

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

EXTENSION

Description of the Information Collection

The Nuclear Regulatory Commission (NRC) regulations in 10 CFR Part 61, establish the performance objectives, procedures, criteria, and terms and conditions upon which the NRC issues licenses for the land 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. The supporting statement lists the information needed to support the application and operation of a land disposal facility that is required to be submitted under 10 CFR Part 61 by the applicants for or licensees of LLW disposal sites to ensure the adequate protection of public health and safety, common defense and security, and the environment during the disposal site's licensing period.

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 needs this information to ensure adequate protection of public health and safety, common defense and security, and the environment. The information collection needs relative to requirements imposed by specific sections of 10 CFR Part 61, are provided in Appendix A.

2. Agency Use of Information

The general, technical, institutional, and financial information included in the applications will be used by the NRC to determine whether the proposed activities can be conducted safely without harming common defense and security and constituting 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. The NRC estimates that the overall percentage of responses filed electronically under 10 CFR Part 61 is 80%.

The approach throughout 10 CFR 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 LLW 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 pertinent manifest information to the NRC on a computer-readable medium. As a result, the NRC estimates that 100% of the manifest information 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 10 CFR 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.

5. Effort to Reduce Small Business Burden

Applicants for operation of a disposal site may be small businesses. However, the total number of applicants is expected to be small and the information needs are the same for both large and small entities. As such, it is not possible to reduce the burden on small businesses by less frequent or less complete reporting. The NRC staff estimates that none of the four licensees subject to 10 CFR Part 61 are small businesses.

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 submitted only when a license is requested or for renewal. License 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 Office of Management and Budget Guidelines

Section 61.9a (b) requires that an applicant or a licensee submit a notification to the NRC in less than 30 days from the date of identifying information having significant implications for the public health and safety, the environment, or the common defense and security, 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 the NRC is made aware of the significant safety information so as to take prompt effective action to protect the public health and safety, the environment, or common defense and security.

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.

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. This notification is necessary to ensure that the NRC is made aware of the bankruptcy so as to take effective action to protect the public health and safety, the environment, and common defense and security. Allowing a period of 30 or more days to elapse might preclude the NRC from becoming aware of the licensee's distressed financial circumstances in time to prevent the development or aggravation of a potential hazard. Moreover, the United States Code contains requirements regarding notification of creditors in bankruptcy. Notifying the 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.

Sections 61.30(a)(3), 61.31(c)(3), 61.53, and 61.80(f) require retaining records longer than 3 years. Specifically, the records are required to be retained for the duration of the license. This retention period is required due to the length of time the LLW remains hazardous. Specifically, the long half-lives of some radionuclides require information about the radionuclides, their location, arrival and disposal dates, and packaging well beyond 3 years to adequately protect the public health and safety, the environment, and common defense and security.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package 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).

However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

None.

12. Estimated Burden and Burden Hour Cost

There are four low-level waste disposal facility licenses that have been issued by the Agreement State regulators that are still in effect (SC, TX, UT, and WA). 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 four licensees.

The following table documents the total burden for the four licensees under 10 CFR 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 \$265/hr
Reporting	0	56	\$14,840
Recordkeeping	0	5,316	\$1,408,740
Total	0	5,372	\$1,423,580

The total burden of 10 CFR Part 61 for Agreement State licensees to respond to the information collection activities is estimated to be 5,372 hours (56 Reporting + 5,316 Recordkeeping). The total cost is estimated to be \$1,423,580 (\$265/hr x 5,372 hrs). Costs are estimated based on the rate used in NRC's license fee rule.

13. Estimate of Other Additional Costs

The 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 0.0004 times the recordkeeping burden cost. Therefore, the storage cost for this clearance is estimated to be \$563 (5,316 recordkeeping hours x 0.0004 x \$265hr).

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 four licensees are in Agreement States, the States in which they are located are responsible for these functions.

15. Reasons for Changes in Burden or Cost

There is a reduction in cost due to a decrease in the calculated hourly rate from \$272/hr to \$265/hr. The estimated hours were not changed from the last information collection review.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying the Expiration Date

NRC is not requesting any exemptions from OMB criteria.

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	Description	No. of Respondents	Responses per Respondent	Total Responses	Burden Hours per Response	Total Annual Burden (Hrs) \$265/hr
61.3(b), 61.11, 61.12, 61.13, 61.14, 61.15, 61.20, 61.22(b), 61.24(b)	License required, General information, specific, etc	0	0	0	18,000	0
61.6	Exemptions	0	0	0	2	0
61.9a(b)	Completeness and accuracy of information	0	0	0	1	0
61.10	Content of application	Included in 61.3(b) above or in 10 CFR Part 51, OMB No. 3150-0021				
61.16	Other information	Included in 61.3(b) above or in OMB Clearances 3150-0009 or 3150-0002				
61.24(k)	Notification of bankruptcy	0	0	0	0.5	0
61.26	Amendment of license	0	0	0	500	0
61.27, 61.28, 61.30, 61.31	Renewal, closure, transfer or termination of license	0	0	0	2,500	0
61.61, 61.62	Applicant qualifications, assurances, and funding.	0	0	0	2,000	0
61.55(a)(2)(iv)	Greater than Class C waste	0	0	0	2,000	0
61.58, 61.63	Alternative requirements for waste classification and characteristics and financial assurance for institutional controls	0	0	0	1,000	0

61.72	State and tribal government consultation	0	0	0	2	0
61.80(g),(j)	Maintenance of records, reports, and transfers	Included in OMB Clearances 3150-0017, 3150-0020, and 3150-0009				
61.80(h)	Maintenance of records, reports, and transfers	4	1	4	1	4
61.80(i)	Maintenance of records, reports, and transfers	4	1	4	9	36
61.80(l)	Maintenance of records, reports, and transfers	4	1	4	4	16
Total				12		56

NOTE: The four respondents indicated are Agreement State licensees (SC, WA, TX, and UT). The 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	Description	No. of Recordkeepers	Burden Hrs per Recordkeeper	Total Burden (hrs/yr)	Record Retention
61.53	Environmental monitoring	4	960	3,840	Duration of License
61.80(e)&(f)	Maintenance of records, reports, and transfers	4	369	1,476	Duration of License
61.80(k)	Maintenance of records, reports, and transfers	Included in OMB Clearances 3150-0017, 3150-0020, and 3150-0009			
61.80(l)	Maintenance of records, reports, and transfers	Included in 61.80(f) and 10 CFR Part 20 Appendix G			
Total		4		5,316	

Table 3
Annual Third Party Disclosure Requirements Under 10 CFR 61

Section	Description	No. of Respondents	Responses per Respondent	Total Responses	Burden Hours per Response	Total Annual Burden (Hrs) \$265/hr
61.30(a)(3)	Records transfer to disposal site owner	0	0	0	4.5	0
61.31(c)(3)	Records transfer to disposal site owner and NRC	0	0	0	5.5	0
60.80(e)	Maintenance of records, reports, and transfers	0	0	0	5.5	0
Total		0		0		0

NOTE: The four respondents indicated are Agreement State licensees (SC, WA, TX, and UT). The NRC has no existing disposal facility licensees, and no NRC applications are expected in the next three years. Also, the NRC does not anticipate any of these facilities transferring or terminating their licenses in the next three years.

Total Overall Responses = 16 (12 responses for reporting + 4 recordkeepers)

Total Burden Hours = 5,372 (56 reporting + 5,316 recordkeeping)

Total Cost to Respondents = \$1,423,580 (5,372 burden hours x \$265/hr)

10 CFR Part 61 - Appendix A:

Justification-

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. The NRC review determines the adequacy of the applicant's disposal facility, equipment, organization, training, experience, procedures, and plans relative to the NRC's goals of protecting the public health and safety, common defense and security, and the environment. The NRC's review and findings will form the basis for NRC's 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 proposed disposal facility and disposal activities. This information is used to determine the appropriate responsible parties, and to understand the scope of the proposed activities.

Section 61.12 specifies that the information required to be submitted concerning the disposal site, includes: (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 10 CFR 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 determine 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 whether 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 specified in Subpart E of 10 CFR Part 61. This information is needed for NRC to determine that there will be sufficient funds to safely carry out disposal and long-term care of the disposal facility.

Section 61.16 specifies information concerning physical security measures, and safety information, 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 waste disposal licenses. The information is reviewed by the NRC staff to ensure safety, security, and accountability of special nuclear material.

Section 61.20 requires that an application for a license under this part, and any amendments, must be signed by the applicant or the applicant's authorized representative under oath or affirmation, and, if the document is in paper form, must be the signed original. Applicants are required to maintain the capability to generate additional copies of the application for distribution in accordance with instructions from the NRC.

Section 61.22(b) requires the applicant to supplement or update their application as necessary prior to issuance of a license. This requirement is needed to ensure that the Commission receives the most up-to-date information concerning the proposed activities including any new information regarding the proposed activities.

Section 61.24(b) provides that NRC may require further statements before termination of the license to enable NRC to determine whether or not a license should be modified or revoked. Such additional information is sometimes needed 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 disposal facility, procedures and plans to protect the public health and safety, common defense and security, and the environment. The NRC's review and findings will form the basis for NRC's decisions concerning the modification, suspension 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, common defense and security, and the environment. In particular, a licensee involved in bankruptcy proceedings can have problems paying for the proper handling of radioactive material, decontamination, and decommissioning of the facility in a safe manner. Improper materials handling or decontamination activities can lead to the 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 need for prompt NRC response or regulatory action in the event of a potential hazard to public health and safety, common defense and security, and the environment posed by a licensee, who 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 the cost of cleanup before funds are disbursed and become unavailable.

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

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 there is reasonable assurance that the long-term performance objectives of Subpart C of 10 CFR 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.

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 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 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 to plan for taking corrective measures if migration of radionuclides would indicate that the performance objectives of Subpart C may not be met. In addition, during site construction and operation, the licensee must maintain a monitoring program and keep records of measurements and observations to provide data for evaluation of potential health and environmental impacts. The information submitted will be reviewed by the NRC staff to determine whether the disposal method will provide adequate protection of the public health and safety and the environment.

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 NRC staff to determine whether the proposed waste form and disposal method will provide 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, that there is reasonable assurance of compliance with the performance objectives of Subpart C of 10 CFR Part 61.

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 ensure 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 ensure 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(e) requires that the licensee record the location and the quantity of radioactive wastes contained in the disposal site and transfer these records upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State governor and other State, local, and Federal governmental agencies as designated by the Commission at the time of license termination.

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 over pack, 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 NRC staff to evaluate the licensee's waste handling procedures. This evaluation will ensure that the licensee's operating 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 times between waste receipt and disposal (potential worker exposures), and permits accurate tracing of the location of waste within the disposal site for safety purposes.

Sections 61.80(g) and (j) provide that the licensees must comply with specified safeguards reporting requirements contained in 10 CFR 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 licensee to file an annual financial report to the NRC. 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 licensee to submit an original and two copies of an annual report on site activities. This information includes summaries of environmental releases, environmental monitoring data, waste that has been disposed of, maintenance activities, and any new data on the site. 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 10 CFR Parts 30, 40, and 70 for any transfer by the licensee of byproduct, source, or special nuclear material. This information ensures proper accounting of materials relative to adequate protection of the public health, safety and the environment.

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 pertinent 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 the electronic system 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. This information ensures proper accounting of materials relative to adequate protection of the public health, safety and the environment.