

FINAL OMB SUPPORTING STATEMENT
FOR
10 CFR PART 63
DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A PROPOSED
GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA
(3150-0199)

EXTENSION REQUEST

Description of the Information Collection

Part 63 requires the State of Nevada, local government, and affected Indian Tribes to submit certain information to the NRC if they (1) request consultation with the NRC staff regarding the status of site characterization and related NRC activities regarding 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 affected Indian Tribe must also submit a statement of the basis of his or her authority to act in such representative capacity (63.65). The clearance extension incorporates the information collections contained in the following final rulemaking approved by OMB since the last extension period:

“Clarification of NRC Civil Penalty Authority over Contractors and Subcontractors Who Discriminate Against Employees for Engaging in Protected Activities” (71 FR 5015 on January 31, 2006)

A. Justification

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

The Nuclear Waste Policy Act of 1982 (NWSA) and 10 CFR Part 63 contain detailed provisions for the participation of the State, local government, and affected 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 NWSA and 10 CFR Part 63 (See 10 CFR Part 2). 10 CFR Part 63 does not require the State, local government, and affected 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 affected Tribal proposals for participation involve requests for funding, the justification for such requests must be documented in order to assure appropriate 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 the status of site characterization and related NRC regulatory activities. Section 63.62 also states that requests for consultation shall be made in writing to the Director. The State, local government, and affected Tribes would be required to submit information about what services they need, and for

what purpose the services are needed, only if they wish to obtain NRC consultation 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 participation in the review of the 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, 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 that representatives for the State, local government, and affected Indian Tribes have the authority to represent the State, local government, or Indian Tribes in dealings with the NRC.

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 affected Indian Tribes to participate in the siting and development of the high-level radioactive waste geologic repository. It will also help the Director determine, for example, whether activities proposed by the State, local government, or affected Indian Tribe would enhance communications, would contribute to the license review in a timely and productive manner and would be authorized by law. The Director has established a mechanism in the Division of High Level Waste Repository Safety within his or her office to deal with State, local government, and affected 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

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. It is estimated that less than 50% of the potential responses would be filed electronically.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. 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

No small businesses are affected by the information collection requirements, but some affected Indian Tribes might be considered small entities. The NRC staff's established program to provide information exchange with States, local government, and affected Indian 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 affected 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 for public comment on the information collection requirements for this clearance package was published in the Federal Register on May 10, 2007 (FR 26655). No comments were received.

9. Payments or Gifts to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.179(a) and 10 CFR 2.3909(b). However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

None.

12. Estimated Burden and Burden Hour Costs

| Section | Number of | Frequency | Annual | Hours per | Annual | Public Cost |
|---------|-----------|-----------|--------|-----------|--------|-------------|
|---------|-----------|-----------|--------|-----------|--------|-------------|

| | Respondents | of Response | Responses | Response | Burden | (\$258/Hr) |
|--------|-------------|-------------|-----------|----------|--------|------------|
| 63.62 | 3 | once only | 3 | 40 | 120 | \$30,960 |
| 62.63 | 3 | once only | 3 | 80 | 240 | \$61,920 |
| 63.65 | 3 | once only | 3 | 1 | 3 | \$774 |
| Totals | | | 9 | | 363 | \$93,654 |

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

Section 63.62 involves NRC staff review of requests for consultation regarding the status of site characterization and certain regulatory activities. This should require no more than 40 hours of staff time per response. At \$258 per hour for staff time, this would be \$10,320 per respondent. The total for three responses is \$30,960.

Section 63.63 involves NRC staff review of proposals for participation in license reviews. This should require no more than 80 hours of staff time per response. At \$258 per hour, this would be \$20,640 per respondent. The total for three responses is \$61,920.

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 \$258 per hour, this would be \$258 per response. The total for three responses would be \$774.

Total cost to the government is \$93,654 (363 hours x \$258). 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 or cost

There has been no change in burden for this information collection. The cost per hour increased from \$158 to \$258 causing a slight increase in the cost.

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.