POLICY OF COOPERATION WITH STATES AT
COMMERCIAL NUCLEAR POWER PLANTS
AND OTHER NUCLEAR PRODUCTION AND UTILIZATION FACILITIES
(3150-0163)

EXTENSION

Description of the Information Collection

The Atomic Energy Act of 1954, as amended (Act), includes Section 274, "Cooperation With States" which authorizes the U.S. Nuclear Regulatory Commission (NRC) to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. Also, Section 161 of the Act allows NRC to "... utilize or employ the services of personnel of any government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable." Based on these legislative provisions, the Commission has a number of programs and activities which involve coordination with States, requesting their input on proposed policies and rules, and exchanging information on reactor status, radioactive waste issues, transportation, emergency planning and preparedness and other topics. The information collection requirements for which the Office of Management and Budget (OMB) approval is being sought are contained in an existing NRC policy statement entitled, "Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities," which was published at 57 FR 6462, February 25, 1992. The policy sets a uniform means for States to observe and participate in NRC inspections at nuclear power plants. The NRC Office of State and Tribal Programs (STP) has the responsibility within NRC for administering this policy statement and other programs involving interactions with States.

A. JUSTIFICATION

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

States are involved and interested in monitoring the safety status of nuclear power plants. This involvement is, in part, in response to the States' public health and safety responsibilities and, in part, in response to their citizens' desire to become more knowledgeable about the safety of nuclear power plants. States have identified NRC inspections as one possible source of knowledge for their personnel regarding plant activities, and NRC, through the policy statement on Cooperation With States, has been amenable to accommodating the States' needs in this regard.

In order for States to be involved in NRC's inspection program, there are several information collections required:

- The States must request, in writing, to observe an inspection, identifying the type of inspection activity and facility to be observed.

- If a State is not the host State to a facility, the State must inform the host State of its request to NRC for observation of an inspection.
- If a State desires to enter into an instrument of cooperation with the NRC, the State must identify the planned activities and propose a program that specifies qualification requirements. The State must transmit any findings to NRC in accordance with Federal and NRC regulations. All written communications with an NRC licensee must be made through NRC. If the State prepares a written report of the results of an inspection activity covered under a Memorandum of Understanding (MOU) under this policy, the report will not be sent directly to the licensee, but will be sent to the appropriate NRC regional office. If NRC identifies potential violations of NRC regulatory requirements as a result of the State's inspection activities, the State will assist NRC in the preparation of enforcement actions.
- Any State that holds an instrument of cooperation is encouraged to modify the agreement if necessary to conform with this policy statement.
- When a State observer's conclusions differ substantially from those of an NRC inspector, the State will notify the NRC team leader and forward those views in writing to the appropriate NRC Regional Administrator.
- STP and the Regional State Liaison Officers are the chief negotiators with States for MOU's which cover specific activities of cooperation such as low-level radioactive waste storage inspections, transportation and packaging or nuclear power plant inspections. This negotiation requires frequent exchange of information regarding the State's inspection qualification program and other factors which require consideration.

NRC requires the requested information to identify when a State is interested in either observing an NRC inspection or performing inspections for the NRC and that all applicable requirements are satisfied.

2. Agency Use of the Information.

NRC uses this information to determine when a State has the desire to observe or accompany NRC on an inspection and if the State has special needs which would require specific training or additional meetings. NRC would also use this information to identify trends which may signal the need for additional NRC actions, policies or guidance. If the State is requesting an agreement to participate in an NRC inspection, NRC must determine that the State meets the following six criteria before it can begin a program of participation in NRC inspections: The State must propose a program that (1) recognizes the Federal Government, primarily NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act; (2) is in accordance with Federal standards and regulations; (3) specifies minimum education,

experience, training, and qualifications requirements for State representatives which are patterned after those of NRC inspectors; (4) contains provisions for the findings of State representatives to be transmitted to NRC for disposition; (5) would not impose an undue burden on the NRC and its licensees and applicants; and (6) abides by NRC protocol not to publicly disclose inspection findings prior to the release of the NRC inspection report. The NRC will also use State inspection results as a supplement to its inspection activity and may use State inspection results in order to take appropriate enforcement action.

Consistent with Section 274c. of the Act, as amended, the NRC will not consider State proposals for instruments of cooperation that do not include the elements listed above, which are designed to ensure close cooperation and consistency with the NRC inspection program. As a practical matter, the NRC is concerned that independent State inspection programs could direct an applicant's or licensee's attention to areas not consistent with NRC safety priorities, misinterpret NRC safety requirements, or give the perception of dual regulation. For purposes of this policy, an independent State inspection program is one in which State representatives would conduct inspections and assess NRC-regulated activities on a State's own initiative and authority without close cooperation with, and oversight by, an authorized NRC representative. NRC uses the requested information to ensure that the above criteria are satisfied.

3. Reduction of Burden Through Information Technology.

NRC encourages the use of information technologies to reduce the burden wherever applicable (e.g., State inspection observation requests may be made through electronic communication).

4. Effort to Identify Duplication and Use of Similar Information.

The collection of the information required is not a duplication of other information the States must submit for other purposes because the information requested is strictly related to observation or participation in NRC inspection activities. The Information Requirements Control Automated System (IRCAS) was searched and no duplication was found.

5. Effort to Reduce Small Business Burden.

None of the State agencies affected qualify as small business enterprises or entities.

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

If the required information were not obtained from interested States, NRC would not be able to process State requests to observe NRC inspections at nuclear power plants or to respond to a State's request to enter into an MOU for the purpose of performing inspections for the NRC. This would not further the Commission's policy of allowing States to observe or participate in inspections or

meet the needs of States which desire this additional information. The information is required to determine if the State has met the applicable Federal and NRC requirements to ensure close cooperation and consistency. The frequency of collection is dependent upon the States' interest at the time. There is no set frequency for when the States make a request.

7. Circumstances Which Justify Variation from OMB Guidelines.

There is no variation from OMB Guidelines.

8. Consultations Outside the NRC.

The opportunity to comment on the information collection requirements was published in the Federal Register on May 8, 2003 (68 FR 24764). No comments were received.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of the Information.

Proprietary and safeguards information would be handled with confidentiality. All other information would be made part of the public record.

11. Justification for Sensitive Questions.

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

12. Estimated Burden and Burden Hour Cost.

There is a universe of 50 potential respondents (the 50 States). It is estimated that the 50 States would expend an average of 10 hours annually providing a total of 50 responses to information requests from NRC for a total annual burden of 500 hours (10 hours per response x 50 responses). The total annual cost is \$78,000 (500 x \$156/hr). This estimate represents the outer range since it assumes information is provided by all 50 States. Currently, 31 States have nuclear power plants which are licensed to operate. To date, only one State (Illinois) has negotiated two memoranda of understanding with the NRC under this policy to perform inspections for the NRC. Since the policy on cooperation with States went into effect in 1989, representatives from 14 States and the Prairie Island Dakota Indian Community have signed protocols to observe NRC inspections at nuclear power plants.

50 Respondents, 50 Responses and Total Burden of 500 hours.

13. Estimate of Other Additional Costs.

None.

14. Estimated Annualized Cost to the Federal Government.

It is estimated that the NRC staff expends an average of 500 professional hours annually in support of this program. Staff experience indicates approximately 100 hours of clerical time is expended annually. Based upon current estimates, using loaded labor rates of \$156/hour and \$60/hour, respectively, the annual cost to the Government would be approximately \$84,000 (500 hrs. x \$156/hr.= \$78,000 + 100 hrs. x \$60/hr.= \$6,000). This cost is fully recovered through fee assessments to NRC licensees pursuant to 10 CFR 170 and 171.

15. Reasons for Changes in Burden or Cost.

There were no changes in burden. The staff professional and clerical hourly rates changed from \$143/hour to \$156/hour and from \$45/hour to \$60/hour, respectively.

16. Publication for Statistical Use.

There is no application of statistics in the information collection. There is no publication of this information.

17. Reason for Not Displaying the Expiration Date.

The Paperwork Reduction Act Statement is in the policy statement; however, it is impractical to put the expiration date in the statement. Doing so would require republishing the policy statement every time a renewal of the information collection requirements was approved by OMB.

18. Exceptions to the Certification Statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.