DRAFT OMB SUPPORTING STATEMENT
FOR
10 CFR PART 61
LICENSING REQUIREMENTS FOR
LAND DISPOSAL OF RADIOACTIVE WASTE
(3150-0135)

Renewal

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) regulations in 10 CFR Part 61 establish, for land disposal of radioactive waste, the procedures, criteria, and terms and conditions upon which the NRC issues licenses for the disposal of low-level radioactive wastes (LLW) containing byproduct, source, and special nuclear material received from other persons. The regulations are issued pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended.

A. Justification

1. Need for and Practical Utility of the Information Collection

10 CFR Part 61 requires information submissions in the form of applications, reports, and records. The NRC or Agreement State staff need these to ensure the provision of an adequate level of protection of public health and safety, common defense and security, and the environment. Information concerning the requirements imposed by specific sections of 10 CFR Part 61 is provided below.

Section 61.3(b) requires that an application be filed and license be obtained before commencement of construction of a land disposal facility.

The information submitted in the application pursuant to this section and other sections described below is reviewed by various NRC organizational units to assess the adequacy of the applicant's physical plant, equipment, organization, training, experience, procedures and plans for protection of the public health and safety, common defense and security, and the environment. The NRC review and the findings derived therefrom form the basis for NRC decisions concerning the issuance, modification, or revocation of licenses for land disposal of radioactive waste.

Section 61.6 provides that the Commission may, upon application by any interested person, or upon its own initiative, grant any exemption from the requirements of the regulations as it determines is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Section 61.9a(b) requires that an applicant or licensee notify the Commission of information which the licensee recognizes as having significant implications for the public health and safety or the common defense and security. This requirement applies only to information which is not covered by other reporting or

updating requirements. The information must be provided within two working days.

This requirement is necessary because there may be some circumstances in which a licensee possesses some information which could be important to the protection of public health and safety or the common defense and security but which is not otherwise required to be reported. The codification of this full disclosure requirement should not result in significant additional burdens on applicants or licensees. No formal program is required. What is expected is that licensees will maintain a professional attitude toward safety and that if some potential safety information is identified by the licensee, the information will be provided freely and promptly to the NRC so that the agency can evaluate it and act on it if necessary.

Section 61.10 requires that an application contain information as set forth in Sections 61.11 through 61.16 and indicates that an environmental report in accordance with 10 CFR Part 51 must also accompany the application.

Section 61.11 outlines general information needed to clearly identify the applicant, to describe the applicant's qualifications, and to provide an overview of the project. This information is used to determine who is the legally appropriate licensee, that the applicant can safely conduct the proposed activities, and to understand the scope of the proposed activities.

Section 61.12 specifies the information required to be submitted concerning the disposal site, including: (a) natural and demographic site characteristics; (b) design features of the land disposal facility and the disposal units; (c) principal design criteria and their relationship to the performance objectives; (d) design basis natural events or phenomena and their relationship to the principal design criteria; (e) codes and standards applied to the design and which will apply to construction of the facilities; (f) construction and operation of the facility; (g) site closure plan, (h) natural resources at the site that could attract exploitation; (i) radioactive material to be disposed of; (j) quality control program for design, construction, operation and closure; (k) radiation safety program for control and monitoring of radioactive effluents; (l) environmental monitoring program and plan for corrective measures; (m) administrative procedures to be applied to control activities at the land disposal facility, and (n) a description of the land disposal facility electronic recordkeeping system. This information is needed to permit NRC to determine that the performance objectives of Subpart C of Part 61 and the technical requirements of Subpart D will be met.

Section 61.13 specifies additional technical analyses that must be submitted, including: (a) protection of the general public from releases of radioactive material by various pathways; (b) protection of individuals from inadvertent intrusion; (c) protection of individuals during operations; and (d) natural processes, such as erosion, settlement of wastes, and drainage, that affect the need for ongoing active maintenance after closure. This information is also required to permit a determination that the performance objectives of Subpart C will be met.

Section 61.14 specifies the information required to be provided by the site land owner or potential land owner to enable the Commission to determine that adequate institutional arrangements have been made for long-term care of the

disposal site.

Section 61.15 requires the submission of financial information sufficient to demonstrate that the financial qualifications of the applicant are adequate to carry out the activities for which the license is sought and meet other financial assurance requirements as specified in Subpart E. This information is needed for NRC to determine that there will be sufficient funds to safely carry out disposal and long-term care.

Section 61.16 specifies information concerning safeguards and safety, including criticality, that may be required with regard to special nuclear material. This section primarily reflects existing requirements in other parts of the Commission's regulations concerning special nuclear material, and is needed since Part 70 licenses are no longer issued to waste disposal licensees. The information is reviewed by the NRC licensing staff to assure safety, security, and accountability of special nuclear material.

Section 61.20 requires applicants to maintain capability to generate additional copies of the application for distribution in accordance with instructions from NRC.

Section 61.22(b) requires that the applicant supplement or update the application as necessary prior to issuance of a license. This requirement is needed to ensure that the Commission receives information concerning any changes in the activities proposed to be carried out or new information regarding the proposed activities.

Section 61.24(b) provides that NRC may require further statements after the filing of the application and before expiration of the license to enable NRC to determine whether the application should be granted or denied or whether a license should be modified or revoked. Such additional information is sometimes needed to clarify information submitted in the application, or to rectify deficiencies in proposed or existing programs for protection of the public health and safety, the common defense and security, or the environment.

The additional information submitted is reviewed by various NRC organizational units to assess the adequacy of the applicant's physical plant, procedures and plans for protection of the public health and safety, common defense and security, and the environment. The NRC review and the findings therefrom form the basis for NRC decisions concerning the issuance, modification, or revocation of licenses.

Section 61.24(k) requires that a licensee immediately notify the appropriate NRC Regional Administrator in writing following the filing of a bankruptcy petition by or against the licensee or a controlling or affiliate entity. No action is required of a licensee unless, and until, a petition for bankruptcy is filed.

This information is needed because a licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, a licensee involved in bankruptcy proceedings can have problems affecting payment for proper handling of radioactive material and for decontamination and decommissioning of the licensed facility in a safe manner. Improper materials handling or

decontamination activities can lead to spread of contamination throughout a licensee's facility and the potential for dispersion of contaminated material offsite. Financial difficulties can also result in problems affecting the licensee's waste disposal activities.

The information provided by the notification would be used by the staff to initiate a determination of the need for prompt NRC response or regulatory action in the event of a potential hazard to public health and safety posed by a licensee that does not have the resources to properly secure licensed material or clean up possible contamination. In addition, prompt notification would allow the Commission to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of cleanup before funds are disbursed and become unavailable for cleanup.

Section 61.26 requires that an application for an amendment of a license must be filed in accordance with Section 61.20 and must fully describe the changes desired. This information is reviewed by the NRC licensing staff to ensure that the desired amendments will afford an adequate level of protection of the public health and safety, the common defense and security, and the environment.

Section 61.27 requires that an application for renewal or site closure must be filed in accordance with Sections 61.10 through 61.16, 61.20, and 61.28.

Section 61.28 specifies the information required in an application for site closure following disposal operations. The information will be reviewed by the NRC staff to determine whether, in the case of a renewal, the requirements for a new license are met, and for site closure, whether there is reasonable assurance that the long-term performance objectives of Subpart C of Part 61 will be met.

Section 61.30 specifies that the licensee may apply for an amendment to transfer the license to the site owner. The application will be reviewed by the NRC staff in order to make necessary findings to ensure that the license for the site can be safely transferred from the site operator to the site owner. The site owner provides licensed institutional control and care of the site for up to 100 years.

Section 61.30(a)(3) requires the licensee to transfer any funds for care and records required by Sections 61.80(e) and (f) to the disposal site owner upon transfer of the license to the disposal site owner. This transfer of funds and records is necessary to ensure that adequate funding and information will be available to maintain the disposal site.

Section 61.31 specifies that, following the period of institutional control, the licensee may apply for an amendment to terminate the license. The application will be reviewed by the NRC licensing staff in order to make necessary findings that institutional control requirements have been met, that any additional requirements resulting from new information developed during the institutional control period have been met, and that permanent monuments or markers warning against intrusion have been installed.

Section 61.31(c)(3) requires the licensee to send the records required by Sections 61.80(e) and (f) to the party responsible for institutional control of the disposal site and to send a copy to the NRC Regional Office immediately prior to license termination. Forwarding site records is necessary to ensure that

adequate information will be available to maintain the disposal site after it has been closed.

Section 61.53 requires the licensee to maintain an environmental monitoring system, requires plans for taking corrective measures if migration of radionuclides would indicate that the performance objectives of Subpart C may not be met, and requires that the licensee must, during site construction and operation, maintain a monitoring program and keep records of measurements and observations to provide data for evaluation of potential health and environmental impacts.

Section 61.55(a)(2)(iv) specifies that a licensee may submit a proposal for disposal, pursuant to Section 61.58, of waste greater than Class C. This requirement is needed to allow licensees the flexibility of safely disposing of waste that does not fit into existing categories. The information submitted will be reviewed by the licensing staff to determine whether the proposal as to waste form and disposal method will provide an adequate level of protection of the public health and safety and the environment.

Responsibility for disposal of greater than Class C waste was transferred to the Federal government under the Low Level Radioactive Waste Policy Amendments Act of 1985. Therefore, no burden is expected to be incurred under this section.

Section 61.58 provides that the Commission may, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste. Requests under this section are examined by the staff to determine whether, after evaluation of the specific characteristics of the waste, disposal site, and method of disposal, there is reasonable assurance of compliance with the performance objectives of Subpart C.

Section 61.61 requires each applicant to show that its financial position is such that the estimated costs of conducting all licensed activities can be met. This is needed to help ensure that the facility will be constructed, operated, and closed according to the license.

Section 61.62 requires the applicant to provide assurance that sufficient funds, including sureties, will be available to carry out orderly disposal site closure and stabilization. This information will be reviewed by the NRC staff to ensure that sufficient funds are available for completion of the closure plan, including contingencies to assure adequate closure in the event of licensee financial problems or early closure.

Section 61.63 requires the applicant to provide a copy of a binding arrangement (and any subsequent changes) between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. This is necessary to assure that sufficient funds are available for post-closure activities.

Section 61.72 allows a State or tribal governing body whose interest is affected by a near-surface disposal facility to submit a formal proposal for participation in the review of a license application. This information is necessary in order to provide a State or tribal body greater input during the licensing process.

Section 61.80(f) requires that the licensee keep records on the waste received for disposal, including date received, a traceable shipment manifest number, a description of any engineered barrier or structural overpack, the volume of pallets or bracing disposed of with the waste, the location in the disposal site, condition of the waste package as received, any discrepancies between the manifest and the waste actually received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of regulatory limits. The licensee must also describe any repackaging operations and provide any other information that may be required by license condition. This information will be used to help generate inventory data and data on the condition of the waste for estimating source terms and identifying problem shippers who need to improve their programs for preparing waste for shipment. The data will be used by the operators to evaluate waste handling procedures to be sure the procedures are adequate to protect workers handling waste in the condition in which it actually arrives, not just as it is expected to arrive. It also permits determination of waste handling time between waste receipt and disposal (potential worker exposures) and permits accurate tracing of the location of waste within the disposal site.

Sections 61.80 (g) and (j) provide that the licensee must comply with specified safeguards reporting requirements contained in Parts 30, 40, 70 and 74 of the Commission's regulations. Information submitted pursuant to these requirements is needed for the NRC to carry out its statutory responsibility to protect the common defense and security and to permit NRC to take any necessary action in response to a criticality accident or loss or theft of nuclear material.

Section 61.80 (h) requires an annual financial report. The stability and financial soundness of disposal site operators is important to prevent abandonment of the sites or inability to carry out disposal in accordance with approved procedures because of shortage of funds. The financial information will be reviewed by the NRC staff for early warning of the possible development of such problems.

Section 61.80 (i) requires an original and two copies of an annual report on site activities. The information to be reported includes summaries of environmental releases, environmental monitoring data, waste that has been disposed of, maintenance activities, and new data on the site, if any. Such summary data is needed to help the Commission monitor the continuing validity of the initial findings on which the license was issued.

Section 61.80 (k) provides that the licensee must comply with specified provisions of Parts 30, 40, and 70 for any transfer by the licensee of byproduct, source, or special nuclear material.

Section 61.80 (l) requires the low-level waste facility operator to store manifest and other information pertaining to receipt and disposal of LLW in an electronic recordkeeping system. In addition, the operator must report specified manifest information to the NRC on a computer-readable medium. Because thousands of manifest documents will be used annually, submittal of necessary documentation in a medium other than electronic would be an inefficient use of licensee and NRC resources. Requiring that the data be stored electronically also ensures that the licensee is using the same database as that submitted to the NRC, thus reducing potential duplication and error. All current operators use electronic recordkeeping.

2. Agency Use of Information

The general, technical, institutional, and financial information included in applications used by NRC to determine that the proposed activities can be conducted safely and that they will not be inimical to the common defense and security and will not constitute an unreasonable risk to the public health and safety or the environment.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means.

The approach throughout Part 61 was to specify the necessary information but not to specify how the information must be maintained. For example, no application form is specified, and Section 61.80(c) explicitly allows the use of microfilm for recordkeeping. However, Section 61.80(l) requires each low-level waste facility operator to store manifest and other information pertaining to receipt and disposal of LLW in an electronic recordkeeping system. In addition, the operator must report specified manifest information to the NRC on a computer-readable medium. As a result, the NRC estimates the 100% of the manifest information on and other information pertaining to receipt and disposal of LLW is maintained and reported electronically. However, because of the types of information and the infrequency of submission, other information collections under Part 61 are generally not submitted electronically.

4. Effort to Identify Duplication and Use Similar Information

The collection of the information required is not a duplication of other information. No sources of similar information are available and there is no duplication of requirements. Section 61.21 specifically provides an opportunity for the applicant to avoid repetition in filing licensing submittals by referencing previously submitted material. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

5. Effort to Reduce Small Business Burden

Applicants for operation of a disposal site may be small businesses. However, since the total number of applicants is expected to be small and the information needs are the same for both large and small entities, it is not possible to reduce the burden on small businesses by less frequent or less complete reporting or recordkeeping procedures.

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

Not conducting the information collection or less frequent information collection would compromise NRC's ability to make licensing decisions and monitor the continuing safety of disposal operations. Applications are required only when a licensing action is required. Reports are required annually on financial status and site operations. Less frequent reports would not give early warning of potential problems.

7. Circumstances Which Justify Variation from OMB Guidelines

Section 61.9(a)(b) requires that an applicant or licensee submit a notification to NRC in less than 30 days from the date of identifying information having significant implications for the public health and safety or the common defense and security and which is not covered by other reporting requirements. The requirement to provide notification within two working days following the identification of the information is necessary to ensure that NRC is made aware of the significant safety information so as to take prompt effective action to protect the public health and safety.

Section 61.24(k) requires that licensees submit a notification to NRC in less than 30 days from the date of filing of a petition in bankruptcy. The requirement to provide notification promptly following the filing of the petition is necessary to ensure that NRC is made aware of the bankruptcy so as to take effective action to protect the public health and safety. Allowing a period of 30 or more days to elapse might preclude NRC from becoming aware of the licensee's distressed financial circumstances in time to prevent the development or aggravation of a potential hazard to the public. Moreover, the United States Code contains requirements regarding notification of creditors in bankruptcy. Notifying NRC promptly after the filing of the petition would, in fact, be less of a burden on the bankrupt than a separate notification later in the proceedings. These records would be transferred to a specified local, state, or Federal government official.

Section 61.20 requires applicants to maintain the capability to generate additional copies of the application for distribution in accordance with instructions from the NRC. This allows the NRC to request additional copies to State and local governments, Indian tribes, other Federal agencies, and other persons or entities affected by the application. However, current licensees and applicants are located in Agreement States. Therefore, the NRC has not used the provision to generate additional copies of those applications. In addition, the NRC does not anticipate receiving any applications in the next three years.

8. Consultations Outside the NRC

An opportunity to comment on the Information Collection Requirements has been published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

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

11. Justification for Sensitive Questions

None.

12. Estimated Burden and Burden Hour Cost

There are three low-level waste disposal facility licenses that have been issued by the Agreement State licensees and are still in effect (in SC, WA, and UT). In addition, there is one applicant for a new facility (submitted to an Agreement State [TX] on August 4, 2004.) The NRC expects this applicant may be licensed within the next three years. NRC has no existing disposal facility licensees, and no NRC applications are expected in the next three years. The burden estimates in this document reflect the burden on these three licensees and one applicant.

The following table documents the total burden for the three licensees and one applicant under Part 61. For a breakdown of reporting and recordkeeping burden, please see Table 1 and Table 2, respectively.

	NRC Licensees (hrs/yr)	Agreement State Licensees (hrs/yr)	Cost at $258/hr
Reporting	0	56	$14,448
Recordkeeping	0	5,356	$1,381,848
Total	0	5,412	$1,396,296

The total burden and cost for Part 61 for respondents to respond to the information collection activities is 5,412 hours at $1,396,296 ($258/hr x 5,412 hrs). Costs are estimated based on the rate used in NRC's license fee rule.

13. Estimate of Other Additional Costs

NRC has determined that the records storage cost is roughly proportional to the recordkeeping burden cost. Based on a typical clearance, the records storage cost has been determined to be equal to .0004 times the recordkeeping burden cost. Therefore, the storage cost for this clearance is estimated to be $553 (5,356 recordkeeping hours x .0004 x $258/hr).

14. Estimated Annualized Cost to Federal Government

There is no estimated annual cost to the Federal government for reviewing applications and reports, responding to notifications, and inspecting applicable records. Because the three licensees and one applicant are in Agreement States, the States in which they are located are responsible for these functions.

15. Reasons for Changes in Burden or Cost

The burden for this information collection has not changed; however, there is a change in cost due to an increase in the hourly rate from $156/hr to $258/hr.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

The requirements are contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become out of date, would confuse the public.

18. Exceptions to the Certification Statement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.

Table 1
Annual Reporting Requirements Under 10 CFR 61

Section	No. of Respondents	Responses per Respondent	Total Responses	Burden Hours per Response	Total Annual Burden (Hrs)
61.3(b), 61.11, 61.12, 61.13, 61.14, 61.15, 61.20, 61.22(b), 61.24(b)	0	0	0	18,000	0
61.6	0	0	0	2	0
61.9a(b)	0	0	0	1	0
61.10	Included in 61.3(b) above or in 10 CFR Part 51, OMB No. 3150-0021				
61.16	Included in 61.3(b) above or in OMB Clearances 3150-0009 or 3150-0002				
61.24(k)	0	0	0	0.5	0
61.26	0	0	0	500	0
61.27, 61.28, 61.30, 61.27	0	0	0	2,500	0
61.61	0	0	0	2,000	0
61.55(a)(2)(iv)	0	0	0	2,000	0
61.58	0	0	0	1,000	0
61.72	0	0	0	2	0
61.80(g),(j)	Included in OMB Clearances 3150-0017, 3150-0020, and 3150-0009				
61.80(h)	4	1	4	1	4
61.80(i)	4	1	4	9	36
61.80(l)	4	1	4	4	16
Total			12		56

NOTE: The four respondents indicated are Agreement State licensees (SC, WA, and UT), and one Agreement State applicant (TX). NRC has no existing disposal facility licensees, and no NRC applications are expected in the next three years.

Table 2

Annual Recordkeeping Requirements Under 10 CFR 61

Section	No. of Recordkeepers	Burden Hrs per Recordkeeper	Total Burden (hrs/yr)	Record Retention
61.30(a)(3)	4	4.5	18	Duration of License
61.31(c)(3)	4	5.5	22	Duration of License
61.53	4	960	3,840	Duration of License
61.80(f)	4	369	1,476	Duration of License
61.80(k)	Included in OMB Clearances 3150-0017, 3150-0020, and 3150-0009			
61.80(l)	Included in 61.80(f) and 10 CFR Part 20 Appendix G			
Total	4		5,356	

NOTE: The four respondents indicated are Agreement State licensees (SC, WA, and UT), and one new Agreement State applicant (TX). NRC has no existing disposal facility licensees, and no NRC applications are expected in the next three years.

Total Overall Responses = 16 (12 responses for reporting + 4 recordkeepers)
Reporting + Recordkeeping hours = 5,412 (5,356 reporting + 56 recordkeeping)
Total Cost to Respondents = $1,396,296 (5,412 burden hours x $258/hr)