

**Authority:** Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 65, 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 206, 211 (42 U.S.C. 5841, 5846, 5851); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

**Source:** 47 FR 57463, Dec. 27, 1982, unless otherwise noted.

[72 FR 55933 Oct. 1, 2007; 72 FR 63974, Nov. 14, 2007; 73 FR 42674, Jul. 23, 2008; 73 FR 78606, Dec. 23, 2008; 76 FR 72086, Nov. 22, 2011; 77 FR 39907, Jul. 6, 2012; 80 FR 54235, Sep. 9, 2015]

## **Subpart A--General Provisions**

### **§ 61.1 Purpose and scope.**

(a) The regulations in this part establish, for land disposal of radioactive waste, the procedures, criteria, and terms and conditions upon which the Commission issues licenses for the disposal of radioactive wastes containing byproduct, source and special nuclear material received from other persons. Disposal of waste by an individual licensee is set forth in part 20 of this chapter.

~~Applicability of the requirements in this part to Commission licenses for waste disposal facilities in effect on the effective date of this rule will be determined on a case-by-case basis and implemented through terms and conditions of the license or by orders issued by the Commission.~~

(b) Except as provided in part 150 of this chapter, which addresses assumption of certain regulatory authority by Agreement States, and § 61.6 "Exemptions," the regulations in this part apply to all persons in the United States. The regulations in this part do not apply to--

- (1) Disposal of high-level waste as provided for in part 60 or 63 of this chapter;
- (2) Disposal of uranium or thorium tailings or wastes (byproduct material as defined in § 40.4 (a-1) as provided for in part 40 of this chapter in quantities greater than 10,000 kilograms and containing more than 5 millicuries of radium-226; or
- (3) Disposal of licensed material as provided for in part 20 of this chapter.

(c) This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 61.9b.

[47 FR 57463, Dec. 27, 1982, as amended at 56 FR 40690, Aug. 15, 1991; 63 FR 1898, Jan. 13, 1998; 66 FR 55791, Nov. 2, 2001]

### **§ 61.2 Definitions.**

As used in this part:

*Active maintenance* means any significant remedial activity needed during the period of institutional control to maintain a reasonable assurance that the performance objectives in §§ 61.41 and 61.42 are met. Such active maintenance includes ongoing activities such as the pumping and treatment of water from a disposal unit or one-time measures such as replacement of a disposal unit cover. Active maintenance does not include custodial activities such as repair of fencing, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

*Buffer zone* is a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

*Chelating agent* means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carbolic acid, and glucinic acid).

*Commencement of construction* means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a land disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of environmental values.

*Commission* means the Nuclear Regulatory Commission or its duly authorized representatives.

*Compliance period* means the time from the completion of site closure to 1,000 years after site closure for disposal sites that do not contain significant quantities of long-lived radionuclides. For disposal sites that contain or plan to accept significant quantities of long-lived radionuclides, the compliance period ends at 10,000 years after closure of the disposal site.

*Custodial Agency* means an agency of the government designated to act on behalf of the government owner of the disposal site.

*Defense-in-depth* means the use of multiple independent and, where possible, redundant layers of defense such that no single layer, no matter how robust, is exclusively relied upon. Defense-in-depth for a land disposal facility includes, but is not limited to, the use of siting, waste forms and radionuclide content, engineered features, and natural geologic features of the disposal site to enhance the resiliency of the land disposal facility.

*Director* means the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission.

*Disposal* means the isolation of radioactive wastes from the biosphere inhabited by man and containing his food chains by emplacement in a land disposal facility.

*Disposal site* means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

*Disposal unit* means a discrete portion of the disposal site into which waste is placed for disposal. ~~For near surface disposal the unit is usually a trench.~~

*Engineered barrier* means a man-made structure or device that is intended to improve the land disposal facility's ability to meet the performance objectives in subpart C.

*Explosive material* means any chemical compound, mixture, or device, which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

*General environment* means that area outside the boundaries of the disposal site.

*Government agency* means any executive department, commission, independent establishment, or corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States; or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

*Hazardous waste* means those wastes designated as hazardous by Environmental Protection Agency regulations in 40 CFR part 261.

*Hydrogeologic unit* means any soil or rock unit or zone which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.

*Inadvertent intruder* means a person who might occupy the disposal site after site closure and engage in normal activities, such as agriculture, dwelling construction, drilling for water and/or other reasonably foreseeable pursuits in which the person that might ~~be~~ unknowingly exposed ~~to the person to~~ radiation from the waste included in or generated from a low-level radioactive waste facility.

*Inadvertent intruder assessment* is an analysis that:

(1) Assumes an inadvertent intruder occupies the disposal site and engages in normal activities and other reasonably foreseeable pursuits that are realistic and consistent with expected activities in and around the disposal site at the time of the assessment and that might unknowingly expose the person to radiation from the waste in the disposal units;

(2) Examines the capabilities of intruder barriers to inhibit an inadvertent intruder's contact with the waste in the disposal unit or to limit the inadvertent intruder's exposure to radiation from the disposal unit; and

(3) Estimates an inadvertent intruder's potential annual dose resulting from radiation in the disposal unit, considering uncertainties.

*Indian Tribe* means an Indian Tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

*Intruder barrier* means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this part, or engineered structures that provide equivalent protection to the inadvertent intruder.

*Land disposal facility* means the land, building, and structures, and equipment which are intended to be used for the disposal of radioactive wastes. For purposes of this chapter, a "geologic repository" as defined in part 60 or 63 is not considered a land disposal facility.

*License* means a license issued under the regulations in part 61 of this chapter. Licensee means the holder of such a license.

Long-lived radionuclide means radionuclides:

(1) Where more than 10 percent of the initial activity of the radionuclide remains after 1,000 years;

(2) Where the peak activity from progeny occurs after 1,000 years; or

(3) Where more than 10 percent of the peak activity of the radionuclide (including progeny) within 1,000 years remains after 1,000 years.

*Monitoring means* observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.

*Near-surface disposal facility* means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface.

*Performance assessment* is an analysis used to demonstrate compliance with 10 CFR 61.41(a) and (b) that identifies the features, events, and processes that could affect the disposal site performance; and estimates the potential dose as a result of releases caused by all significant features, events, and processes including the uncertainties.

*Performance period* is the timeframe established for considering waste and disposal site characteristics to evaluate the performance of the disposal site after the compliance period.

*Person* means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (except that the Department of Energy is considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to law), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

*Pyrophoric liquid* means any liquid that ignites spontaneously in dry or moist air at or below 130F (54.5C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

*Safety case* is a collection of information that demonstrates the assessment of the safety of a land disposal facility. This includes technical analyses, such as the performance assessment and inadvertent intruder assessment, but also includes information on defense-in-depth and supporting evidence and reasoning on the strength and reliability of the technical analyses and the assumptions made therein. The safety case also includes description of the safety relevant aspects of the disposal site, the design of the facility, and the managerial control measures and regulatory controls.

*Site closure and stabilization* means those actions that are taken upon completion of operations that prepare the disposal site for custodial care and that ~~assure~~ensure that the disposal site will remain stable and will, to the extent practicable, not need ongoing active maintenance.

*State* means any State, Territory, or possession of the United States, Puerto Rico, and the District of Columbia.

*Stability* means the capability of the disposal site (e.g., waste form, disposal containers, and disposal units) to maintain its shape and properties to an extent that will not prohibit the demonstration that the land disposal facility will meet the § 61.41 and § 61.42 performance objectives and will, to the extent practicable, eliminate the need for active maintenance after site closurestructural stability.

*Surveillance* means observation of the disposal site for purposes of visual detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements.

*Tribal Governing Body* means a Tribal organization as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

*Waste* means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct material* set forth in § 20.1003 of this chapter. Consistent with the National Defense Authorization Act for Fiscal Year 2013, low-level radioactive waste also includes radioactive material that, notwithstanding Section 2 of the Nuclear Waste Policy Act of 1982, results from the production of medical isotopes that have been permanently removed from a reactor or subcritical assembly, for which there is no further use, and the disposal of which can meet the requirements of this part.

[47 FR 57463, Dec. 27, 1982, as amended at 54 FR 22583, May 25, 1989; 58 FR 33891, June 22, 1993; 66 FR 55792, Nov. 2, 2001; 72 FR 55933 Oct. 1, 2007; 73 FR 5725, Jan. 31, 2008; 79 FR 75740, Dec. 19, 2014; 80 FR 74980, Dec. 1, 2015]

### **§ 61.3 License required.**

(a) No person may receive, possess, and dispose of radioactive waste containing source, special nuclear, or byproduct material at a land disposal facility unless authorized by a license issued by the Commission pursuant to this part, or unless exemption has been granted by the Commission under § 61.6 of this part.

(b) Each person shall file an application with the Commission and obtain a license as provided in this part before commencing construction of a land disposal facility. Failure to comply with this requirement may be grounds for denial of a license.

### **§ 61.4 Communications.**

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's Offices at

11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov); or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

[53 FR 4111, Feb. 12, 1988, as amended at 53 FR 43421, Oct. 27, 1988; 68 FR 58814, Oct. 10, 2003; 70 FR 69421, Nov. 16, 2005; 72 FR 33386, Jun. 18, 2007; 73 FR 5725, Jan. 31, 2008; 74 FR 62683, Dec. 1, 2009; 79 FR 75740, Dec. 19, 2014; 80 FR 74980, Dec. 1, 2015]

### **§ 61.5 Interpretations.**

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be considered binding upon the Commission.

### **§ 61.6 Exemptions.**

The Commission may, upon application by any interested person, or upon its own initiative, grant any exemption from the requirements of the regulations in this part 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.

### **§ 61.7 Concepts.**

(a) The disposal facility. (1) Part 61 is intended to apply to land disposal of radioactive waste and not to other methods such as sea or extraterrestrial disposal. Part 61 contains procedural requirements and performance objectives applicable to any method of land disposal. It contains specific technical requirements for near-surface disposal of radioactive waste, a subset of land disposal, which involves disposal in the uppermost portion of the earth, approximately 30 meters. Near-surface disposal includes disposal in engineered facilities ~~which-that~~ may be built totally or partially above-grade provided that such facilities have protective ~~earthen~~ covers. Near-surface disposal does not include disposal facilities ~~which-that~~ are partially or fully above-grade with no protective ~~earthen~~ cover, which are referred to as "above-ground disposal." Burial deeper than 30 meters may also be satisfactory. Technical requirements for alternative methods may be added in the future. Alternative methods of disposal may be approved on a case-by-case basis as needed under §61.6.

(2) Near-surface disposal of radioactive waste takes place at a near-surface disposal facility, which includes all of the land and buildings necessary to carry out the disposal. The disposal site is that portion of the facility ~~which-is~~ used for disposal of waste and consists of disposal units and a buffer zone. A disposal unit is a discrete portion of the disposal site into which waste



is placed for disposal. ~~For near-surface disposal, the disposal unit is usually a trench.~~ A buffer zone is a portion of the disposal site that is controlled by the licensee and that lies under the site and between the boundary of the disposal site and any disposal unit. It provides controlled space to establish monitoring locations ~~which that~~ are intended to provide an early warning of radionuclide movement. ~~An early warning allows a licensee to perform any mitigation that might be necessary and to take mitigative measures if needed.~~ In choosing a disposal site, site characteristics should be considered in terms of the indefinite future. take into account the radiological characteristics of the waste, and be evaluated for at least a 500 – year timeframe to provide assurance that the performance objectives can be met.

(b) ~~Waste classification and near-surface disposal~~ Performance objectives. (1) Disposal of radioactive waste in ~~near-surface~~ land disposal facilities has the following safety objectives: protection of the general population from releases of radioactivity, protection of ~~individuals from~~ inadvertent intrusion, and protection of individuals during operations. ~~and. A fourth objective is to ensure ensuring~~ stability of the site after closure. Achieving these objectives depends upon many factors including the design of the land disposal facility, operational procedures, characteristics of the general environment, and the radioactive wastes acceptable for disposal.

(c) Technical analyses. (1) Demonstrating compliance with the performance objectives requires assessments of the site-specific factors including engineering design, operational practices, site characteristics, and radioactive waste acceptable for disposal. Technical analyses assess the impact of site-specific factors on the performance of the land disposal facility and the site environment both during the operational period, as in the analysis for protection of individuals during operations and, importantly for disposal of radioactive waste, over the longer term, as in the analyses for protection of the general population from releases of radioactivity, protection of inadvertent intruders, and stability of the disposal site after site closure.

(2) A performance assessment is an analysis that is required to demonstrate protection of the general population from releases of radioactivity. A performance assessment identifies the specific characteristics of the disposal site (e.g., hydrology, meteorology, geochemistry, biology, and geomorphology); degradation, deterioration, or alteration processes of the engineered barriers (including the waste form and container); and interactions between the site characteristics and engineered barriers that might affect performance of the disposal site. A performance assessment examines the effects of these processes and interaction on the ability of the disposal site to limit waste releases and estimates the annual dose to a member of the public for comparison with the appropriate performance objective of subpart C of this part.

(3) Inadvertent intruders might occupy the disposal site in the future and engage in normal pursuits without knowing that they were receiving radiation exposure. Protection of inadvertent intruders can involve two principal controls: institutional control to ensure that no such occupation or improper use of the site occurs; or, designating which waste could present an unacceptable dose to an inadvertent intruder, and disposing of this waste in a manner that provides some form of intruder barrier that is intended to prevent contact with the waste and limit exposure to radiation from the waste. These regulations incorporate both types of protective controls.

(4) The inadvertent intruder assessment must demonstrate protection of inadvertent intruders through the assessment of potential radiological exposures should an inadvertent intruder

occupy the disposal site following a loss of institutional controls. The inadvertent intruder can be exposed to radioactivity that has been released into the environment as a result of disturbance of the waste or from radiation emitted from waste that is still contained in the disposal site. The results of the inadvertent intruder assessment are compared with the appropriate performance objective of subpart C of this part. An inadvertent intruder assessment can employ a similar methodology to that used for a performance assessment, but the inadvertent intruder assessment must assume that an inadvertent intruder occupies the disposal site following a loss of institutional controls after closure, and engages in activities that unknowingly expose the inadvertent intruder to radiation from the waste.

(5) Implementation of dose methodology. The dose methodology used to demonstrate compliance with the performance objectives of this part shall be consistent with the dose methodology specified in the standards for radiation protection set forth in part 20 of this chapter. After the effective date of these regulations, applicants and licensees may use updated factors incorporated by the U.S. Environmental Protection Agency into Federal radiation protection guidance or may use the most current scientific models and methodologies (e.g., those accepted by the International Commission on Radiological Protection) appropriate for site-specific circumstances to calculate the dose. The weighting factors used in the calculation of the dose must be consistent with the methodology used to perform the calculation.

(6) Waste with significant concentrations and quantities of long-lived radionuclides may require special processing, design, or site conditions for disposal. Demonstrating protection of the general population from releases of radioactivity and inadvertent intruders from the disposal of this waste requires an assessment of long-term impacts. Longer compliance period and performance period analyses are used to evaluate the suitability of this waste for disposal on a case-by-case basis. In general, for disposal sites with limited quantities of long-lived radionuclides, a shorter compliance period is sufficient and performance period analyses are not necessary to demonstrate protection of the general population from releases of radioactivity and protection of inadvertent intruders.

(d) Defense-in-depth.

(1) Defense-in-depth protections are important, together with the technical analyses, for ensuring safety, with regard to complex facilities, in the face of significant uncertainties. Defense-in-depth protections combined with technical analyses and scientific judgment form a fundamental part of the safety case for licensing a land disposal facility. Understanding the capabilities of the defense-in-depth protections and the basis for those capabilities ensures that no single layer is exclusively relied upon for safety, ensures that the protections are commensurate with the risks associated with the land disposal facility, and increases confidence that the performance objectives are met.

(2) Defense-in-depth protections for a land disposal facility may be different during the operational phase while the licensee is disposing of waste than after closure of the land disposal facility. While waste is being disposed, and before a land disposal facility is closed, defense-in-depth protections, with respect to operational activities (e.g., waste handling), consist of both active safety protections (e.g., equipment, procedures, and controls) and passive safety protections (e.g., physical barriers). The active and passive safety protections used for operational activities at a land disposal facility are comparable to defense-in-depth protections at other operating nuclear facilities licensed by the NRC and are commensurate with the risk



and complexity of the operational activity. Following closure of the land disposal facility, defense-in-depth protections are provided through essentially passive safety protections due to the long time periods associated with disposal of waste. Diversity in the capabilities of the passive safety protections provided by the disposal site (e.g., waste form, container, engineered features, depth of disposal unit below the land surface, hydrologic and geochemical characteristics of the disposal site) increases the resilience of the disposal site to unanticipated failures or external challenges and compensates, in part, for uncertainties in the long-term estimation of performance of the disposal site.

(e) Waste acceptance. Demonstrating compliance with the performance objectives also requires a determination of criteria for the acceptance of waste. The criteria can be determined from the results of the technical analyses that demonstrate compliance with the performance objectives for any land disposal facility or, for a near-surface disposal facility, the waste classification requirements of subpart D of this part.

(2f) Waste classification and near-surface disposal. (1) A cornerstone of the system is ~~stability—stability of the waste and the disposal site so that once emplaced and covered, the access of water to the waste can be minimized.~~ Migration of radionuclides is thus minimized, long-term active maintenance can be avoided, and potential exposures to intruders reduced. Stability helps ensure that releases of radioactivity, such as via infiltrating water, are minimized, thus avoiding the need for, to the extent practical, active maintenance. Stability is desirable from an operational and management standpoint for all wastes. However, it may not be necessary from a health and safety standpoint for some waste depending on the radiological composition. If unstable waste is disposed with waste that does require stability, the deterioration of unstable waste could lead to poor performance of the disposal site. ~~While stability is a desirable characteristic for all waste much radioactive waste does not contain sufficient amounts of radionuclides to be of great concern from these standpoints; this waste, however, tends to be unstable, such as ordinary trash type wastes. If mixed with the higher activity waste, their deterioration could lead to failure of the system and permit water to penetrate the disposal unit and cause problems with the higher activity waste.~~ Therefore, in order to avoid placing requirements for a stable waste form on ~~relatively innocuous~~ waste, these wastes have been classed as Class A waste. ~~Unstable~~ The Class A waste will be disposed of in separate disposal units at the disposal site. However, ~~stable~~ Class A waste ~~that is stable~~ may be ~~mixed disposed of~~ with other classes of waste. ~~Those higher activity wW~~ wastes that ~~should must~~ be stable for proper disposal are classed as Class B and C waste. To the extent that it is practicable, Class B and C waste forms or containers should be designed to be stable, (i.e., maintain gross physical properties and identity), over 300 years. ~~The stability of the disposal site for the disposal of long-lived radionuclides may be more uncertain and require more robust technical evaluation of the processes that are unlikely to affect the ability of the disposal site to isolate short-lived waste.~~ For ~~long-lived radionuclides and~~ certain radionuclides prone to migration, a maximum disposal site inventory based on the characteristics of the disposal site may be established to limit potential exposure ~~and to mitigate the uncertainties associated with long-term stability of the disposal site.~~ Some waste, depending on its radiological characteristics, may not be suitable for disposal if uncertainties cannot be adequately addressed with technical analyses.

~~(3) It is possible but unlikely that persons might occupy the site in the future and engage in normal pursuits without knowing that they were receiving radiation exposure. These persons are referred to as inadvertent intruders. Protection of such intruders can involve two principal~~

~~controls: institutional control over the site after operations by the site owner to ensure that no such occupation or improper use of the site occurs; or, designating which waste could present an unacceptable risk to an intruder, and disposing of this waste in a manner that provides some form of intruder barrier that is intended to prevent contact with the waste. This regulation incorporates both types of protective controls.~~

(24) Institutional control of access to the site is required for up to 100 years. This permits the disposal of Class A and Class B waste without special provisions for inadvertent intrusion protection, since these ~~classes of wastes~~ contain types and quantities of radioisotopes radionuclides that generally will decay during the 100-year period and will present an acceptable hazard to ~~an the inadvertent~~ intruder. However, waste that is Class A under 10 CFR 61.55(a)(6) may not decay to acceptable levels in 100 years. For waste classified under 10 CFR 61.55(a)(6), safety is provided by limiting the quantities and concentrations of the material consistent with the disposal site design. Safe disposal of waste classified under 10 CFR 61.55(a)(6) is demonstrated by the technical analyses and compliance with the performance objectives. The government landowner administering the active institutional control program has flexibility in controlling site access, which may include allowing productive uses of the land provided the integrity and long-term performance of the site are not affected.

(53) Waste that will not decay to levels ~~which that~~ present an acceptable hazard to an intruder within 100 years is typically designated as Class C waste. This Class C waste must be stable and be disposed of at a greater depth than the other classes of waste so that subsequent surface activities by an inadvertent intruder will not disturb the waste. Where site conditions prevent deeper disposal, intruder barriers such as concrete covers may be used. The effective life of these intruder barriers should be at least 500 years. A maximum concentration of radionuclides is specified in tables 1 and 2 of §61.55~~for all wastes~~ so that at the end of the ~~500~~ 500-year period, the remaining radioactivity will be at a level that does not pose an unacceptable hazard to an inadvertent intruder or to public health and safety. Waste with concentrations above these limits is generally unacceptable for near-surface disposal. There may be some instances where waste with concentrations greater than permitted for Class C would be acceptable for near-surface disposal with special processing or design. Disposal of this waste~~These~~ will be evaluated on a case-by-case basis with the technical analyses required in §61.13. ~~Class C waste must also be stable.~~

(4) Regardless of the classification, some waste may require enhanced controls or limitations at a particular land disposal facility. A performance assessment and an inadvertent intruder assessment are used to identify these enhanced controls and limitations, which are site- and waste-specific. Enhanced controls or limitations could include additional limits on waste concentration or total activity, more robust intruder barriers, deeper burial depth, and waste-specific stability requirements. These enhanced controls or limitations could mitigate the uncertainty associated with the evolutionary effects of the natural environment and the land disposal facility performance over the compliance period.

(eq) The licensing process. (1) During the preoperational phase, the potential applicant goes through a process of disposal site selection by selecting a region of interest, examining a number of possible disposal sites within the area of interest, and narrowing the choice to the proposed site. Through a detailed investigation of the disposal site characteristics the potential applicant obtains data on which to base an analysis of the disposal site's suitability. The potential applicant uses these data and analyses to develop a safety case that describes the

safety relevant aspects of the site, the design of the facility, and the managerial control measures and regulatory controls. The safety case demonstrates the level of protection of people and the environment and provides reasonable assurance that the performance objectives will be met. Along with these data and analyses, the applicant submits other more general information to the Commission in the form of an application for a license for land disposal. The Commission's review of the application is in accordance with administrative procedures established by rule and may involve participation by affected State governments or Indian Tribes. While the proposed disposal site must be owned by a State or the Federal ~~government~~ Government before the Commission will issue a license, it may be privately owned during the preoperational phase if suitable arrangements have been made with a State or the Federal ~~government~~ Government to take ownership in fee of the land before the license is issued.

(2) During the operational phase, the licensee carries out disposal activities in accordance with the requirements of ~~this-these~~ regulations and any conditions on the license. Periodically, the authority to conduct the above ground operations and dispose of waste will be subject to a license renewal, at which time the operating history will be reviewed and a decision made to permit or deny continued operation. When disposal operations are to cease, the licensee applies for an amendment to ~~his-the site~~ license to permit site closure. After final review of the licensee's site closure and stabilization plan, the Commission may approve the final activities necessary to prepare the disposal site so that ongoing active maintenance of the site is not required during the period of institutional control.

(3) During the period when the ~~final-disposal~~ site closure and stabilization activities are being carried out, the licensee is in a disposal site closure phase. Following that, for a period of 5 years, the licensee must remain at the disposal site for a period of post-closure observation and maintenance to ~~assure-ensure~~ that the disposal site is stable and ready for institutional control. The period of postclosure observation and maintenance is used to ensure that the disposal site closure and stabilization activities have not resulted in unintended instability at the disposal site. The Commission may approve shorter or require longer periods if conditions warrant. At the end of this period, the licensee applies for a license transfer to the disposal site owner.

(4) After a finding of satisfactory disposal site closure, the Commission will transfer the license to the State or Federal ~~government~~ Government that owns the disposal site. If the U.S. Department of Energy is the Federal agency administering the land on ~~behalf~~ behalf of the Federal ~~government~~ Government the license will be terminated because the Commission lacks regulatory authority over the Department for this activity. Under the conditions of the transferred license, the owner will carry out a program of monitoring to ~~assure-ensure~~ continued satisfactory disposal site performance, perform physical surveillance to restrict access to the site, and carry out minor custodial activities. During this period, productive uses of the land might be permitted if those uses do not affect the stability of the site and its ability to meet the performance objectives. At the end of the prescribed period of institutional control, the license will be terminated by the Commission.

[47 FR 57463, Dec. 27, 1982, as amended at 58 FR 33891, June 22, 1993; 80 FR 74980, Dec. 1, 2015]

### **§ 61.8 Information collection requirements: OMB approval.**

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0135.

(b) The approved information collection requirements contained in this Part appear in §§ 61.3, 61.6, 61.9, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.22, 61.24, 61.26, 61.27, 61.28, 61.30, 61.31, 61.32, 61.41, 61.42, 61.53, 61.55, 61.57, 61.58, 61.61, 61.62, 61.63, 61.72, and 61.80.

(c) In § 61.32, Form N-71 and associated forms are approved under control number 3150-0056, and DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control numbers 0694-0135.

[58 FR 33891, June 22, 1993 as amended at 62 FR 52188, Oct. 6, 1997; 73 FR 78606, Dec. 23, 2008]

### **§ 61.9 Employee protection.**

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of the section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

(2) Copies of NRC Form 3 can be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter, via email to [Forms.Resource@nrc.gov](mailto:Forms.Resource@nrc.gov), or by visiting the NRC's online library at <http://www.nrc.gov/reading-rm/doc-collections/forms/>.

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from

participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

[58 FR 52412, Oct. 8, 1993, as amended at 60 FR 24552, May 9, 1995; 61 FR 6765, Feb. 22, 1996; 68 FR 58814, Oct. 10, 2003; 72 FR 63974, Nov. 14, 2007; 79 FR 66605, Nov. 10, 2014]

#### **§ 61.9a Completeness and accuracy of information.**

(a) Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

(b) Each applicant or licensee shall notify the Commission of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety or common defense and security. An applicant or licensee violates this paragraph only if the applicant or licensee fails to notify the Commission of information that the applicant or licensee has identified as having a significant implication for public health and safety or common defense and security. Notification shall be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.

[52 FR 49372, Dec. 31, 1987]

#### **§ 61.9b Deliberate misconduct.**

(a) Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:

(1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; or

(2) Deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:



(1) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Commission; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

[63 FR 1898, Jan. 13, 1998]

## **Subpart B--Licenses**

### **§ 61.10 Content of application.**

(a)(1) An application to receive from others, possess and dispose of wastes containing or contaminated with source, byproduct or special nuclear material by land disposal must consist of general information, specific technical information, institutional information, and financial information as set forth in §§ 61.11 through 61.16. (2) An environmental report prepared in accordance with subpart A of part 51 of this chapter must accompany the application.

(b) The information provided in an application comprises the safety case and supports the licensee's demonstration that the land disposal facility will be constructed and operated safely and provides reasonable assurance that the disposal site will be capable of isolating waste and limiting releases to the environment.

[49 FR 9405, Mar. 12, 1984]

### **§ 61.11 General information.**

The general information must include each of the following:

(a) Identity of the applicant including:

(1) The full name, address, telephone number and description of the business or occupation of the applicant;

(2) If the applicant is a partnership, the name, and address of each partner and the principal location where the partnership does business;

(3) If the applicant is a corporation or an unincorporated association, (i) the state where it is incorporated or organized and the principal location where it does business, and (ii) the names and addresses of its directors and principal officers; and

(4) If the applicant is acting as an agent or representative of another person in filing the application, all information required under this paragraph must be supplied with respect to the other person.

(b) Qualifications of the applicant:

(1) The organizational structure of the applicant, both offsite and onsite, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;

(2) The technical qualifications, including training and experience, of the applicant and members of the applicant's staff to engage in the proposed activities. Minimum training and experience requirements for personnel filling key positions described in paragraph (b)(1) of this section must be provided;

(3) A description of the applicant's personnel training program; and

(4) The plan to maintain an adequate complement of trained personnel to carry out waste receipt, handling, and disposal operations in a safe manner.

(c) A description of:

(1) The location of the proposed disposal site;

(2) The general character of the proposed activities;

(3) The types and quantities of radioactive waste to be received, possessed, and disposed of;

(4) Plans for use of the land disposal facility for purposes other than disposal of radioactive wastes; and

(5) The proposed facilities and equipment.

(d) Proposed schedules for construction, receipt of waste, and first emplacement of waste at the proposed land disposal facility.

#### **§ 61.12 Specific technical information.**

The specific technical information, which supports the safety case, must include the following information needed for to demonstrate that the performance objectives of subpart C of this part and the applicable technical requirements of subpart D of this part will be met:

(a) A description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities. The description must include geologic, geotechnical, geochemical, geomorphological, hydrologic, meteorologic, climatologic, and biotic features of the disposal site and vicinity.

(b) A description of the design features of the land disposal facility and the disposal units. For near-surface disposal, the description must include those design features related to infiltration of water; integrity of covers for disposal units; structural stability of backfill, wastes, and covers; contact of wastes with standing water; disposal site drainage; disposal site closure and stabilization; elimination to the extent practicable of long-term disposal site maintenance; inadvertent intrusion; occupational exposures; disposal site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures.

(c) A description of the principal design criteria and their relationship to the performance objectives.

(d) A description of the design basis natural events or phenomena and their relationship to the principal design criteria.

(e) A description of codes and standards which the applicant has applied to the design ~~and which~~that will apply to construction of the land disposal facilities.

(f) A description of the construction and operation of the land disposal facility. The description must include as a minimum the methods of construction of disposal units; waste emplacement; the procedures for and areas of waste segregation; types of intruder barriers; onsite traffic and drainage systems; survey control program; methods and areas of waste storage; and methods to control surface water and groundwater access to the wastes. The description must also include a description of the methods to be employed in the handling and disposal of wastes containing chelating agents or other non-radiological substances that might affect meeting the performance objectives in subpart C of this part.

(g) A description of the disposal site closure plan, including those design features which are intended to facilitate disposal site closure and ~~to~~ eliminate the need for ongoing active maintenance.

(h) An identification of the known natural resources at the disposal site, the exploitation of which could result in inadvertent intrusion into the low-level wastes after removal of active institutional control.

(i) A description of the kind, amount, ~~classification~~ and specifications of the radioactive material proposed to be received, possessed, and disposed of at the land disposal facility, including the criteria for acceptance of waste disposal.

(j) A description of the quality assurance program, tailored to ~~LLW~~low-level radioactive waste disposal, developed and applied by the applicant for:

(1) The determination of natural disposal site characteristics;

(2) The development of technical analyses required in § 61.13; and

(3)for Quality assurance during the design, construction, operation, and site closure of the land disposal facility and the receipt, handling, and emplacement of waste.

(k) A description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with the performance objective in § 61.41 of this part and occupational radiation exposure to ensure compliance with the requirements of part 20 of this chapter and to control contamination of personnel, vehicles, equipment, buildings, and the disposal site. Both routine operations and accidents must be addressed. The program description must include procedures, instrumentation, facilities, and equipment.

(l) A description of the environmental monitoring program to provide data to evaluate disposal site performance including potential health and environmental impacts and the plan for taking corrective measures commensurate with any detected radionuclide ~~if migration of radionuclides is indicated~~.

(m) A description of the administrative procedures that the applicant will apply to control activities at the land disposal facility.

(n) A description of the facility electronic recordkeeping system as required in § 61.80.

(o) Identification of defense-in-depth protections, including a description of the capability of each defense-in-depth protection relied upon to maintain safety and a basis for the capability of each defense-in-depth protection.

[47 FR 57463, Dec. 27, 1982, as amended at 58 FR 33891, June 22, 1993; 60 FR 15666, Mar. 27, 1995]

### **§ 61.13 Technical analyses.**

The specific technical information must also include the following analyses needed to demonstrate that the performance objectives of subpart C of this part will be met: The technical analyses are one of the elements of the safety case. Licensees with licenses for land disposal facilities in effect on [INSERT DATE THAT IS 1 YEAR AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] must submit these analyses at the next license renewal or by [INSERT DATE THAT IS 6 YEARS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], whichever comes first.

(a) A performance assessment that demonstrates that there is reasonable assurance that the exposure to humans from the release of radioactivity will meet the performance objective set forth in § 61.41. The performance assessment shall:

(1) Consider features, events, and processes that might affect demonstrating compliance with § 61.41. The features, events, and processes considered must represent a range of phenomena with both beneficial and adverse effects on performance, and must consider the specific technical information required in § 61.12(a) through (i). A technical basis for either inclusion or exclusion of specific features, events, and processes must be provided.

(2) Consider the likelihood of disruptive or other unlikely features, events, or processes for comparison with the limits set forth in § 61.41.

(3) Provide a technical basis for models used in the performance assessment (e.g., comparisons made with outputs of detailed process-level models or empirical observations such as laboratory testing, field investigations, or natural analogs).

(4) Evaluate contaminant transport pathways and processes in environmental media (e.g., air, soil, groundwater, surface water) including but not limited to advection, diffusion, plant uptake, and exhumation by burrowing animals.

(5) Account for uncertainties and variability in the projected behavior of the disposal site and general environment and in the demographics and behaviors of human receptors.

(6) Identify and differentiate between the roles performed by the natural disposal site characteristics and design features of the land disposal facility in limiting releases of radioactivity to the general population.

(7) Include a compliance period. If a compliance period of 1,000 years is used, include technical rationale why a 10,000-year compliance period does not need to be considered in the performance assessment.

(b) An inadvertent intruder assessment that demonstrates there is reasonable assurance that any inadvertent intruder will not be exposed to doses that exceed the limits set forth in § 61.42. The inadvertent intruder assessment shall:

(1) Assume that an inadvertent intruder occupies the disposal site and engages in normal activities (e.g., dwelling construction, agriculture, and drilling for water) and other reasonably foreseeable pursuits that are consistent with the activities and pursuits occurring in and around the site at the time of development of the inadvertent intruder assessment. Licensees shall update the inadvertent intruder assessment prior to closure, in accordance with § 61.28, to reflect any significant changes to the activities and pursuits occurring in and around the site.

(2) Identify barriers to inadvertent intrusion that inhibit contact with the waste or limit exposure to radiation from the waste, and provide a basis for the time period over which barriers are effective.

(3) Account for uncertainties and variability in the projected behavior of the disposal site and general environment.

(4) Include a compliance period. If a compliance period of 1,000 years is used, include technical rationale why a 10,000-year compliance period does not need to be considered in the inadvertent intruder assessment.

~~a) Pathways analyzed in demonstrating protection of the general population from releases of radioactivity must include air, soil, groundwater, surface water, plant uptake, and exhumation by burrowing animals. The analyses must clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses must clearly demonstrate that there is reasonable assurance that the exposure to humans from the release of radioactivity will not exceed the limits set forth in § 61.41.~~

~~(b) Analyses of the protection of individuals from inadvertent intrusion must include demonstration that there is reasonable assurance the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.~~

(c) Analyses of the protection of individuals during operations must include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analyses must provide reasonable assurance that exposures will be controlled to meet the requirements of part 20 of this chapter.

(d) Analyses of the long-term stability of the disposal site and the need for ongoing active maintenance after site closure must be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses must provide reasonable assurance that long-term stability of the disposal site can be ensured for the compliance period and that there will not be a need for ongoing active maintenance of the disposal site following site closure.

(e) If a 10,000 year compliance period is used for either the performance assessment or inadvertent intruder assessment, the licensee shall assess how the disposal site limits the potential long-term radiological impacts during the performance period, consistent with available data and current scientific understanding. The analyses must identify and describe features of

the design and site characteristics relied on to demonstrate compliance with the applicable performance objectives set forth in § 61.41(b) and § 61.42(b).

#### **§ 61.14 Institutional information.**

The institutional information must include:

- (a) A certification by the Federal or State government which owns the disposal site that the Federal or State government is prepared to accept transfer of the license when the provisions of § 61.30 are met, and will assume responsibility for custodial care after site closure and postclosure observation and maintenance.
- (b) Where the proposed disposal site is on land not owned by the Federal or a State government, the applicant must submit evidence that arrangements have been made for assumption of ownership in fee by the Federal or a State government before the Commission issues a license.

#### **§ 61.15 Financial information.**

The financial information must be 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 of this part.

#### **§ 61.16 Other information.**

Depending upon the nature of the wastes to be disposed of, and the design and proposed operation of the land disposal facility, additional information may be requested by the Commission including the following:

- (a) Physical security measures, if appropriate. Any application to receive and possess special nuclear material in quantities subject to the requirements of part 73 of this chapter shall demonstrate how the physical security requirements of part 73 will be met. In determining whether receipt and possession will be subject to the requirements of part 73, the applicant shall not consider the quantity of special nuclear material that has been disposed of.
- (b) Safety information concerning criticality, if appropriate. (1) Any application to receive and possess special nuclear material in quantities that would be subject to the requirements of § 70.24, "Criticality accident requirements" of part 70 of this chapter shall demonstrate how the requirements of that section will be met, unless the applicant requests an exemption pursuant to § 70.24(d). In determining whether receipt and possession would be subject to the requirements of § 70.24, the applicant shall not consider the quantity of special nuclear material that has been disposed of.
- (2) Any application to receive and possess special nuclear material shall describe proposed procedures for avoiding accidental criticality, which address both storage of special nuclear material prior to disposal and waste emplacement for disposal.



#### **§ 61.20 Filing and distribution of application.**

(a) An application for a license under this part, and any amendments thereto, must be filed with the Director, 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.

(b) The applicant shall maintain the capability to generate additional copies of the application for distribution in accordance with written instructions from the Director or the Director's designee.

(c) *Fees.* Application, amendment, and inspection fees applicable to a license covering the receipt and disposal of radioactive wastes in a land disposal facility are required by part 170 of this chapter.

[47 FR 57463, Dec. 27, 1982, as amended at 49 FR 9405, Mar. 12, 1984; 68 FR 58814, Oct. 10, 2003]

#### **§ 61.21 Elimination of repetition.**

In its application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission if these references are clear and specific.

[49 FR 9405, Mar. 12, 1984]

#### **§ 61.22 Updating of application.**

(a) The application must be as complete as possible in the light of information that is available at the time of submittal.

(b) The applicant shall supplement its application in a timely manner, as necessary, to permit the Commission to review, prior to issuance of a license, any changes in the activities proposed to be carried out or new information regarding the proposed activities.

[49 FR 9405, Mar. 12, 1984]

#### **§ 61.23 Standards for issuance of a license.**

A license for the receipt, possession, and disposal of waste containing or contaminated with source, special nuclear, or byproduct material will be issued by the Commission upon finding that the issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public, and:

(a) The applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

(b) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations (including equipment, facilities, and procedures), disposal site

closure, and postclosure institutional controls s demonstrate that they are adequate to protect the public health and safety ~~in that because~~ they provide reasonable assurance that the general population will be protected from releases of radioactivity as specified in the performance objective in § 61.41, ~~Protection of the general population from releases of radioactivity.~~

(c) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations (including equipment, facilities, and procedures), disposal site closure, and postclosure institutional controls s demonstrate that they are adequate to protect the public health and safety ~~in that because~~ they will provide reasonable assurance that individual inadvertent intruders are protected in accordance with the performance objective in § 61.42, ~~Protection of individuals from inadvertent intrusion.~~

(d) The applicant's proposed waste acceptance criteria and land disposal facility operations (, including equipment, facilities, and procedures), demonstrate that they are adequate to protect the public health and safety ~~in that because~~ they will provide reasonable assurance that the standards for radiation protection set out in part 20 of this chapter will be met.

(e) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations, disposal site closure, and postclosure institutional controls s demonstrate that they are adequate to protect the public health and safety ~~in that because~~ they will provide reasonable assurance that long-term stability of the disposed waste and the disposal site will be achieved and will eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure.

(f) The applicant's demonstration provides reasonable assurance that the applicable technical requirements of subpart D of this part will be met.

(g) The applicant's proposal for institutional control provides reasonable assurance that institutional control will be provided for the length of time found necessary to ensure the findings in paragraphs (b) through (e) of this section and that the institutional control meets the requirements of § 61.59, Institutional requirements.

(h) The information on financial assurances meets the requirements of subpart E of this part.

(i) The applicant's physical security information provides reasonable assurance that the requirements of part 73 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license.

(j) The applicant's criticality safety procedures are adequate to protect the public health and safety and provide reasonable assurance that the requirements of § 70.24, Criticality accident requirements, of part 70 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license.

(k) Any additional information submitted as requested by the Commission pursuant to § 61.16, Other information, is adequate.

(l) The requirements of subpart A of part 51 of this chapter have been met.

(m) The applicant's safety case is adequate to support the licensing decision.

[47 FR 57463, Dec. 27, 1982, as amended at 49 FR 9405, Mar. 12, 1984]

**§ 61.24 Conditions of licenses.**

(a) A license issued under this part, or any right thereunder, may be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, only if the Commission finds, after securing full information, that the transfer is in accordance with the provisions of the Atomic Energy Act and gives its consent in writing in the form of a license amendment.

(b) The licensee shall submit written statements under oath upon request of the Commission, at any time before termination of the license, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(c) The license will be transferred to the site owner only on the full implementation of the final closure plan as approved by the Commission, including post-closure observation and maintenance.

(d) The licensee shall be subject to the provisions of the Atomic Energy Act now or hereafter in effect, and to all rules, regulations, and orders of the Commission. The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of rules, regulations, and orders issued in accordance with the terms of the Atomic Energy Act.

(e) Any license may be revoked, suspended or modified in whole or in part for any material false statement in the application or any statement of fact required under Section 182 of the Act, or because of conditions revealed by any application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license to the original application, or for failure to operate the facility in accordance with the terms of the license, or for any violation of, or failure to observe any of the terms and conditions of the Act, or any rule, regulation, license or order of the Commission.

(f) Each person licensed by the Commission pursuant to the regulations in this part shall confine possession and use of materials to the locations and purposes authorized in the license.

(g) No radioactive waste may be disposed of until the Commission has inspected the land disposal facility and has found it to be in conformance with the description, design, and construction described in the application for a license.

(h) The Commission may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of source, special nuclear or byproduct material as it deems appropriate or necessary in order to:

- (1) Promote the common defense and security;
- (2) Protect health or to minimize danger to life or property;

(3) Require reports and the keeping of records, and to provide for inspections of activities under the license that may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(i) Any licensee who receives and possesses special nuclear material under this part in quantities that would be subject to the requirements of § 70.24 of part 70 of this chapter shall comply with the requirements of that section. The licensee shall not consider the quantity of special nuclear material that has been disposed of.

(j) The authority to dispose of wastes expires on the date stated in the license except as provided in § 61.27(a) of this part.

(k)(1) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(i) The licensee;

(ii) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(iii) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(2) This notification must indicate:

(i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

[47 FR 57463, Dec. 27, 1982, as amended at 52 FR 1295, Jan. 12, 1987]

### **§ 61.25 Changes.**

(a) Except as provided for in specific license conditions, the licensee shall not make changes in the land disposal facility or procedures described in the license application. The license will include conditions restricting subsequent changes to the facility and the procedures authorized which are important to public health and safety. These license restrictions will fall into three categories of descending importance to public health and safety as follows:

(1) ~~those~~ Those features and procedures ~~which that~~ may not be changed without:

~~(i) 60 days prior notice to the Commission;~~

~~(ii) 30 days notice of opportunity for a prior hearing;~~ and

(iii) ~~prior~~ Prior Commission approval;

~~(2) Those~~ features and procedures ~~which that~~ may not be changed without:

~~(i) 60 days prior notice to the Commission;~~ and

(ii) ~~P~~ Prior Commission approval; and

(3) ~~Those~~ features and procedures ~~which that~~ may not be changed without 60 days prior notice to the Commission. Features and procedures falling in this paragraph (a)(3) ~~of this section~~ may not be changed without prior Commission approval if the Commission so orders, after having received the required notice, ~~so orders~~.

(b) Amendments authorizing waste acceptance criteria changes, site closure, license transfer, or license termination shall be included in paragraph (a)(1) of this section.

(c) The Commission shall provide a copy of the notices of opportunity for hearing provided in paragraph (a)(1) of this section to State and local officials or Tribal governing bodies specified in § 2.104(c) of this chapter.

[77 FR 46600, Aug. 3, 2012; 80 FR 74980, Dec. 1, 2015]

#### **§ 61.26 Amendment of license.**

(a) An application for amendment of a license must be filed in accordance with § 61.20 and shall fully describe the changes desired.

(b) In determining whether an amendment to a license will be approved, the Commission will apply the criteria set forth in § 61.23.

#### **§ 61.27 Application for renewal or closure.**

(a) Any expiration date on a license applies only to the above ground activities and to the authority to dispose of waste. Failure to renew the license shall not relieve the licensee of responsibility for carrying out site closure, postclosure observation and transfer of the license to the site owner. An application for renewal or an application for closure under § 61.28 must be filed at least 30 days prior to license expiration.

(b) Applications for renewal of a license must be filed in accordance with §§ 61.10 through 61.16 and § 61.20. Applications for closure must be filed in accordance with §§ 61.20 and 61.28. Information contained in previous applications, statements or reports filed with the Commission under the license may be incorporated by reference if the references are clear and specific.

(c) In any case in which a licensee has timely filed an application for renewal of a license, the license for continued receipt and disposal of licensed materials does not expire until the Commission has taken final action on the application for renewal.

(d) In determining whether a license will be renewed, the Commission will apply the criteria set forth in § 61.23.

#### **§ 61.28 Contents of application for closure.**

(a) Prior to ~~final~~ closure of the disposal site, or as otherwise directed by the Commission, the applicant shall submit an application to amend the license for site closure. This site closure application must include a final revision of the safety case and specific details of the disposal

site closure plan included as part of the license application submitted under § 61.12(g) that includes each of the following:

(1) Any additional geologic, hydrologic, or other disposal site data pertinent to the long-term containment of emplaced radioactive wastes obtained during the operational period.

(2) The results of tests, experiments, or any other analyses relating to backfill of excavated areas, closure and sealing, waste migration and interaction with emplacement media, or any other tests, experiments, or analysis pertinent to the long-term containment of emplaced waste within the disposal site, including revised analyses for § 61.13 and updates to the identified defense-in-depth protections using the details of the submitted site closure plan and waste inventory.

(3) Any proposed revision of plans for:

(i) Decontamination and/or dismantlement of surface facilities;

(ii) Backfilling of excavated areas; or

(iii) Stabilization of the disposal site for post-closure care.

(b) An environmental report or a supplement to an environmental report prepared in accordance with subpart A of part 51 of this chapter must accompany the application.

(c) Upon review and consideration of an application to amend the license for closure submitted in accordance with paragraph (a) of this section, the Commission shall issue an amendment authorizing closure if there is reasonable assurance that the long-term performance objectives of subpart C of this part will be met.

[47 FR 57463, Dec. 27, 1982, as amended at 49 FR 9406, Mar. 12, 1984]

#### **§ 61.29 Post-closure observation and maintenance.**

Following completion of closure authorized in § 61.28, the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal site until the license is transferred by the Commission in accordance with § 61.30. Responsibility for the disposal site must be maintained by the licensee for 5 years. A shorter or longer time period for post-closure observation and maintenance may be established and approved as part of the site closure plan, based on site-specific conditions.

#### **§ 61.30 Transfer of license.**

(a) Following closure and the period of post-closure observation and maintenance, the licensee may apply for an amendment to transfer the license to the disposal site owner. The license shall be transferred when the Commission finds:

(1) That the closure of the disposal site has been made in conformance with the licensee's disposal site closure plan, as amended and approved as part of the license;



- (2) That reasonable assurance has been provided by the licensee that the performance objectives of subpart C of this part are met;
- (3) That any funds for care and records required by §§ 61.80 (e) and (f) have been transferred to the disposal site owner;
- (4) That the post-closure monitoring program is operational for implementation by the disposal site owner; and
- (5) That the Federal or State government agency which will assume responsibility for institutional control of the disposal site is prepared to assume responsibility and ensure that the institutional requirements found necessary under § 61.23(g) will be met.

[47 FR 57463, Dec. 27, 1982, as amended at 61 FR 24674, May 16, 1996]

### **§ 61.31 Termination of license.**

- (a) Following any period of institutional control needed to meet the requirements found necessary under § 61.23, the licensee may apply for an amendment to terminate the license.
- (b) This application must be filed, and will be reviewed, in accordance with the provision of § 61.20 and of this section.
- (c) A license is terminated only when the Commission finds:
  - (1) That the institutional control requirements found necessary under § 61.23(g) have been met; and
  - (2) 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.
  - (3) That the records required by §§ 61.80(e) and (f) have been sent to the party responsible for institutional control of the disposal site and a copy has been sent to the Commission immediately prior to license termination.

[47 FR 57463, Dec. 27, 1982, as amended at 61 FR 24674, May 16, 1996]

## **US/IAEA Safeguards Agreement**

### **§ 61.32 Facility information and verification.**

- (a) In response to a written request by the Commission, each applicant for a license and each recipient of a license shall submit facility information, as described in § 75.10 of this chapter, on Form N-71 and associated forms and site information on DOC/NRC Form AP-A, and associated forms;
- (b) As required by the Additional Protocol, applicants and licensees specified in paragraph (a) of this section shall submit location information described in § 75.11 of this chapter on DOC/NRC Form AP-1 and associated forms; and

(c) Shall permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in Part 75 of this chapter.

[73 FR 78606, Dec. 23, 2008]

## **Subpart C--Performance Objectives**

### **§ 61.40 General requirement.**

Land disposal facilities must be sited, designed, operated, closed, and controlled after closure so that reasonable assurance exists that exposures to humans are within the limits established in the performance objectives in §§ 61.41 through 61.44.

### **§ 61.41 Protection of the general population from releases of radioactivity.**

(a) Concentrations of radioactive material which may be released to the general environment in ground water, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 0.25 milliSievert (25 millirems) to ~~the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of~~ any member of the public within the compliance period.

(b) ~~Effort shall be made to minimize. Reasonable effort should be made to maintain~~ releases of radioactivity ~~from a disposal site in effluents~~ to the general environment ~~to the extent as low as is reasonably achievable~~ at any time during the performance period. Compliance with this paragraph must be demonstrated through analyses that meet the requirements specified in § 61.13(e).

### **§ 61.42 Protection of individuals from inadvertent intrusion.**

(a) Design, operation, and closure of the land disposal facility must ensure protection of any ~~individual inadvertently intruding intruder~~ into the disposal site ~~and who occupying occupies~~ the site or ~~contacting contacts~~ the waste at any time after active institutional controls over the disposal site are removed. The annual dose must not exceed 5 milliSieverts (500 millirems) to any inadvertent intruder within the compliance period. Compliance with this paragraph must be demonstrated through analyses that meet the requirements specified in § 61.13(b).

(b) ~~Effort shall be made to minimize exposures to any inadvertent intruder to the extent reasonably achievable at any time during the performance period. Compliance with this paragraph must be demonstrated through analyses that meet the requirements specified in § 61.13(e).~~

### **§ 61.43 Protection of individuals during operations.**

Operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in part 20 of this chapter, except for releases of radioactivity in

effluents from the land disposal facility, which must not result in an annual dose exceeding an equivalent of 0.25 milliSievert (25 millirems) to any member of the public~~shall be governed by § 61.41 of this part~~. Every reasonable effort shall be made to maintain radiation exposures as low as is reasonably achievable.

#### **§ 61.44 Stability of the disposal site after closure.**

The land disposal facility must be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site for the compliance period and to eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following site closure so that only surveillance, monitoring, or minor custodial care are required.

### **Subpart D--Technical Requirements for Land Disposal Facilities**

#### **§ 61.50 Disposal site suitability requirements for land disposal.**

(a) Disposal site suitability for near-surface disposal. ~~(1)~~ The purpose of this section is to specify the minimum characteristics a disposal site must have ~~possess~~ to be acceptable for the disposal of radioactive waste in the use as a near-surface disposal facility. The primary emphasis ~~in of~~ disposal site suitability requirements is to provide for favorable conditions and minimize unfavorable conditions with respect given to long-term isolation of wastes from the environment, rather than, a matter having long-term impacts, and to disposal site features that ensure that the long-term performance objectives of subpart C of this part are met, as opposed to short-term convenience or benefits to site operation. Site suitability requirements help to ensure that the performance objectives of subpart C of this part are met.

~~(2)~~ The disposal site shall be capable of being characterized, modeled, analyzed, and monitored.

(2) The hydrologic characteristics that a disposal site must have for 500 years following closure of the land disposal facility to be acceptable for the disposal of radioactive waste in the near surface include:

~~(3) Within the region or state where the facility is to be located, a disposal site should be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of subpart C of this part.~~

~~(4) Areas must be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of subpart C of this part.~~

~~(i5) The disposal site must be generally well drained and free of areas of flooding or frequent ponding.~~ Waste disposal shall not take place in a poorly drained site or a site subject to frequent ponding, or in a 100-year flood plain, coastal high-hazard area or wetland, as defined in Executive Order 11988, "Floodplain Management Guidelines."

~~(6ii)~~ Upstream drainage areas must be minimized to decrease the amount of runoff which could erode or inundate waste disposal units.

~~(iii)~~ The disposal site must provide sufficient depth to the water table that ground-water intrusion, perennial or otherwise, into the waste will not occur. The Commission will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives of subpart C of this part being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

~~(8iv)~~ The hydrogeologic unit used for disposal shall not discharge ground water to the surface within the disposal site.

(3) After 500 years, the hydrologic characteristics specified in paragraph (2) of this section shall not significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part.

(4) Other characteristics of the site shall not significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or preclude defensible modeling and estimation of longer-term impacts. The characteristics include:

(i) A disposal site should be selected so that projected population growth and future developments are not likely to affect the ability of the land disposal facility to meet the performance objectives of subpart C of this part.

(ii) Areas must be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of subpart C of this part.

~~(9iii)~~ Areas must be avoided where tectonic processes such as faulting, folding, seismic activity, or ~~vulcanism-volcanism~~ may occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

~~(10iv)~~ Areas must be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding, or weathering occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

~~(14v)~~ The disposal site must not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of subpart C of this part or significantly mask the environmental monitoring program.

~~(b) Disposal site suitability requirements for land disposal other than near-surface ([Reserved].)~~

## **§ 61.51 Disposal site design for land disposal.**

(a) Disposal site design for near-surface disposal. (1) Site design features must be directed toward defense-in-depth, long-term isolation and avoidance of the need ~~for to~~ continuing active maintenance after site closure.

(2) The disposal site design and operation must be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that provides reasonable assurance that the performance objectives of subpart C of this part will be met.

(3) The disposal site must be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives of subpart C of this part will be met.

(4) Covers must be designed to minimize to the extent practicable water infiltration, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.

(5) Surface features must direct surface water drainage away from disposal units at velocities and gradients which will not result in erosion that will require ongoing active maintenance in the future.

(6) The disposal site must be designed to minimize to the extent practicable the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

(b) Disposal site design for other than near-surface disposal (reserved).

#### **§ 61.52 Land disposal facility operation and disposal site closure.**

(a) Near-surface disposal facility operation and disposal site closure. (1) Wastes designated as Class A pursuant to § 61.55, must be segregated from other wastes by placing in disposal units which are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives in subpart C of this Part. This segregation is not necessary for Class A wastes if they meet the stability requirements in § 61.56(b) of this part.

(2) Wastes designated as Class C pursuant to § 61.55, must be disposed of so that the top of the waste is a minimum of 5 meters below the top surface of the cover or must be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for a least 500 years.

(3) All wastes shall be disposed of in accordance with the requirements of paragraphs (a)(4) through ~~(4413)~~ of this section.

(4) Wastes must be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.

(5) Void spaces between waste packages must be filled with earth or other material to reduce future subsidence within the fill.

(6) Waste must be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels that at a minimum will permit the licensee to comply with all provisions of §§ 20.1301 and 20.1302 of this chapter at the time the license is transferred pursuant to § 61.30 of this part.

(7) The boundaries and locations of each disposal unit (e.g., trenches) must be accurately located and mapped by means of a land survey. Near-surface disposal units must be marked in such a way that the boundaries of each unit can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey (USGS) or National Geodetic Survey (NGS) survey control stations, must be established on the site to facilitate surveys. The USGS or NGS control stations must provide horizontal and vertical controls as checked against USGS or NGS record files.

(8) A buffer zone of land must be maintained between any buried waste and the disposal site boundary and beneath the disposed waste. The buffer zone shall be of adequate dimensions to allow a licensee to carry out environmental monitoring activities specified in § 61.53(d) of this part and take mitigative measures if needed.

(9) Closure and stabilization measures as set forth in the approved site closure plan must be carried out as each disposal unit (e.g., each trench) is filled and covered.

(10) Active waste disposal operations must not have an adverse effect on completed closure and stabilization measures.

(11) Only wastes containing or contaminated with radioactive materials shall be disposed of at the disposal site.

(b) Facility operation and disposal site closure for land disposal facilities other than near-surface (reserved).

(12) Only waste meeting the acceptance criteria shall be disposed of at the disposal site.

(13) Waste will be disposed of consistent with the description provided in § 61.12(f) and the technical analyses required by § 61.13.

[47 FR 57463, Dec. 27, 1982, as amended at 56 FR 23474, May 21, 1991; 56 FR 61352, Dec. 3, 1991; 58 FR 67662, Dec. 22, 1993]

### **§ 61.53 Environmental monitoring.**

(a) At the time a license application is submitted, the applicant shall have conducted a preoperational monitoring program to provide basic environmental data on the disposal site characteristics. The applicant shall obtain information about the ecology, meteorology, climate, hydrology, geology, geochemistry, and seismology of the disposal site. For those characteristics that are subject to seasonal variation, data must cover at least a twelve month period.

(b) The licensee must have plans for taking corrective measures if migration of radionuclides would indicate that the performance objectives of subpart C may not be met.

(c) During the land disposal facility site construction and operation, the licensee shall maintain a monitoring program. Measurements and observations must be made and recorded to provide data to evaluate the potential health and environmental impacts during both the construction and the operation of the facility and to enable the evaluation of long-term effects and the need for mitigative measures. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.



(d) After the disposal site is closed, the licensee responsible for post-operational surveillance of the disposal site shall maintain a monitoring system based on the operating history and the closure and stabilization of the disposal site. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.

#### **§ 61.54 Alternative requirements for design and operations.**

The Commission may, upon request or on its own initiative, authorize provisions other than those set forth in §§ 61.51 through 61.53 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis, if it finds reasonable assurance of compliance with the performance objectives of subpart C of this part.

#### **§ 61.55 Waste classification.**

(a) Classification of waste for near surface disposal. (1) *Considerations.* Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure.

Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

(2) *Classes of waste.* (i) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in § 61.56(a). If Class A waste also meets the stability requirements set forth in § 61.56(b), it is not necessary to segregate the waste for disposal.

(ii) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in § 61.56.

(iii) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in § 61.56.

(iv) Waste that is not generally acceptable for near-surface disposal is waste for which form and disposal methods must be different, and in general more stringent, than those specified for Class C waste. In the absence of specific requirements in this part, such waste must be disposed of in a geologic repository as defined in part 60 or 63 of this chapter unless proposals for disposal of such waste in a disposal site licensed pursuant to this part are approved by the Commission.

(3) Classification determined by long-lived radionuclides. If radioactive waste contains only radionuclides listed in Table 1, classification shall be determined as follows:

- (i) If the concentration does not exceed 0.1 times the value in Table 1, the waste is Class A.
- (ii) If the concentration exceeds 0.1 times the value in Table 1 but does not exceed the value in Table 1, the waste is Class C.
- (iii) If the concentration exceeds the value in Table 1, the waste is not generally acceptable for near-surface disposal.
- (iv) For wastes containing mixtures of radionuclides listed in Table 1, the total concentration shall be determined by the sum of fractions rule described in paragraph (a)(7) of this section.

**Table 1**

<b>Radionuclide</b>	<b>Concentration curies per cubic meter</b>
C-14	8
C-14 in activated metal	80
Ni-59 in activated metal	220
Nb-94 in activated metal	0.2
Tc-99	3
I-129	0.08
Alpha emitting transuranic nuclides with half-life greater than 5 years	1100
Pu-241	13,500
Cm-242	120,000

<sup>1</sup>Units are nanocuries per gram.

(4) Classification determined by short-lived radionuclides. If radioactive waste does not contain any of the radionuclides listed in Table 1, classification shall be determined based on the concentrations shown in Table 2. However, as specified in paragraph (a)(6) of this section, if radioactive waste does not contain any nuclides listed in either Table 1 or 2, it is Class A.

- (i) If the concentration does not exceed the value in Column 1, the waste is Class A.
- (ii) If the concentration exceeds the value in Column 1, but does not exceed the value in Column 2, the waste is Class B.
- (iii) If the concentration exceeds the value in Column 2, but does not exceed the value in Column 3, the waste is Class C.

(iv) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.

(v) For wastes containing mixtures of the nuclides listed in Table 2, the total concentration shall be determined by the sum of fractions rule

**Table 2**

Radionuclide	Concentration, curies per cubic meter		
	Col. 1	Col. 2	Col. 3
Total of all nuclides with less than 5 year half-life	700	( <sup>1</sup> )	( <sup>1</sup> )
H-3	40	( <sup>1</sup> )	( <sup>1</sup> )
Co-60	700	( <sup>1</sup> )	( <sup>1</sup> )
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

<sup>1</sup> There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other nuclides in Table 2 determine the waste to the Class C independent of these nuclides.

(5) Classification determined by both long- and short-lived radionuclides. If radioactive waste contains a mixture of radionuclides, some of which are listed in Table 1, and some of which are listed in Table 2, classification shall be determined as follows:

(i) If the concentration of a nuclide listed in Table 1 does not exceed 0.1 times the value listed in Table 1, the class shall be that determined by the concentration of nuclides listed in Table 2.

(ii) If the concentration of a nuclide listed in Table 1 exceeds 0.1 times the value listed in Table 1 but does not exceed the value in Table 1, the waste shall be Class C, provided the concentration of nuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.

(6) Classification of wastes with radionuclides other than those listed in ~~Tables tables~~ 1 and 2 of this section. If radioactive waste does not contain any nuclides listed in either ~~T~~table 1 or 2 of this section, it is Class A.

(7) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each nuclide's concentration by the appropriate limit and adding the resulting values.

The appropriate limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 50 Ci/m<sup>3</sup>. and Cs-137 in a concentration of 22 Ci/m<sup>3</sup>. Since the concentrations both exceed the values in Column 1, Table 2, they must be compared to Column 2 values. For Sr-90 fraction 50/150=0.33; for Cs-137 fraction, 22/44=0.5; the sum of the fractions=0.83. Since the sum is less than 1.0, the waste is Class B.

(8) *Determination of concentrations in wastes.* The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as nanocuries per gram.

[47 FR 57463, Dec. 27, 1982, as amended at 54 FR 22583, May 25, 1989; 66 FR 55792, Nov. 2, 2001]

#### **§ 61.56 Waste characteristics.**

(a) The following requirements are minimum requirements for all ~~classes of~~ waste and are intended to facilitate handling at the disposal site and provide protection of health and safety of personnel at the disposal site.

(1) Waste must not be packaged for disposal in cardboard or fiberboard boxes.

(2) Liquid waste must be solidified or packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(3) Solid waste containing liquid shall contain as little free standing and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume.

(4) Waste must not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

(5) Waste must not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with paragraph (a)(7) of this section.

(6) Waste must not be pyrophoric. Pyrophoric materials contained in waste shall be treated, prepared, and packaged to be nonflammable.

(7) Waste in a gaseous form must be packaged at a pressure that does not exceed 1.5 atmospheres at 20 °C. Total activity must not exceed 100 curies per container.

(8) Waste containing hazardous, biological, pathogenic, or infectious material must be treated to reduce to the maximum extent practicable the potential hazard from the non-radiological materials.

(b) The requirements in this section are intended to provide stability of the waste. Stability is intended to ensure that the waste does not structurally degrade and affect overall stability of the

site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

(1) Waste must have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

(2) Notwithstanding the provisions in § 61.56(a) (2) and (3), liquid wastes, or wastes containing liquid, must be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

(3) Void spaces within the waste and between the waste and its package must be reduced to the extent practicable.

#### **§ 61.57 Labeling.**

Each package of waste must be clearly labeled to identify any information required by the land disposal facility's criteria for waste acceptance developed according to § 61.58. Each package of waste disposed in a land disposal facility with waste acceptance criteria developed in accordance with the waste classification requirements must indicate what Class whether it is Class A waste, Class B waste, or Class C waste, in accordance with § 61.55.

#### **§ 61.58 Alternative requirements for waste classification and characteristics.**

(a) Waste acceptance criteria. Each applicant shall provide, for approval by the Commission, criteria for the acceptance of waste for disposal that provide reasonable assurance of compliance with the performance objectives of subpart C of this part. Waste acceptance criteria shall specify, at a minimum, the following:

(1) Allowable activities and concentrations of specific radionuclides. Allowable activities and concentrations shall be developed from the technical analyses required by § 61.13 for any land disposal facility, the waste classification requirements set forth in § 61.55 for a near-surface disposal facility, or a combination of both for a near-surface disposal facility.

(2) Acceptable waste form characteristics and container specifications. The characteristics and specifications shall meet the minimum requirements for waste characteristics set forth in § 61.56(a) for all waste, and any site-specific waste form characteristics and container specifications that are necessary for waste to be accepted at a disposal site to demonstrate compliance with the performance objectives of subpart C of this part.

(3) Restrictions or prohibitions on waste, materials, or containers that might affect the facility's ability to meet the performance objectives in subpart C of this part.

(b) Waste characterization. Each applicant shall provide, for Commission approval, acceptable methods for characterizing the waste for acceptance. The methods shall identify the characterization parameters and acceptable uncertainty in the characterization data. The following information, at a minimum, shall be required to characterize waste:

(1) Physical and chemical characteristics;

(2) Volume, including the waste and any stabilization or absorbent media;

(3) Weight of the container and contents;

(4) Identities, activities, and concentrations;

(5) Characterization date;

(6) Generating source; and

(7) Any other information needed to characterize the waste to demonstrate that the waste acceptance criteria set forth in § 61.58(a) are met.

(c) Waste certification. Each applicant shall provide, for Commission approval, a program to certify that waste meets the acceptance criteria prior to shipment to the land disposal facility. The certification program shall:

(1) Designate authority to certify and receive waste for disposal at the land disposal facility.

(2) Provide procedures for certifying that waste meets the waste acceptance criteria.

(3) Specify documentation required for waste acceptance including waste characterization, shipment (including the requirements set forth in appendix G of 10 CFR part 20), and certification.

(4) Identify records, reports, tests, and inspections that are necessary to comply with the requirements in § 61.80.

(5) Provide approaches for managing waste that has been certified as meeting the waste acceptance criteria in a manner that maintains its certification status.

(d) Licensees with licenses for land disposal facilities in effect on **[insert date THAT IS 1 YEAR AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]** shall comply with the requirements of paragraphs (a), (b), and (c) of this section at the next license renewal or by **[insert date THAT IS 6 YEARS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever comes first.

(e) For license applicants, the waste acceptance criteria will be incorporated into the facility license. For licensees with licenses for land disposal facilities in effect on **[insert date THAT IS 1 YEAR AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, upon Commission approval and if otherwise consistent with applicable State and Federal law, the NRC will issue an amendment to the license incorporating the waste acceptance criteria in to the existing license.

(f) Each licensee shall annually review the content and implementation of the waste acceptance criteria, waste characterization methods, and certification program.

(g) Applications for modification of approved waste acceptance criteria must be filed in accordance with § 61.20.

~~The Commission may, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste on a specific basis, if, after evaluation, of the specific characteristics of the waste, disposal site, and method of disposal, it finds reasonable assurance of compliance with the performance objectives in subpart C of this part.~~

## **§ 61.59 Institutional requirements.**

(a) *Land ownership.* Disposal of radioactive waste received from other persons may be permitted only on land owned in fee by the Federal or a State government.

(b) *Institutional control.* The land owner or custodial agency shall carry out an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program must also include, but not be limited to, carrying out an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other requirements as determined by the Commission; and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the Commission, but institutional controls may not be relied upon for more than 100 years following transfer of control of the disposal site to the owner.

## **Subpart E--Financial Assurances**

### **§ 61.61 Applicant qualifications and assurances.**

Each applicant shall show that it either possesses the necessary funds or has reasonable assurance of obtaining the necessary funds, or by a combination of the two, to cover the estimated costs of conducting all licensed activities over the planned operating life of the project, including costs of construction and disposal.

### **§ 61.62 Funding for disposal site closure and stabilization.**

(a) The applicant shall provide assurance that sufficient funds will be available to carry out disposal site closure and stabilization, including: (1) Decontamination or dismantlement of land disposal facility structures; and (2) closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required. These assurances shall be based on Commission-approved cost estimates reflecting the Commission-approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total capital costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

(b) In order to avoid unnecessary duplication and expense, the Commission will accept financial sureties that have been consolidated with earmarked financial or surety arrangements



established to meet requirements of other Federal or State agencies and/or local governing bodies for such decontamination, closure and stabilization. The Commission will accept this arrangement only if they are considered adequate to satisfy these requirements and that the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

(c) The licensee's surety mechanism will be annually reviewed by the Commission to assure that sufficient funds are available for completion of the closure plan, assuming that the work has to be performed by an independent contractor.

(d) The amount of surety liability should change in accordance with the predicted cost of future closure and stabilization. Factors affecting closure and stabilization cost estimates include: inflation; increases in the amount of disturbed land; changes in engineering plans; closure and stabilization that has already been accomplished and any other conditions affecting costs. This will yield a surety that is at least sufficient at all times to cover the costs of closure of the disposal units that are expected to be used before the next license renewal.

(e) The term of the surety mechanism must be open ended unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety mechanism which is written for a specified period of time (e.g., five years) yet which must be automatically renewed unless the party who issues the surety notifies the Commission and the beneficiary (the site owner) and the principal (the licensee) not less than 90 days prior to the renewal date of its intention not to renew. In such a situation the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the Commission, the site owner may collect on the original surety.

(f) Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Liability under the surety mechanism must remain in effect until the closure and stabilization program has been completed and approved by the Commission and the license has been transferred to the site owner.

(g) Financial surety arrangements generally acceptable to the Commission include: surety bonds, cash deposits, certificates of deposits, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or such other types of arrangements as may be approved by the Commission. However, self-insurance, or any arrangement which essentially constitutes pledging the assets of the licensee, will not satisfy the surety requirement for private sector applicants since this provides no additional assurance other than that which already exists through license requirements.

#### **§ 61.63 Financial assurances for institutional controls.**

(a) Prior to the issuance of the license, the applicant shall provide for Commission review and approval a copy of a binding arrangement, such as a lease, 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. The binding arrangement will be reviewed periodically by the Commission to ensure that changes in inflation, technology and disposal facility operations are reflected in the arrangements.

(b) Subsequent changes to the binding arrangement specified in paragraph (a) of this section relevant to institutional control shall be submitted to the Commission for approval.

## **Subpart F—Participation by State Governments and Indian Tribes**

### **§ 61.70 Scope.**

This subpart describes mechanisms through which the Commission will implement a formal request from a State or Tribal government to participate in the review of a license application for a land disposal facility. Nothing in this subpart may be construed to bar the State or Tribal governing body from participating in subsequent Commission proceedings concerning the license application as provided under Federal law and regulations.

[80 FR 74980, Dec. 1, 2015]

### **§ 61.71 State and Tribal government consultation.**

Upon request of a State or Tribal governing body, the Director shall make available Commission staff to discuss with representatives of the State or Tribal governing body information submitted by the applicant, applicable Commission regulations, licensing procedures, potential schedules, and the type and scope of State activities in the license review permitted by law. In addition, staff shall be made available to consult and cooperate with the State or Tribal governing body in developing proposals for participation in the license review.

[80 FR 74980, Dec. 1, 2015]

### **§ 61.72 Filing of proposals for State and Tribal participation.**

(a) A State or Tribal governing body whose interest is affected by a near-surface disposal facility at the proposed site may submit to the Director a proposal for participation in the review of a license application. Proposals must be submitted within the following time periods:

(1) For the State in which the disposal facility will be located, or any State that is member of an interstate compact that includes the State in which the disposal facility is located, no later than 45 days following publication in the Federal Register of the notice of tendering of an application submitted under § 61.20.

(2) For any other State, or for a Tribal governing body, no later than 120 days following publication in the Federal Register of the notice of tendering of an application submitted under § 61.20.

(b) Proposals for participation in the licensing process must be made in writing and must be signed by the Governor of the State or the official otherwise provided for by State or Tribal law.

(c) At a minimum, proposals must contain each of the following items of information:

- (1) A general description of how the State or Tribe wishes to participate in the licensing process specifically identifying those issues it wishes to review.
- (2) A description of material and information which the State or Tribe plans to submit to the Commission for consideration in the licensing process. A tentative schedule referencing steps in the review and calendar dates for planned submittals should be included.
- (3) A description of any work that the State or Tribe proposes to perform for the Commission in support of the licensing process.
- (4) A description of State or Tribal plans to facilitate local government and citizen participation.
- (5) A preliminary estimate of the types and extent of impacts which the State expects, should a disposal facility be located as proposed.
- (6) If desired, any requests for educational or information services (seminars, public meetings) or other actions from the Commission such as establishment of additional Public Document Rooms or exchange of State personnel under the Intergovernmental Personnel Act.

[80 FR 74980, Dec. 1, 2015]

#### **§ 61.73 Commission approval of proposals.**

(a) Upon receipt of a proposal submitted in accordance with § 61.72, the Director shall arrange for a meeting between the representatives of the State or Tribal governing body and the Commission staff to discuss the proposal and to ensure full and effective participation by the State or Tribe in the Commission's license review.

(b) If requested by a State or Tribal governing body, the Director may approve all or any part of a proposal if the Director determines that:

(1) The proposed activities are within the scope of Commission statutory responsibility and the type and magnitude of impacts which the State or Tribe may bear are sufficient to justify their participation; and

(2) The proposed activities will contribute productively to the licensing review.

(c) The decision of the Director will be transmitted in writing to the governor or the designated official of the Tribal governing body.

(d) Participation by a State or Indian Tribe shall not affect their rights to participate in an adjudicatory hearing as provided by part 2 of this chapter.

[80 FR 74980, Dec. 1, 2015]

### **Subpart G—Records, Reports, Tests, and Inspections**

#### **§ 61.80 Maintenance of records, reports, and transfers.**

(a) Each licensee shall maintain any records and make any reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regulations, and orders of the Commission.

(b) Records which are required by the regulations in this part or by license conditions must be maintained for a period specified by the appropriate regulations in this chapter or by license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in paragraph (e) of this section as a condition of license termination unless the Commission otherwise authorizes their disposition.

(c) Records which must be maintained pursuant to this part may be the original or a reproduced copy or a microform if this reproduced copy or microform is capable of producing copy that is clear and legible at the end of the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

(d) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

(e) Notwithstanding paragraphs (a) through (d) of this section, the licensee shall 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.

(f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date that the shipment is received at the disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste disposal containers as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or onsite generated materials that are contaminated, and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged disposal containers or radiation or contamination levels in excess of limits specified in Department of Transportation and Commission regulations. The licensee shall briefly describe any repackaging operations of any of the disposal containers included in the shipment, plus any other information required by the Commission as a license condition. The licensee shall retain these records until the Commission transfers or terminates the license that authorizes the activities described in this section.

(g) Each licensee shall comply with the safeguards reporting requirements of §§ 30.55, 40.64, 74.13, and 74.15 of this chapter if the quantities or activities of materials received or transferred exceed the limits of these sections. Inventory reports required by these sections are not required for materials after disposal.

(h) Each licensee authorized to dispose of radioactive waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Commission in order to update the information base for determining financial qualifications.

(i)(1) Each licensee authorized to dispose of waste materials received from other persons under this part shall submit annual reports to the Director, Office of ~~Office of~~ Nuclear Material Safety and Safeguards, by an appropriate method listed in § ~~6061.4 of this chapter~~, with a copy to the appropriate NRC ~~Regional-regional Office-office~~ shown in appendix D to ~~10 CFR~~ part 20 ~~of this chapter~~. Reports must be submitted by the end of the first calendar quarter of each year for the preceding year.

(2) The reports shall include (i) ~~specification~~ Specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents during the preceding year, (ii) ~~T~~he results of the environmental monitoring program, (iii) ~~A~~a summary of licensee disposal unit survey and maintenance activities, (iv) ~~A~~a summary, ~~by waste class,~~ of activities and quantities of radionuclides disposed of, (v) ~~A~~any instances in which observed site characteristics were significantly different from those described in the application for a license; and (vi) ~~any~~ Any other information the Commission may require.

(3) If the quantities of radioactive materials released during the reporting period, monitoring results, or maintenance performed are significantly different from those expected in the materials previously reviewed as part of the licensing action, the report must cover this specifically.

(j) Each licensee shall report in accordance with the requirements of § 70.52 of this chapter.

(k) Any transfer of byproduct, source, and special nuclear materials by the licensee is subject to the requirements in §§ 30.41, 40.51, and 70.42 of this chapter. Byproduct, source and special nuclear material means materials as defined in these parts, respectively.

(l) In addition to the other requirements of this section, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

(1) The manifest information that must be electronically stored is—

(i) That required in 10 CFR part 20, appendix G, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

(ii) That information required in paragraph (f) of this section.

(2) As specified in facility license conditions, the licensee shall report the stored information, or subsets of this information, on a computer-readable medium.

(m) Each licensee shall maintain waste acceptance records including:

(1) Provisions for waste acceptance including the waste acceptance criteria, characterization methods, and certification program.

(2) Audits and other reviews of program content and implementation. The licensee shall retain records of audits and other reviews for 3 years after the record is made.

[47 FR 57463, Dec. 27, 1982, as amended at 52 FR 31612, Aug. 21, 1987; 53 FR 19251, May 27, 1988; 58 FR 33891, June 22, 1993; 60 FR 15666, Mar. 27, 1995; 67 FR 78141, Dec. 23, 2002; 68 FR 58814, Oct. 10, 2003; 73 FR 5725, Jan. 31, 2008; 79 FR 75740, Dec. 19, 2014]

#### **§ 61.81 Tests at land disposal facilities.**

(a) Each licensee shall perform, or permit the Commission to perform, any tests as the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of:

(1) Radioactive wastes and facilities used for the receipt, storage, treatment, handling and disposal of radioactive wastes.

(2) Radiation detection and monitoring instruments; and

(3) Other equipment and devices used in connection with the receipt, possession, handling, treatment, storage, or disposal of radioactive waste.

#### **§ 61.82 Commission inspections of land disposal facilities.**

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect radioactive waste not yet disposed of, and the premises, equipment, operations, and facilities in which radioactive wastes are received, possessed, handled, treated, stored, or disposed of.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by it pursuant to the regulations in this chapter. Authorized representatives of the Commission may copy and take away copies of, for the Commission's use, any record required to be kept pursuant to this part.

#### **§ 61.83 Violations.**

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of--

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of--

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55077, Nov. 24, 1992]

#### **§ 61.84 Criminal penalties.**

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 61 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 61 that are not issued under sections 161b, 161i, or 161o for the purposes of Section 223 are as follows: §§ 61.1, 61.2, 61.4, 61.5, 61.6, 61.7, 61.8, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.21, 61.22, 61.23, 61.26, 61.30, 61.31, 61.50, 61.51, 61.54, 61.55, 61.58, 61.59, 61.61, 61.63, 61.70, 61.71, 61.72, 61.73, 61.83, and 61.84.

[57 FR 55077, Nov. 24, 1992]