

Request for OMB Review

DESIGNATED ORIGINAL

Certified by

PDR
Webster

Important

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 1320, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and for paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Docket Library, Room 3201
Washington, DC 20503

PART I.—Complete This Part for All Requests.

1. Department, agency and Bureau/office originating request

U. S. Nuclear Regulatory Commission

2. Agency code

3 1 5 0

3. Name of person who can best answer questions regarding this request

Janet Lambert

Telephone number

(301) 443-7783

4. Title of information collection or rulemaking

10 CFR Part 62 - Criteria and Procedures for Granting Emergency Access to
Non-Federal and Regional Low-Level Waste Disposal Facilities

5. Legal authority for information collection or rule (cite United States Code, Public Law, or Executive Order)

42 USC 2201(o) or

6. Affected public (check all that apply)

1 ☐ Individuals or households3 ☐ Farms5 ☒ Federal agencies or employees6 ☒ Non-profit institutions2 ☒ State or local governments4 ☒ Businesses or other for-profit7 ☒ Small businesses or organizations

PART II.—Complete This Part Only if the Request is for OMB Review Under Executive Order 12291

7. Regulation Identifier Number (RIN)

_____, or, None assigned ☐

8. Type of submission (check one in each category)

Classification

1 ☐ Major2 ☐ Nonmajor

Stage of development

1 ☐ Proposed or draft2 ☐ Final or interim final, with prior proposal3 ☐ Final or interim final, without prior proposal

Type of review requested

1 ☐ Standard2 ☐ Pending3 ☐ Emergency4 ☐ Statutory or judicial deadline

9. CFR section affected

_____, CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320?

☐ Yes☐ No

11. If a major rule, is there a regulatory impact analysis attached?

1 ☐ Yes2 ☐ No

If "No," did OMB waive the analysis?

3 ☐ Yes4 ☐ No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with.

Signature of program official

Date

Signature of authorized regulatory contact

Date

12. (OMB use only)

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PDR ORG EUSOMB
PDR

PART III.—Complete This Part Only if the Request is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.

13. Abstract—Describe needs, uses and affected public in 50 words or less.

"Nuclear Waste Disposal, Radioactive Wastes"

10 CFR Part 62 sets out the information to be provided to the NRC by any low-level radioactive waste generator, or state, seeking emergency access to an operating low-level radioactive waste disposal facility pursuant to Section 6 of the Low-Level Radioactive Waste Policy Amendments Act of 1986.

14. Type of information collection (check only one)

Information collections not contained in rules

1 ☐ Regular submission

2 ☐ Emergency submission (certification attached)

Information collections contained in rules

3 ☐ Existing regulation (no change proposed)

6 Final or interim final without prior NPRM

7. Enter date of expected or actual Federal

4 ☒ Notice of proposed rulemaking (NPRM)

A ☐ Regular submission

Register publication at this stage of rulemaking

5 ☐ Final. NPRM was previously published

B ☐ Emergency submission (certification attached)

(month, day, year) Dec. 29, 1987

15. Type of review requested (check only one)

1 ☒ New collection

4 ☐ Reinstatement of a previously approved collection for which approval has expired

2 ☐ Revision of a currently approved collection

3 ☐ Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection

5 ☐ Existing collection in use without an OMB control number

16. Agency report form number(s) (include standard/optional form number(s))

None

22. Purpose of information collection (check as many as apply)

1 ☐ Application for benefits

2 ☐ Program evaluation

3 ☐ General purpose statistics

4 ☒ Regulatory or compliance

5 ☐ Program planning or management

6 ☐ Research

7 ☐ Audit

17. Annual reporting or disclosure burden

1 Number of respondents 1

2 Number of responses per respondent 0.33

3 Total annual responses (line 1 times line 2) 0.33

4 Hours per response 680

5 Total hours (line 3 times line 4) 227

18. Annual recordkeeping burden

1 Number of recordkeepers

2 Annual hours per recordkeeper

3 Total recordkeeping hours (line 1 times line 2)

4 Recordkeeping retention period _____ years

23. Frequency of recordkeeping or reporting (check all that apply)

1 ☐ Recordkeeping

Reporting

2 ☐ On occasion

3 ☐ Weekly

4 ☐ Monthly

5 ☐ Quarterly

6 ☐ Semi-annually

7 ☐ Annually

8 ☐ Biennially

9 ☒ Other (describe): One time

19. Total annual burden

1 Requested (line 17-5 plus line 18-3) 1

2 In current OMB inventory 0

3 Difference (line 1 less line 2) 1

Explanation of difference

4 Program change +1

5 Adjustment

24. Respondents' obligation to comply (check the strongest obligation that applies)

1 ☐ Voluntary

2 ☒ Required to obtain or retain a benefit

3 ☐ Mandatory

20. Current (most recent) OMB control number or comment number

None

21. Requested expiration date

3 years from approval date

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education programs? ☐ Yes ☒ No

26. Does the agency use sampling to select respondents or does the agency recommend or prescribe the use of sampling or statistical analysis by respondents? ☐ Yes ☒ No

27. Regulatory authority for the information collection

10 CFR Part 62

; or

FR

; or, Other (specify):

Paperwork Certification

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with.

Signature of program official

Date

Signature of agency head, the senior official or an authorized representative

Date

William G. McDonald, Director

Office of Administration and Resources Management

OMB SUPPORTING STATEMENT FOR
10 CFR PART 62

Criteria and Procedures for Granting Emergency Access to Non Federal
and Regional Low-Level Waste Disposal Facilities

Description of the Information Collection

10 CFR Part 62 sets out the information that will have to be provided to the Nuclear Regulatory Commission (NRC) by any low-level radioactive waste (LLW) generator, or State, seeking emergency access to an operating low-level radioactive waste disposal facility pursuant to Section 6 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (The Act).

A. JUSTIFICATION

1. Need for the Collection of Information The Act (PL 99-240, January 15, 1986), directs the States to develop their own LLW disposal facility or to form Compacts and cooperate in the development of regional LLW disposal facilities, so that the new facilities will be in operation by January 1, 1993. The Act establishes procedures and milestones for the selection and development of these disposal facilities. It also establishes a system of incentives for meeting the milestones, and penalties for failing to meet them. As provided by the Act, if States or Compacts without a LLW disposal facility fail to meet key milestones in the Act, the States or Compacts with operating non-Federal or regional LLW disposal facilities are authorized to demand additional fees for waste accepted for disposal from the LLW generators in the delinquent State or Compact, and ultimately to deny them further access to their facilities.

Section 6 of the Act provides that the Nuclear Regulatory Commission (NRC) can override denial of access decisions and grant generators "emergency access" to the operating non-Federal disposal facilities. To receive emergency access, a State or generator must request it and successfully demonstrate to NRC that access to LLW disposal is necessary in order to eliminate a serious and immediate threat to the public health and safety or the common defense and security, and that the threat cannot be mitigated by any alternative consistent with the public health and safety, including ceasing the activities that generate the waste. From the information provided by the requestor, NRC must be able to make both determinations prior to granting emergency access. NRC is also directed to grant extensions of emergency access and temporary emergency access under specified circumstances.

The Act also provides that as part of the overall decision to grant emergency access, NRC is to designate the operating LLW disposal facility/facilities which will receive the waste requiring emergency access. The requestor must submit the information necessary for NRC to make sure that the LLW approved for emergency access disposal is

compatible in form, composition, waste package, radioactivity, etc. with the criteria established by the license or the licensing agreement of the facility designated to receive the waste.

The Act provides that any requests for emergency access should contain all information and certifications the NRC may require to make its determinations.

The Commission is publishing a proposed rule (new 10 CFR Part 62) establishing the criteria and procedures to be used for granting emergency access to non-Federal and regional low-level waste disposal facilities. The proposed rule sets out the information and certifications to be provided in a request for emergency access in order for NRC to determine whether emergency access should be granted and which disposal facilities should receive the wastes.

Section 62.11 specifies the number of copies that must be submitted with a request for emergency access. NRC is requiring that the original and 10 (ten) copies be submitted with the request. This section also provides for publication in the Federal Register of a notice acknowledging receipt of a request for a determination and asking for public comment on the request to be submitted to the NRC within 10 days of the date of notice. Section 62.11 also provides that a copy of that notice be transmitted to specific potentially affected parties.

10 CFR 62.12 specifies the information that must be provided to NRC in a request for emergency access. For each generator for which the request applies, general information identifying the generator of the LLW requiring emergency access, the activity responsible for generating the waste, a description of the waste including its composition, characteristics, volume, and packaging, is required. The NRC also is requiring that information concerning the circumstances which resulted in the need to request emergency access, and the impacts to the public health and safety or the common defense and security if emergency access is not granted, be provided in requests for emergency access.

10 CFR 62.13 specifies the information that must be provided to demonstrate that there are no mitigating alternatives. Information detailing the process used by the requestor to identify, consider, and reject alternatives to emergency access is required, as well as information concerning the actual alternatives themselves.

10 CFR 62.14 specifies the information that must be provided in a request for an extension of emergency access, including documentation that the generator of the LLW and the State in which the waste was generated have diligently acted to eliminate the need for emergency access (as is required by the Act).

10 CFR 62.15 specifies that the Commission may require additional information from the requestor on any portion of the request for emergency access. Such additional information may be needed to

clarify the material provided in the original request or to rectify deficiencies in the information submitted so that NRC staff can make the necessary statutory findings. This section also specifies that NRC will deny a request for emergency access if the information it needs is not provided by the requestor within 10 days.

2. Agency Use of Information. The information required by NRC in the proposed rule will be reviewed by the Division of Low-Level Waste Management and Decommissioning and other NRC offices and will enable NRC to make the required statutory findings:

- ° that there is a serious and immediate threat to the public health and safety or the common defense and security,
- ° that there are no mitigating alternatives available,
- ° that a grant of emergency access to an operating non-Federal or Regional LLW disposal facility is necessary,
- ° and which facility/facilities should receive the waste.

In case of requests for an extension of emergency access, the information required will also enable the Commission to determine whether the person making the request has diligently pursued alternatives to emergency access.

The Act directs the Commission to decide on requests for emergency access within 45 days of their receipt. It is important if NRC is to be able to respond within this timeframe that all information necessary for making the required determinations be submitted as part of the initial request.

3. Reduction of Burden Through Information Technology. The proposed regulation does not preclude the use of improved technology in information collection and recordkeeping. The approach used for Part 62 was to specify what information must be provided to NRC by the requestors but not to specify how the information must be maintained or presented. (For example, no application form is specified.) NRC anticipates that much of the information required by the rule would be collected and assembled as a part of the normal conduct of any business resulting in the continuing generation of LLW. Any advanced technology employed by a generator to collect or manipulate such information could likely be applied to the Part 62 collection of information to reduce the associated burden.
4. Effort to Identify Duplication. The Federal Information Locator System was searched to determine NRC and other Federal Agency duplication. No duplication was found outside the NRC or with other NRC regulations.
5. Effort to Use Similar Information. It is quite likely that a person requesting emergency access will have general regulatory/licensing documents relative to their activity on file with the NRC which could contain similar information to that required by the rule. NRC

considered whether such information could be used by NRC in reviewing emergency access requests. However, because emergency situations will be involved, because NRC will have only a very short time to take necessary action (45 days), and because of the waste specific and circumstance specific nature of the information required, NRC has concluded that it is not practical to attempt to search our files to assemble pertinent bits and pieces of information from widespread sources when responding to requests for emergency access. Thus the usual practice of encouraging an applicant to incorporate information by reference is not suitable for emergency access requests.

In establishing the information requirements for requests for extensions of emergency access, NRC has provided requestors with an opportunity to avoid some repetition in filing. Rather than requesting the submittal of all new information, Section 62.14 specifies that requests for extensions of emergency access should include updates of the information provided in the original request.

6. Effort to Reduce Small Business Burden. Since access to LLW disposal may be denied to any generator of LLW, the proposed rule could potentially affect both large and small generators. The generators of LLW are nuclear power plants, medical and academic facilities, radiopharmaceutical manufacturers, fuel fabrication facilities and government licensees. Of these categories, all but the power plants, fuel fabrication facilities, and government licensees could potentially include small entities. However, since the generator himself triggers the imposition of the requirements of the proposed rule by requesting emergency access from the NRC, since the information requirements are the same for both large and small entities, and since the total number of requests for emergency access is expected to be small, NRC does not believe it is possible to reduce the burden for small businesses either by less frequent, or less complete, recordkeeping procedures. The preamble for the proposed rule specifically requests public comment on ways to reduce the small business burden.
7. Consequences of Less Frequent Collection. NRC is not using Part 62 to impose a schedule for a periodic collection of information. The information requirements set out in the rule will only apply when a LLW generator requests emergency access from NRC. Thus the frequency of collection will not be controlled by NRC, but will be dictated by the needs of the generators.
8. Circumstances Which Justify Variations from OMB Guidelines. The rule proposes two variations from the OMB guidelines. The first is that the number of copies required for submittal of a request to NRC exceeds the number allowed by the guidelines. The second is that the rule requires a person requesting emergency access to respond to requests for additional information in 10 days, which is less than the 30 days specified by the guidelines.

The proposed rule requires that one original and 10 copies of a request for emergency access be submitted to NRC to allow the

Commission to complete the review mandated by Section 6(c)(1) of the Act in the short time provided. Requests for emergency access are likely to contain considerable amounts of detailed technical information. In order to make the various determinations required of NRC within the 45 days provided in the Act, it will be necessary for several technical reviewers in LLWM to review requests concurrently with the reviewers in other NRC offices. The combination of the short review period, the many considerations involved in the evaluation of a request, the necessary complexity of NRC's review and decisionmaking process, and the need for concurrent review, dictate the requirements for filing multiple copies by requestors.

The following NRC staff and organizations would require copies of a request:

° The Division of Low-Level Waste Management and Decommissioning (NMSS)	(total of 5)
LLWM Division Director	1
Project Manager Coordinating the Review	1
Each of three Branches in the Division	3
° The Office of General Counsel	(total of 2)
Counsel for Rulemaking and Fuel Cycle	1
Counsel for Hearings	1
° Office of Nuclear Reactor Regulation	1
° Office of State, Local, and Indian Tribe Programs	1
° NRC Regional Administrator	1
	Total 10

As previously discussed, Section 62.15 of the proposed rule allows a person requesting emergency access only 10 days to provide the NRC with any additional information identified by NRC as necessary for its review. This period of time is significantly shorter than the 30 days normally required for such information collection under the OMB guidelines. However, given that the request will be for an emergency situation, that NRC will have only 45 days total to review requests for emergency access and arrive at its decisions, and given the complexity of the review and decisionmaking process, NRC staff concluded that it would likely be impossible to accommodate a 30 day response time. As such, NRC staff decided that it would be necessary to reduce the response time for providing additional information to 10 days as proposed in the rule.

9. Consultations Outside of NRC. The collection of information was developed by NRC using the guidance provided in Section 6 of the Act but without outside consultations.
10. Confidentiality of Information. Information collected will be a part of the legal file for each request and will be available to the public. The Commission has rules in place in 10 CFR 2.790 for processing and protecting information impacting the national security. These rules would be applied to any information submitted to NRC by the requestor, by the Department of Defense (DOD), or the Department of Energy (DOE) in support of a claim of a serious and immediate threat to the common defense and security. Proprietary information will be adequately protected.
11. Justification for Sensitive Questions. Not applicable. No requirements or questions of a sensitive nature are included.
12. Estimated Annualized Cost to the Federal Government. Because Congress intended that requests for emergency access be made only under rare and unusual circumstances, NRC may never receive a request for emergency access. However, for the purposes of this clearance request, NRC estimates that we will receive one request every three years. Under this scenario, NRC has estimated the cost of responding to a single request for emergency access, and from that has estimated the annualized cost to the Federal Government associated with the implementation of the information collection required by Part 62.

The following discusses the costs to the Federal Government when only NRC resources are involved (a request based on a threat to the public health and safety) and then discusses the costs where it will be necessary to involve other agencies (a request based on the threat to the common defense and security).

a) Cost of responding to an individual request for emergency access submitted to NRC on the basis of threat to the public health and safety:

As provided by Section 6 of the Act, NRC will only have 45 days to respond to each request for emergency access. NRC estimates that there will be approximately 30 working days available to conduct the review (45 calendar days = approximately 6 and 1/2 weeks = approximately 30 working days). NRC estimates that it will take 6 NRC staff to analyze the information submitted in a request for emergency access for a total of 1440 hours per request. At an average cost of \$60 per hour, the cost for NRC to review a request for emergency access is projected to be \$86,700. Thus, if one request is received every third year, the annualized cost to NRC will be approximately \$29,000.

b) Cost of responding to a request for emergency access based on a threat to the common defense and security:

The cost to the Federal government for the review of requests for emergency access based on the threat to the common defense and security would likely be higher than the above. For such

requests, NRC intends to involve the Department of Energy (DOE) and/or the Department of Defense (DOD) in the decision making process. The rule proposes that the person requesting emergency access would submit a statement of support from DOD and/or DOE, as appropriate, as part of the overall request package. The statement would certify that there would be serious implications for the common defense and security if the requestor was not provided disposal capacity for his LLW. This arrangement will not be formalized until after the public comment period for the rule so it is difficult to determine what resources would be required by the two agencies to complete a statement of support. NRC estimates that approximately five staff weeks would be required for each emergency access request processed by DOE or DOD at a cost of \$12,000 (5 staff weeks = 200 hours x \$60 per hour.) For each one submitted, NRC estimates that the total cost to the Federal government could be approximately \$100,000.

NRC cannot project how many requests for emergency access will require DOD and/or DOE involvement. However, if for the purposes of this analysis we assume that one out of every two requests would be based on the threat to the common defense and security, that would mean DOE and/or DOD would be involved in reviewing a request once every six years. The annualized cost to the Federal Government for reviewing requests based on the threat posed to the common defense and security would be about \$31,000.

13. Estimate of Burden.

a) As previously explained, NRC is not actually imposing an annual burden on generators of LLW as a direct result of the proposed rule. Congress intended emergency access to be used only under rare and unusual circumstances. A generator will only have to develop the necessary information when submitting a request to NRC for emergency access. As a result, NRC expects that most LLW generators will not be burdened at all by the information collection proposed in Part 62.

For those generators who must request emergency access, NRC estimates it will take 5 professional staff approximately 3 weeks (for a total of 600 hours) to collect the information and perform the analyses necessary to support a request for emergency access. An additional 2 weeks of professional staff and clerical time (80 hours) will be required to process the paperwork necessary to complete a request for emergency access pursuant to the requirements set out in the proposed rule. Thus the total burden to submit a request would be 680 hours once every three years, or approximately 227 hours per year on an annualized basis. At \$60 per hour, this would result in a cost of \$14,220 per year. These numbers will vary depending on which kind of generators require emergency access and the circumstances involved.