

FINAL OMB SUPPORTING STATEMENT
FOR
10 CFR PART 63
DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A PROPOSED
GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA
NEW COLLECTION

Description of the Information Collection

Part 63 requires the State of Nevada, local government, and Indian Tribes to submit certain information to the NRC if they (1) request consultation with the NRC staff regarding review of the potential repository site (63.62), or (2) wish to participate in a license review for the potential repository (63.63). Any person representing the State, local government, or Indian Tribe must also submit a statement of the basis of his or her authority to act in such representative capacity (63.65). Local government was added in the final rule in response to public comments; it did not appear in the proposed rule. NRC submitted its information collection request to OMB for approval at the proposed rule stage. OMB deferred its decision. In its response to NRC, OMB stated that it would make a final determination on this information collection request at the time the information collections in the final rule are submitted to OMB for approval.

A. Justification

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

The Nuclear Waste Policy Act of 1982 (NWPA) and 10 CFR Part 63 contain detailed provisions for the participation of the State, local government, and Indian Tribes in the process of siting and developing a high-level radioactive waste geologic repository. The NRC must follow many formal procedures and detailed schedules in meeting its responsibilities under the NWPA and 10 CFR Part 63. 10 CFR Part 63 does not require the State, local government, and Indian Tribes to submit any proposals. This is strictly voluntary on their part, and only if they desire to do so would the information in question be required of them. The Director of the Office of Nuclear Materials Safety and Safeguards must have complete information on State, local government, and Indian Tribal Plans for participation in order to accommodate State, local government, and Tribal desires for participation while at the same time following mandated procedures and schedules. In addition, where State, local government, and Tribal proposals for participation involve requests for funding, the justification for such requests must be documented in order to assure productive uses of NRC funds.

Section 63.62 states that the Director shall make NRC staff available to consult with representatives of the State, local government, and affected Tribes regarding site review. Section 63.62 also states that requests for consultation shall be made in writing to the Director. The State, local government, and Tribes would be required to submit information about what services they need, and for what purpose the services are needed, only in the case that they wish to obtain these services.

Making NRC staff available for consultation with representatives of the State, local government, and affected Indian Tribes represents potentially a major commitment of NRC resources. The Director must have a firm basis for approving this commitment of resources. A written request for consultation is the minimum requirement which could provide a firm basis for the commitment of NRC resources.

Section 63.63(b) states that the State, local government, or affected Indian Tribe may submit to the Director a proposal to facilitate its participation in the review of a site characterization plan and/or license application.

The proposal shall contain a description and schedule of how the State, local government, or affected Indian Tribe wishes to participate in the review, of what services or activities the State, local government, or affected Indian Tribe wishes NRC to carry out, and how the services or activities proposed to be carried out by NRC would contribute to such participation.

Section 63.65 states that any person who acts under this subpart (Subpart C) as a representative for the State (or for the Governor or legislature thereof), local government, or for an affected Indian Tribe shall include in his or her request or other submission, or at the request of the Commission, a statement of the basis of his or her authority to act in such representative capacity.

Such a statement is necessary to assure NRC of the status of representatives. NRC must provide the State, local government, and Indian Tribes numerous opportunities for participation in the site review and licensing procedures. It is a common practice for the State, local government, and Indian Tribes to be represented by legal counsel in dealing with Federal agencies. NRC must be assured of the authority of persons it deals with to represent the State, local government, or Indian Tribes to avoid potential duplication and/or failure to transmit information to appropriate parties.

2. Agency Use of Information

The information requested will be reported to the Director of the Office of Nuclear Material Safety and Safeguards, who has programmatic responsibility for NRC's high-level radioactive waste program. It will be used by him to carry out requirements for the State, local government, and Indian Tribes to participate in the siting and development of the high-level radioactive waste geologic repository. The Director has established a mechanism in the Division of High-Level Waste Management within his or her office to deal with State, local government, and Indian Tribe participation. Staff resources are available to assure that reported information is used in a timely and useful fashion. NRC usually sets a time limit for review and action on funding requests of 60 days.

3. Reduction of Burden Through Information Technology

The NRC foresees no opportunity to reduce the burden of information submittal through use of information technology. Each submittal is unique, is made only once, and is unlikely to be developed from other compiled information sources.

4. Effort to Identify Duplication and Use Similar Information

The Information Requirements Control Automated System (IRCAS) was searched to determine duplication. None was found. No other sources of similar information are available.

5. Effort to Reduce Small Business Burden

No small businesses are affected by the information collection requirements, but some Indian Tribes might be considered small entities. The NRC staff's established program to provide information exchange with States, local government, and Tribes could provide them with assistance in preparation of the requested information.

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

If the collection is not conducted, the Director will not have information that will enable him or her to provide opportunities for the State, local government, and Indian Tribes to participate in the siting and development of a high-level radioactive waste geologic repository. The information collection requirements only apply to a single submittal.

7. Circumstances Which Justify Variation From OMB Guidelines

There are no variations from OMB guidelines.

8. Consultations Outside NRC

Opportunity to comment on the information collection requirements in 10 CFR Part 63 was published in the Federal Register on February 22, 1999 (64 FR 8640). Because two commenters on the proposed rule stated that there is a legal basis under the Nuclear Waste Policy Amendments Act to include local governments, NRC amended the rule at §§63.62, 63.63, and 63.65 to include affected local government in the universe of respondents. No other comments on the information collections were received.

9. Payments or Gifts to Respondents

Not applicable.

10. Confidentiality

NRC provides no pledge of confidentiality for this collection of information.

11. Sensitive Questions

None.

12. Estimated Burden and Burden Hour Costs

<u>Section</u>	<u>Number of Respondents</u>	<u>Frequency of Response</u>	<u>Annual Responses</u>	<u>Hrs/Response</u>	<u>Annual Burden</u>	<u>Public Cost (\$143/Hr)</u>
63.62	3	Once only	3	40	120	\$17,160
63.63	3	Once only	3	80	240	\$34,320
63.65	3	Once only	3	1	3	\$429
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Total			9		363	\$51,909

13. Estimate of Additional Costs

None. For licensees subject to 10 CFR Part 63, it is most likely that purchases of equipment and services were made (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

14. Estimated Annualized Cost to the Federal Government

Section 63.62 involves NRC staff review of requests for consultation. This should require no more than 40 hours of staff time per response. At \$143 per hour for staff time, this would be \$5,720 per respondent. The total for three responses is \$17,160.

Section 63.63 involves NRC staff review of proposals for participation in site review and licensing procedures. This should require no more than 80 hours of staff time per response. At \$143 per hour, this would be \$11,440 per respondent. The total for three responses is \$34,320.

Section 63.65 involves NRC staff review of the statement of representation. This should require no more than one hour of staff time per response. At \$143 per hour, this would be \$143 per response. The total for three responses would be \$429.

Total cost to the government is \$51,909 (363 hours x \$143/hr). Costs are not anticipated to be recurrent and thus cannot reasonably be annualized. Rather, all costs are likely to be incurred within a year or two following characterization of a repository site or submittal of a license application. These costs are fully recovered by NRC through appropriations from the Nuclear Waste Fund which was established by the Department of Energy pursuant to the Nuclear Waste Policy Act of 1982.

15. Reasons for Change in Burden

The annual burden for the information collection requirements contained in the proposed rule submitted to OMB for review, February 16, 1999, was estimated to impose a burden of 242 hours for 6 responses. Because of two public commenters who stated that there is a legal basis under the Nuclear Waste Policy Amendments Act to include local governments, the NRC amended the rule at 63.62, 63.63, and 63.65 to include local governments in the universe of respondents. Thus, the burden increases by 121 hours and the number of responses by three. Therefore, the total annual burden increases from 242 hours/6 responses to 363 hours/9 responses. Part 63 is a new collection and no burden currently exists. However, the above explanation is presented to clarify the difference in burden for the OMB clearance packages submitted at the proposed and final rule stages.

16. Publication for Statistical Use

None.

17. Reason for Not Displaying Expiration Date

The requirement is contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

There are no exceptions.

B. Collection of Information Employing Statistical Methods

Statistical methods are not used in this collection of information.