



Revisions to Part 61 – Licensing Requirements for Land Disposal of Radioactive Waste

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Proposed considerations for the path forward

1. Schedule

- Continued slippage causes regulatory uncertainty
- Staff should adhere to current schedule – proposed rule to Commission in May 2024

2. Thorough review

- Inadequate independent review could have unintended consequences
 - Part 37 and retired major radioactive components stored onsite
 - Elimination of 10 CFR 61.1 regarding grandfathering in proposed final rule
- Consider use of other independent reviews in lieu of publishing preliminary proposed rule language or revised technical basis for public comment
 - Representatives of all LLW-sited Agreement states (not just one)
 - Representatives of compacts
 - ACRS

Proposed considerations for the path forward

3. Timeframes

- Requirements (e.g., “compliance period” or “ensuring stability”) should not exceed 1,000 yrs
- Longer timeframes should be addressed qualitatively, e.g., performance period
- As for accounting for uncertainty, as staff noted in ACRS presentation
 - Uncertainties in societal and environmental conditions will increase over time
 - Regulatory approval to allow disposal needs to evaluate impacts, recognizing the uncertainty – not stop the analysis
- Don’t stop the analysis, but use qualitative approach to address uncertainty

Proposed considerations for the path forward

3. Timeframes (continued)

- Uncertainty is not best addressed by modeling out to unreasonable time periods
- Quantitative results are useful tool for decision maker to consider but not reliable for setting enforceable standards
- Other considerations best mitigate uncertainty
 - Site location, including remoteness and natural geologic features of the disposal site
 - Engineered features, including depth of disposal
 - Waste forms, including radionuclide content and packaging
- No single layer, no matter how robust, is exclusively relied upon

Proposed considerations for the path forward

4. Applicability of the new rule

- New (confusing) terminology – “exceptions” – is neither necessary nor helpful
- “Exceptions” to the new rule (grandfathering) should not require licensee action
- Modify 61.1(b) to include new criteria identified by staff:
 - The land disposal facility license was originally issued before the effective date of this rule; **and**
 - The licensee does not accept GTCC or a significant quantity of long-lived radionuclides after the effective date of this rule
 - Licensees who meet these criteria do not need to comply with revised Technical Analyses (§ 61.13), revised Performance Objectives (§ 61.41 and § 61.42), and WAC (§61.58)
 - Such licensees would be required to comply with original Part 61 regulations for these sections