§ 39.103

(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 55074, Nov. 24, 1992]

§ 39.103 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 39 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 39 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 39.1, 39.2, 39.5, 39.8, 39.13, 39.91, 39.101, and 39.103.

[57 FR 55074, Nov. 24, 1992]

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

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§ 40.2a Coverage of inactive tailings sites.

(a) Prior to the completion of the remedial action, the Commission will not require a license pursuant to 10 CFR chapter I for possession of residual radioactive materials as defined in this part that are located at a site where milling operations are no longer active, if the site is covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The Commission will exert its regulatory role in remedial actions primarily through
§ 40.3 License requirements.

A person subject to the regulations in this part may not receive title to, own, receive, possess, use, transfer, provide for long-term care, deliver or dispose of byproduct material or residual radioactive material as defined in this part or any source material after removal from its place of deposit in nature, unless authorized in a specific or general license issued by the Commission under the regulations in this part.

[55 FR 45598, Oct. 30, 1990]

§ 40.4 Definitions.

Act means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

Agreement State means any State with which the Atomic Energy Commission or the Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended.

Alert means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

Byproduct Material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

With the exception of "byproduct material" as defined in section 11e. of the Act, other terms defined in section 11 of the Act shall have the same meaning when used in the regulations in this part.

Commencement of construction means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

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

Corporation means the United States Enrichment Corporation (USEC), or its successor, a Corporation that is authorized by statute to lease the gaseous diffusion enrichment plants in Paducah, Kentucky, and Piketon, Ohio, from the Department of Energy, or any person authorized to operate one or both of the gaseous diffusion plants, or other facilities, pursuant to a plan for the privatization of USEC that is approved by the President.

Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

(1) Release of the property for unrestricted use and termination of the license; or

(2) Release of the property under restricted conditions and termination of the license.

Department and Department of Energy means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565, 42 U.S.C. 7101 et seq.) to the extent that the Department, or its duly authorized representatives, exercises functions formerly vested in the U.S.
Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Pub. L. 93–438, 88 Stat. 1233 at 1237, 42 U.S.C. 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95–91, 91 Stat. 565 at 577–578, 42 U.S.C. 7151).

Depleted uranium means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

Effective kilogram means (1) for the source material uranium in which the uranium isotope uranium–235 is greater than 0.005 (0.5 weight percent) of the total uranium present: 10,000 kilograms, and (2) for any other source material: 20,000 kilograms.

Foreign obligations means the commitments entered into by the U.S. Government under Atomic Energy Act (AEA) section 123 agreements for cooperation in the peaceful uses of atomic energy. Imports and exports of material or equipment pursuant to such agreements are subject to these commitments, which in some cases involve an exchange of information on imports, exports, retransfers with foreign governments, peaceful end-use assurances, and other conditions placed on the transfer of the material or equipment. The U.S. Government informs the licensee of obligations attached to material.

Government agency means any executive department, commission, independent establishment, 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.

License, except where otherwise specified, means a license issued pursuant to the regulations in this part.

Persons 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 shall be 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 section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244) and the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing.

Pharmacist means an individual registered by a state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico to compound and dispense drugs, prescriptions and poisons.

Physician means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

Principal activities, as used in this part, means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

Residual radioactive material means: (1) Waste (which the Secretary of Energy determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and (2) other waste (which the Secretary of Energy determines to be radioactive) at a processing site which relates to such processing, including any residual stock of unprocessed ores or low-grade materials. This term is used only with respect to materials at sites subject to...

Site area emergency means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons off-site.

Source Material means: (1) Uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) Uranium, (ii) thorium or (iii) any combination thereof. Source material does not include special nuclear material.

Special nuclear material means: (1) Plutonium, uranium 233, uranium enriched in the isotope 235 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material; or (2) any material artificially enriched by any of the foregoing.

Transient shipment means a shipment of nuclear material, originating and terminating in foreign countries, on a vessel or aircraft that stops at a United States port.

United States, when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

Unrefined and unprocessed ore means ore in its natural form prior to any processing, such as grinding, roasting or beneficiating, or refining.

Uranium enrichment facility means:
(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or
(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

Uranium Milling means any activity that results in the production of by-product material as defined in this part.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:


(2) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland.

(3) 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 calling (301) 415–0439, by e-mail to EIE@nrc.gov, or by writing the Office of Information Services, 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 non-public information.

(b) The Commission has delegated to the four Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted to the appropriate Regional Administrator. The administrators' jurisdictions and mailing addresses are listed in paragraph (b)(2) of this section.
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(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR parts 30 through 36, 39, 40, and 70 to all persons for academic, medical, and industrial uses, with the following exceptions:

(i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC’s Headquarters to the Regional Administrators.

(ii) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of sealed sources and devices.

(iii) Processing of source material for extracting of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).

(iv) Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR 32.11 through 32.26.

(v) New uses or techniques for use of byproduct, source, or special nuclear material.

(vi) Uranium enrichment facilities.

(2) Submission—(i) Region I. The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415; where e-mail is appropriate it should be addressed to RidsRgn1MailCenter@nrc.gov.

(ii) Region II. The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region II non-Agreement States: Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region II Material Licensing/Inspection Branch, Sam Nunn Atlanta Federal Center, Suite 237 85, 61 Forsyth Street, Atlanta, Georgia 30303–8931; where e-mail is appropriate it should be addressed to RidsRgn2MailCenter@nrc.gov.

(iii) Region III. The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region III non-Agreement States: Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III Material Licensing Section, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352; where e-mail is appropriate it should be addressed to RidsRgn3MailCenter@nrc.gov.

(iv) Region IV. The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region IV non-Agreement States and a territory: Alaska, Hawaii, Montana, Oklahoma, South Dakota, Wyoming, and Guam. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–4005; where e-mail is appropriate it should be addressed to RidsRgn4MailCenter@nrc.gov.

[48 FR 16031, Apr. 14, 1983]

Editorial Note: For Federal Register citations affecting § 40.5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.
§ 40.6 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 recognized to be binding upon the Commission.

§ 40.7 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 this 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. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraphs (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 specific licensee, each applicant for a specific license, and each general licensee subject to part 19 shall
prominently post the revision of NRC Form 3, “Notice to Employees”, referenced in 10 CFR 19.11(c).

(2) The posting of NRC Form 3 must be 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.

(3) Copies of NRC Form 3 may 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, by calling (301) 415–5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at http://www.nrc.gov and selecting forms from the index found on the home page.

(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, 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.

§ 40.9 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
§ 40.10 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 1896, Jan. 13, 1998]

§ 40.11 Persons using source material under certain Department of Energy and Nuclear Regulatory Commission contracts.

Except to the extent that Department facilities or activities of the types subject to licensing pursuant to section 202 of the Energy Reorganization Act of 1974 or the Uranium Mill Tailings Radiation Control Act of 1978 are involved, any prime contractor of the Department is exempt from the requirements for a license set forth in sections 62, 63, and 64 of the Act and from the regulations in this part to the extent that such contractor, under his prime contract with the Department, receives, possesses, uses, transfers or delivers source material for: (a) The performance of work for the Department at a United States Government-owned or controlled site, including the transportation of source material or from such site and the performance of contract services during temporary interruptions of such transportation; (b) research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or (c) the use or operation of nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel. In addition to the foregoing exemptions, and subject to the requirement for licensing of Department facilities and activities pursuant to section 202 of the Energy Reorganization Act of 1974 or the Uranium Mill Tailings Radiation Control Act of 1980, any prime contractor or subcontractor of the Department or the Commission is exempt from the requirements for a license set forth in sections 62, 63, and 64 of the Act and from the regulations in this part to the extent that such prime contractor or subcontractor receives, possesses, uses, transfers or delivers source material under his prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work
On July 25, 1983, the exemption of glass enamel or glass enamel frit was suspended. The exemption was eliminated on September 11, 1984.

§ 40.13 Unimportant quantities of source material.

(a) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, or transfers:

(1) Any quantities of thorium contained in (i) incandescent gas mantles, (ii) vacuum tubes, (iii) welding rods, (iv) electric lamps for illuminating purposes: Provided, That each lamp does not contain more than 50 milligrams of thorium, (v) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting: Provided, That each lamp does not contain more than 2 grams of thorium, (vi) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these, or (vii) personnel neutron dosimeters: Provided, That each dosimeter does not contain more than 50 milligrams of thorium.

(2) Source material contained in the following products:

(i) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;

(ii) Piezoelectric ceramic containing not more than 2 percent by weight source material;

(iii) Glassware containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(iv) Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(3) Photographic film, negatives, and prints containing uranium or thorium;

(4) Any finished product or part fabricated of, or containing tungsten or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part; and


§ 40.12 Carriers.

(a) Except as specified in paragraph (b) of this section, common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and the requirements for a license set forth in section 62 of the Act to the extent that they transport or store source material in the regular course of the carriage for another or storage incident thereto.

(b) The exemption in paragraph (a) of this section does not apply to a person who possesses a transient shipment (as defined in §40.4(r)), an import shipment, or an export shipment of natural uranium in an amount exceeding 500 kilograms, unless the shipment is in the form of ore or ore residue.

[52 FR 9651, Mar. 26, 1987]
§ 40.14 Specific exemptions.

(5) Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of such counterweights: Provided, That:
   (i) The counterweights are manufactured in accordance with a specific license issued by the Commission or the Atomic Energy Commission authorizing distribution by the licensee pursuant to this paragraph;
   (ii) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium"; 2
   (iii) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer, and the statement: "Unauthorized Alterations Prohibited"; 2 and
   (iv) The exemption contained in this paragraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(6) Natural or depleted uranium metal used as shielding constituting part of any shipping container: Provided, That:
   (i) The shipping container is conspicuously and legibly impressed with the legend "CAUTION—RADIOACTIVE SHIELDING—URANIUM"; and
   (ii) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of one-eighth inch (3.2 mm).

(7) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium; and that the exemption contained in this subparagraph shall not be deemed to authorize either:
   (i) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or
   (ii) The receipt, possession, use, transfer, or of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(8) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, Provided, That:
   (i) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and
   (ii) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(9) The exemptions in this paragraph (c) do not authorize the manufacture of any of the products described.

(d) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, or transfers uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie of uranium. The exemption in this paragraph does not authorize the manufacture of any detector head containing uranium.

[26 FR 284, Jan. 14, 1961]

EDITORIAL NOTE: For Federal Register citations affecting §40.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 40.14 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulation in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

(b) [Reserved]

(c) The Department of Energy is exempt from the requirements of this part to the extent that its activities are subject to the requirements of part 60 or 63 of this chapter.

(d) Except as specifically provided in part 62 of this chapter any licensee is exempt from the requirements of this...
part to the extent that its activities are subject to the requirements of part 61 of this chapter.


GENERAL LICENSES

§ 40.20 Types of licenses.

(a) Licenses for source material and byproduct material are of two types: general and specific. Licenses for long-term care and custody of residual radioactive material at disposal sites are general licenses. The general licenses provided in this part are effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

(b) Section 40.27 contains a general license applicable for custody and long-term care of residual radioactive material at uranium mill tailings disposal sites remediated under title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

(c) Section 40.28 contains a general license applicable for custody and long-term care of byproduct material at uranium or thorium mill tailings disposal sites under title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

[55 FR 45598, Oct. 30, 1990]

§ 40.21 General license to receive title to source or byproduct material.

A general license is hereby issued authorizing the receipt of title to source or byproduct material, as defined in this part, without regard to quantity. This general license does not authorize any person to receive, possess, deliver, use, or transfer source or byproduct material.

[45 FR 65531, Oct. 3, 1980]

§ 40.22 Small quantities of source material.

(a) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions and Federal, State and local government agencies to use and transfer not more than fifteen (15) pounds of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 150 pounds of source material in any one calendar year.

(b) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in paragraph (a) of this section are exempt from the provisions of parts 19, 20, and 21, of this chapter to the extent that such receipt, possession, use or transfer are within the terms of such general license: Provided, however, that this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to this part.

(c) Persons who receive, possess, use or transfer source material pursuant to the general license in paragraph (a) of this section are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by NRC in a specific license.


§ 40.23 General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue.

(a) A general license is hereby issued to any person to possess a transient shipment of natural uranium, other than in the form of ore or ore residue in amounts exceeding 500 kilograms.

(b)(1) Persons generally licensed under paragraph (a) of this section, who plan to carry a transient shipment with scheduled stops at a United States port, shall notify the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, using an appropriate method listed in §40.5. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.
(2) The notification must include the following information:

(i) Location of all scheduled stops in United States territory;
(ii) Arrival and departure times for all scheduled stops in United States territory;
(iii) The type of transport vehicle;
(iv) A physical description of the shipment;
(v) The numbers and types of containers;
(vi) The name and telephone number of the carrier's representatives at each stopover location in the United States territory;
(vii) A listing of the modes of shipments, transfer points, and routes to be used;
(viii) The estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered;
(ix) For shipment between countries that are not party to the Convention on the Physical Protection of Nuclear Material (i.e., not listed in appendix F to part 73 of this chapter), a certification that arrangements have been made to notify the Director, Division of Nuclear Security when the shipment is received at the destination facility.

(b) The general license in paragraph (a) of this section applies only to industrial products or devices which have been manufactured or initially transferred in accordance with a specific license issued pursuant to §40.34 (a) of this part or in accordance with a specific license issued by an Agreement State which authorizes manufacture of the products or devices for distribution to persons generally licensed by the Agreement State.

(c)(1) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (a) of this section shall file NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License," with the Director of the NRC's Division of Industrial and Medical Nuclear Safety, by an appropriate method listed in §40.3, with a copy to the appropriate NRC Regional Administrator. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on Form NRC 244 the following information and such other information as may be required by that form:

(i) Name and address of the registrant;
(ii) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in paragraph (a) of this section and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and
(iii) Name and/or title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in paragraph (c)(1)(ii) of this section.

(d) A licensee who needs to amend a notification may do so by telephoning the Division of Nuclear Security at (301) 415-6028.


§ 40.24 [Reserved]

§ 40.25 General license for use of certain industrial products or devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of paragraphs (b), (c), (d), and (e) of this section, depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in paragraph (a) of this section applies only to industrial products or devices which have been manufactured or initially transferred in accordance with a specific license issued pursuant to §40.34 (a) of this part or in accordance with a specific license issued by an Agreement State which authorizes manufacture of the products or devices for distribution to persons generally licensed by the Agreement State.

(c)(1) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (a) of this section shall file NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License," with the Director of the NRC's Division of Industrial and Medical Nuclear Safety, by an appropriate method listed in §40.3, with a copy to the appropriate NRC Regional Administrator. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The registrant shall furnish on Form NRC 244 the following information and such other information as may be required by that form:

(i) Name and address of the registrant;
(ii) A statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in paragraph (a) of this section and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and
(iii) Name and/or title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in paragraph (c)(1)(ii) of this section.

(d) A licensee who needs to amend a notification may do so by telephoning the Division of Nuclear Security at (301) 415-6028.
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Commission Regional Office listed in appendix D of part 20 of this chapter, any changes in information furnished by him in the Form NRC 244 "Registration Certificate—Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of such change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by paragraph (a) of this section:

(1) Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium.

(2) Shall not abandon such depleted uranium.

(3) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of §40.51 of this part. In the case where the transferee receives the depleted uranium pursuant to the general license established by paragraph (a) of this section, the transferor shall furnish the transferee a copy of this section and a copy of Form NRC 244. In the case where the transferee receives the depleted uranium pursuant to a general license contained in an Agreement State's regulation equivalent to this section, the transferor shall furnish the transferee a copy of this section and a copy of Form NRC 244 accompanied by a note explaining that use of the product or device is regulated by the Agreement State under requirements substantially the same as those in this section.

(4) Within 30 days of any transfer, shall report in writing to the Director, Division of Industrial and Medical Nuclear Safety, with a copy to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D of part 20 of this chapter, the name and address of the person receiving the source material pursuant to such transfer.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by paragraph (a) of this section is exempt from the requirements of parts 19, 20 and 21 of this chapter with respect to the depleted uranium covered by that general license.

§ 40.26 General license for possession and storage of byproduct material as defined in this part.

(a) A general license is hereby issued to receive title to, own, or possess byproduct material as defined in this part without regard to form or quantity.

(b) The general license in paragraph (a) of this section applies only: In the case of licensees of the Commission, where activities that result in the production of byproduct material are authorized under a specific license issued by the Commission pursuant to this part, to byproduct material possessed or stored at an authorized disposal containment area or transported incident to such authorized activity: Provided, That authority to receive title to, own, or possess byproduct material under this general license shall terminate when the specific license for source material expires, is renewed, or is amended to include a specific license for byproduct material as defined in this part.

(c) The general license in paragraph (a) of this section is subject to:

(1) The provisions of parts 19, 20, 21, and §§40.1, 40.2a, 40.3, 40.4, 40.5, 40.6, 40.41, 40.46, 40.60, 40.61, 40.62, 40.63, 40.65, 40.71, and 40.81 of part 40 of this chapter; and

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system).
that if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and any additional requirements the Commission may by order deem necessary. The licensee shall retain this documentation of each daily inspection as a record for three years after each inspection is documented.

(d) The general license in paragraph (a) of this section shall expire nine months from the effective date of this subparagraph unless an applicable licensee has submitted, pursuant to the provisions of §40.31 of this part, an application for license renewal or amendment which includes a detailed program for meeting the technical and financial criteria contained in appendix A of this part.

§40.27 General license for custody and long-term care of residual radioactive material disposal sites.

(a) A general license is issued for the custody of and long-term care, including monitoring, maintenance, and emergency measures necessary to protect public health and safety and other actions necessary to comply with the standards promulgated under section 279(a) of the Atomic Energy Act of 1954, as amended, for disposal sites under title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The license is available only to the Department of Energy, or another Federal agency designated by the President to provide long-term care. The purpose of this general license is to ensure that uranium mill tailings disposal sites will be cared for in such a manner as to protect the public health, safety, and the environment after remedial action has been completed.

(b) The general license in paragraph (a) of this section becomes effective when the Commission accepts a site Long-Term Surveillance Plan (LTSP) that meets the requirements of this section, and when the Commission concurs with the Department of Energy’s determination of completion of remedial action at each disposal site. There is no termination of this general license. The LTSP may incorporate by reference information contained in documents previously submitted to the Commission if the references to the individual incorporated documents are clear and specific. Each LTSP must include:

(1) A legal description of the disposal site to be licensed, including documentation on whether land and interests are owned by the United States or an Indian tribe. If the site is on Indian land, then, as specified in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the Indian tribe and any person holding any interest in the land shall execute a waiver releasing the United States of any liability or claim by the Tribe or person concerning or arising from the remedial action and holding the United States harmless against any claim arising out of the performance of the remedial action;

(2) A detailed description, which can be in the form of a reference, of the final disposal site conditions, including existing ground water characterization and any necessary ground water protection activities or strategies. This description must be detailed enough so that future inspectors will have a baseline to determine changes to the site and when these changes are serious enough to require maintenance or repairs. If the disposal site has continuing aquifer restoration requirements, then the licensing process will be completed in two steps. The first step includes all items other than ground water restoration. Ground water monitoring, which would be addressed in the LTSP, may still be required in this first step to assess performance of the tailings disposal units. When the Commission concurs with the completion of ground water restoration, the licensee shall assess the need to modify the LTSP and report results to the Commission. If the proposed modifications meet the requirements of this section, the LTSP will be considered suitable to accommodate the second step.

(3) A description of the long-term surveillance program, including proposed inspection frequency and reporting to the Commission (as specified in
appendix A, criterion 12 of this part), frequency and extent of ground water monitoring if required, appropriate constituent concentration limits for ground water, inspection personnel qualifications, inspection procedures, recordkeeping and quality assurance procedures;

(4) The criteria for follow-up inspections in response to observations from routine inspections or extreme natural events; and

(5) The criteria for instituting maintenance or emergency measures.

(c) The long-term care agency under the general license established by paragraph (a) of this section shall—

(1) Implement the LTSP as described in paragraph (b) of this section;

(2) Care for the disposal site in accordance with the provisions of the LTSP;

(3) Notify the Commission of any changes to the LTSP; the changes may not conflict with the requirements of this section;

(4) Guarantee permanent right-of-entry to Commission representatives for the purpose of periodic site inspections; and

(5) Notify the Commission prior to undertaking any significant construction, actions, or repairs related to the disposal site, even if the action is required by a State or another Federal agency.

(d) As specified in the Uranium Mill Tailings Radiation Control Act of 1978, as amended, the Secretary of the Interior, with the concurrence of the Secretary of Energy and the Commission, may sell or lease any subsurface mineral rights associated with land on which residual radioactive materials are disposed. In such cases, the Commission shall grant a license permitting use of the land if it finds that the use will not disturb the residual radioactive materials or that the residual radioactive materials will be restored to a safe and environmentally sound condition if they are disturbed by the use.

(e) The general license in paragraph (a) of this section is exempt from parts 19, 20, and 21 of this chapter, unless significant construction, actions, or repairs are required. If these types of actions are to be undertaken, the licensee shall explain to the Commission which requirements from these parts apply for the actions and comply with the appropriate requirements.

[55 FR 45598, Oct. 30, 1990]

§ 40.28 General license for custody and long-term care of uranium or thorium byproduct materials disposal sites.

(a) A general license is issued for the custody of and long-term care, including monitoring, maintenance, and emergency measures necessary to protect the public health and safety and other actions necessary to comply with the standards in this part for uranium or thorium mill tailings sites closed under title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The licensee will be the Department of Energy, another Federal agency designated by the President, or a State where the disposal site is located. The purpose of this general license is to ensure that uranium and thorium mill tailings disposal sites will be cared for in such a manner as to protect the public health, safety, and the environment after closure.

(b) The general license in paragraph (a) of this section becomes effective when the Commission terminates, or concurs in an Agreement State’s termination of, the current specific license and a site Long-Term Surveillance Plan (LTSP) meeting the requirements of this section has been accepted by the Commission. There is no termination of this general license. If the LTSP has not been formally received by the NRC prior to termination of the current specific license, the Commission may issue a specific order to the intended custodial agency to ensure continued control and surveillance of the disposal site to protect the public health, safety, and the environment. The Commission will not unnecessarily delay the termination of the specific license solely on the basis that an acceptable LTSP has not been received. The LTSP may incorporate by reference information contained in documents previously submitted to the Commission if the references to the individual incorporated documents are clear and specific. Each LTSP must include—
¶ 40.31 Application for specific licenses.

(a) A person may file an application for specific license on NRC Form 313, "Application for Material License," in accordance with the instructions in
§ 40.31 of this chapter. Information contained in previous applications, statements or reports filed with the Commission may be incorporated by reference provided that the reference is clear and specific.

(b) The Commission may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(c) Applications and documents submitted to the Commission in connection with applications will be made available for public inspection in accordance with the provisions of the regulations contained in parts 2 and 9 of this chapter.

(d) An application for a license filed pursuant to the regulations in this part will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act: Provided, That the application specifies the additional activities for which licenses are requested and complies with regulations of the Commission as to applications for such licenses.

(e) Each application for a source material license, other than a license exempted from part 170 of this chapter, shall be accompanied by the fee prescribed in § 170.31 of this chapter. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in § 170.31 of this chapter.

(f) An application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission has determined pursuant to subpart A of part 51 of this chapter will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by an Environmental Report required pursuant to subpart A of part 51 of this chapter.

(g) In response to a written request by the Commission, an applicant for a license to possess and use source material in a uranium hexafluoride production plant or a fuel fabrication plant and any other applicant for a license to possess and use more than one effective kilogram of source material (except for ore processing, as defined in § 75.4(o) of this chapter) shall file with the Commission the installation information described in § 75.11 of this chapter, on Form N–71. The applicant shall also permit verification of this installation information by the International Atomic Energy Agency and take other action as may be necessary to implement the US/IAEA Safeguards Agreement, in the manner set forth § 75.6 and §§ 75.11 through 75.14 of this chapter.

(h) An application for a license to receive, possess, and use source material for uranium or thorium milling or byproduct material, as defined in this part, at sites formerly associated with such milling shall contain proposed written specifications relating to milling operations and the disposition of the byproduct material to achieve the requirements and objectives set forth in appendix A of this part. Each application must clearly demonstrate how the requirements and objectives set forth in appendix A of this part have been addressed. Failure to clearly demonstrate how the requirements and objectives in appendix A have been addressed shall be grounds for refusing to accept an application.

(i) As provided by § 40.36, certain applications for specific licenses filed under this part must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning. In the case of renewal applications submitted before July 27, 1990, this submittal may follow the renewal application but must be submitted on or before July 27, 1990.

(j)(1) Each application to possess uranium hexafluoride in excess of 50 kilograms in a single container or 1000 kilograms total must contain either:

(i) An evaluation showing that the maximum intake of uranium by a member of the public due to a release would not exceed 2 milligrams; or
(ii) An emergency plan for responding to the radiological hazards of an accidental release of source material and to any associated chemical hazards directly incident thereto.

(2) One or more of the following factors may be used to support an evaluation submitted under paragraph (j)(3)(i) of this section:

(i) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(ii) Facility design or engineered safety features in the facility would reduce the amount of the release; or

(iii) Other factors appropriate for the specific facility.

(3) An emergency plan submitted under paragraph (j)(3)(i) of this section must include the following:

(i) Facility description. A brief description of the licensee's facility and area near the site.

(ii) Types of accidents. An identification of each type of accident for which protective actions may be needed.

(iii) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(iv) Detection of accidents. Identification of the means of detecting each type of radioactive materials accident in a timely manner.

(v) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining the equipment.

(vi) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(vii) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(viii) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notification of the offsite response organizations and not later than one hour after the licensee declares an emergency.¹

(ix) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(x) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(xi) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(xii) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation

¹These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99–499 or other state or federal reporting requirements.
§ 40.32 General requirements for issuance of specific licenses.

An application for a specific license will be approved if:

(a) The application is for a purpose authorized by the Act; and

(b) The applicant is qualified by reason of training and experience to use the source material for the purpose requested in such manner as to protect health and minimize danger to life or property; and

(c) The applicant's proposed equipment, facilities and procedures are adequate to protect health and minimize danger to life or property; and

(d) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(e) In the case of an application for a license for a uranium enrichment facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility. As used in this paragraph, the term “commencement of construction” means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

(f) The applicant satisfies any applicable special requirements contained in §40.34.
§ 40.33 Issuance of a license for a uranium enrichment facility.

(a) The Commission will hold a hearing pursuant to 10 CFR part 2, subparts A, G, and I, on each application with regard to the licensing of the construction and operation of a uranium enrichment facility. The Commission will publish public notice of the hearing in the FEDERAL REGISTER at least 30 days before the hearing.

(b) A license for a uranium enrichment facility may not be issued before the hearing is completed and a decision issued on the application.

§ 40.34 Special requirements for issuance of specific licenses.

(a) An application for a specific license to manufacture industrial products and devices containing depleted uranium, or to initially transfer such products or devices, for use pursuant to § 40.25 of this part or equivalent regulations of an Agreement State, will be approved if:

(1) The applicant satisfies the general requirements specified in § 40.32;

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in 1 year a radiation dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter; and

(3) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(b) In the case of an industrial product or device whose unique benefits are questionable, the Commission will approve an application for a specific license under this paragraph only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(c) The Commission may deny an application for a specific license under this paragraph if the end uses of the industrial product or device cannot be reasonably foreseen.

§ 40.35 Conditions of specific licenses issued pursuant to § 40.34.

Each person licensed pursuant to § 40.34 shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to: (1) Identify the manufacturer or initial transferor of the product or device and the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and (2) state that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. NRC or of an Agreement State;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium";

(d)(1) Furnish a copy of the general license contained in § 40.25 and a copy of Form NRC 244 to each person to whom he transfers source material in a
product or device for use pursuant to the general license contained in § 40.25; or

(2) Furnish a copy of the general license contained in the Agreement State's regulation equivalent to § 40.25 and a copy of the Agreement State's certificate, or alternately, furnish a copy of the general license contained in § 40.25 and a copy of Form NRC 244 to each person to whom he transfers source material in a product or device for use pursuant to the general license of an Agreement State. If a copy of the general license in § 40.25 and a copy of Form NRC 244 are furnished to such person, they shall be accompanied by a note explaining that use of the product or device is regulated by the Agreement State under requirements substantially the same as those in § 40.25; and

(e)(1) Report to the Director of the Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 40.5, all transfers of industrial products or devices to persons for use under the general license in § 40.25. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Commission and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person. If no transfers have been made to a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State Agency;

(3) Keep records showing the name, address, and a point of contact for each general license to whom he or she transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in § 40.25 or equivalent regulations of an Agreement State. The records must be retained for three years from the date of transfer and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

(f) Licensees required to submit emergency plans by § 40.31(i) shall follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Director of the Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 40.5, and to affected offsite response organizations, within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Commission.

§ 40.36 Financial assurance and recordkeeping for decommissioning.

Except for licenses authorizing the receipt, possession, and use of source material for uranium or thorium milling, or byproduct material at sites formerly associated with such milling, for which financial assurance requirements are set forth in appendix A of this part, criteria for providing financial assurance for decommissioning are as follows:
§ 40.36 10 CFR Ch. I (1–1–08 Edition)

(a) Each applicant for a specific license authorizing the possession and use of more than 100 mCi of source material in a readily dispersible form shall submit a decommissioning funding plan as described in paragraph (d) of this section.

(b) Each applicant for a specific license authorizing possession and use of quantities of source material greater than 10 mCi but less than or equal to 100 mCi in a readily dispersible form shall either—

1. Submit a decommissioning funding plan as described in paragraph (d) of this section; or

2. Submit a certification that financial assurance for decommissioning has been provided in the amount of $225,000 by June 2, 2005 using one of the methods described in paragraph (e) of this section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section must be submitted to NRC prior to receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section.

(c)(1) Each holder of a specific license issued on or after July 27, 1990, which is covered by paragraph (a) or (b) of this section must submit to NRC prior to receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section.

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (b) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan, as described in paragraph (d) of this section, or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(3) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 40.43 shall provide financial assurance for decommissioning in accordance with paragraphs (a) and (b) of this section. This assurance must be submitted when this rule becomes effective November 24, 1995.

(d) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates must be adjusted at intervals not to exceed 3 years. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section.

(e) Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account,
government fund, certificate of deposit, or deposit of government securities.

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to part 30. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to part 30. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in appendix E to part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Commission, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Commission within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(iii) The surety method or insurance must remain in effect until the Commission has terminated the license.

(3) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee’s administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provision must be as stated in paragraph (e)(2) of this section.

(4) In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on paragraph (b) of this section, and indicating that funds for decommissioning will be obtained when necessary.

(5) When a government entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such government entity.

(f) Each person licensed under this part shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with §40.41(b) licensees shall transfer all records described in this paragraph to the new licensee. In this case, the new
§ 40.38 Ineligibility of certain applicants.

A license may not be issued to the Corporation if the Commission determines that:

(a) The Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(b) The issuance of such a license would be inimical to—

(1) The common defense and security of the United States; or

(2) The maintenance of a reliable and economical domestic source of enrichment services.


§ 40.41 Terms and conditions of licenses.

(a) Each license issued pursuant to the regulations in this part shall be subject to all the provisions of the act, now or hereafter in effect, and to all rules, regulations and orders of the Commission.

(b) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the Act.

(c) Each person licensed by the Commission pursuant to the regulations in this part shall confine his possession and use of source or byproduct material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the regulations in this part shall carry with it the right...
to receive, possess, and use source or byproduct material. Preparation for shipment and transport of source or byproduct material shall be in accordance with the provisions of part 71 of this chapter.

(d) Each license issued pursuant to the regulations in this part shall be deemed to contain the provisions set forth in sections 183b–d., of the Act, whether or not said provisions are expressly set forth in the license.

(e) The Commission may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of source 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 of life or property;
(3) Protect restricted data;
(4) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the act and regulations thereunder.

(f)(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.

(g) No person may commence operation of a uranium enrichment facility until the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The Commission shall publish notice of the inspection results in the Federal Register.

§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a)(1) Except as provided in paragraph (a)(2) of this section, each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 40.43 not less than 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph). If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(2) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph (a)(3) of this section, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(3) The following specific licenses are not subject to, or otherwise affected by, the provisions of paragraph (a)(2) of this section:

(i) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with §40.31(j);
(ii) Specific licenses whose holders are subject to the financial assurance requirements specified in 10 CFR 40.36, and on February 15, 1996, the holders either:
(A) Have not submitted a decommissioning funding plan nor certification

of financial assurance for decommissioning; or

(B) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(iii) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(iv) Specific licenses whose issuance, amendment, or renewal, as of February 15, 1996, is not a categorical exclusion under 10 CFR 51.22(c)(14) and, therefore, need an environmental assessment or environmental impact statement pursuant to subpart A of part 51 of this chapter;

(v) Specific licenses whose holders have not had at least one NRC inspection of licensed activities before February 15, 1996;

(vi) Specific licenses whose holders, as the result of the most recent NRC inspection of licensed activities conducted before February 15, 1996, have been:

(A) Cited for a Severity Level I, II, or III violation in a Notice of Violation;

(B) Subject to an Order issued by the NRC; or

(C) Subject to a CAL issued by the NRC.

(vii) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under 10 CFR 40.43 of this part.

(b) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of source material until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving source material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements;

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in §40.5, each licensee shall provide notification to the NRC in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with NRC requirements, or submit within 12 months of notification a decommissioning plan, if required by paragraph (g)(1) of this section, and begin decommissioning upon approval of that plan if—

(1) The license has expired pursuant to paragraph (a) or (b) of this section; or

(2) The licensee has decided to permanently cease principal activities, as defined in this part, at the entire site or in any separate building or outdoor area; or

(3) No principal activities under the license have been conducted for a period of 24 months; or

(4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

(e) Coincident with the notification required by paragraph (d) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to §40.36 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(4)(v) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at
the site with the approval of the Commission.

(f) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section may not commence until the Commission has made a determination on the request.

(g)(1) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Commission and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;
(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;
(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or
(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) The procedures listed in paragraph (g)(1) of this section may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;
(ii) A description of planned decommissioning activities;
(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;
(iv) A description of the planned final radiation survey; and
(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(vi) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, a justification for the delay based on the criteria in paragraph (i) of this section.

(5) The proposed decommissioning plan will be approved by the Commission if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(h)(1) Except as provided in paragraph (i) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(2) Except as provided in paragraph (i) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(i) The Commission may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative is warranted by consideration of the following:
§ 40.43 Renewal of licenses.

(a) Application for renewal of a specific license must be filed on NRC Form 313 and in accordance with §40.31.

(b) If any licensee granted the extension described in 10 CFR 40.42(a)(2) has a currently pending renewal application for the extended license, that application will be considered to be withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.


§ 40.43 Renewal of licenses.

(a) Application for renewal of a specific license must be filed on NRC Form 313 and in accordance with §40.31.

(b) If any licensee granted the extension described in 10 CFR 40.42(a)(2) has a currently pending renewal application for the extended license, that application will be considered to be withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.

§ 40.44 Amendment of licenses at request of licensee.

Applications for amendment of a license shall be filed on NRC Form 313 in accordance with § 40.31 and shall specify the respects in which the licensee desires the license to be amended and the grounds for such amendment.

[49 FR 19627, May 9, 1984, as amended at 56 FR 40768, Aug. 16, 1991]

§ 40.45 Commission action on applications to renew or amend.

In considering an application by a licensee to renew or amend his license the Commission will apply the applicable criteria set forth in § 40.32.


§ 40.46 Inalienability of licenses.

No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall after securing full information, find that the transfer is in accordance with the provisions of this act, and shall give its consent in writing.

Transfer of Source Material

§ 40.51 Transfer of source or byproduct material.

(a) No licensee shall transfer source or byproduct material except as authorized pursuant to this section.

(b) Except as otherwise provided in his license and subject to the provisions of paragraphs (c) and (d) of this section, any licensee may transfer source or byproduct material:

(1) To the Department of Energy;

(2) To the agency in any Agreement State which regulates radioactive materials pursuant to an agreement with the Commission or the Atomic Energy Commission under section 274 of the Act;

(3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;

(4) To any person in an Agreement State subject to the jurisdiction of that State who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemptions;

(5) To any person authorized to receive such source or byproduct material under terms of a specific license or a general license or their equivalents issued by the Commission or an Agreement State;

(6) To any person abroad pursuant to an export license issued under part 110 of this chapter; or

(7) As otherwise authorized by the commission in writing.

(c) Before transferring source or byproduct material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the source or byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes receipt of the type, form, and quantity of source or byproduct material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable:

(1) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;

(2) The transferor may have in his possession a written certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date: Provided, That the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a
§ 40.60 Reporting requirements.

(a) Immediate report. Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(b) Twenty-four hour report. Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving licensed material:

(1) An unplanned contamination event that:
   (i) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;
   (ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of §§20.1001–20.2401 of 10 CFR part 20 for the material; and
   (iii) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(2) An event in which equipment is disabled or fails to function as designed when:
   (i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;
   (ii) The equipment is required to be available and operable when it is disabled or fails to function; and
   (iii) No redundant equipment is available and operable to perform the required safety function.

(3) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual’s clothing or body.

(4) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
   (i) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of §§20.1001–20.2401 of 10 CFR part 20 for the material; and
   (ii) The damage affects the integrity of the licensed material or its container.

(c) Preparation and submission of reports. Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center.1 The commercial telephone number for the NRC Operations Center is (301) 816-5100. To the extent that the information is available at the time of notification, the information provided in these reports must include:
   (i) The caller’s name and call back telephone number;
   (ii) A description of the event, including date and time;
   (iii) The exact location of the event;
   (iv) The isotopes, quantities, and chemical and physical form of the licensed material involved; and
   (v) Any personnel radiation exposure data available.

(2) Written report. Each licensee who makes a report required by paragraph

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(a) or (b) of this section shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the NRC’s Document Control Desk by an appropriate method listed in §40.5, with a copy to the appropriate NRC regional office listed in appendix D to part 20 of this chapter. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(3) The provisions of §40.60 do not apply to licensees subject to the notification requirements in §50.72. They do apply to those part 50 licensees possessing material licensed under part 40 who are not subject to the notification requirements in §50.72.

§40.61 Records.

(a) Each person who receives source or byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows:

(1) The licensee shall retain each record of receipt of source or byproduct material long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

(2) The licensee who transferred the material shall retain each record of transfer or source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) The licensee shall retain each record of disposal of source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(4) If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques (such as first-in-first-out), to make the records that are required by this part account for 100 percent of the material received.

(b) The licensee shall retain each record that is required by the regulations in this part or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, each record must be maintained until the Commission terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

(c) (1) Records which must be maintained pursuant to this part may be the original or reproduced copy or microform if the reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. 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.

(2) 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
§ 40.62 Inspections.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect source or byproduct material and the premises and facilities wherein source or byproduct material is used or stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by him pursuant to the regulations in this chapter.

[45 FR 65532, Oct. 3, 1980]

§ 40.63 Tests.

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

(a) Source or byproduct material;

(b) Facilities wherein source or byproduct material is utilized or stored;

(c) Radiation detection and monitoring instruments; and

(d) Other equipment and devices used in connection with the utilization and storage of source or byproduct material.

[45 FR 65533, Oct. 3, 1980]

§ 40.64 Reports.

(a) Except as specified in paragraphs (d) and (e) of this section, each specific licensee who transfers, receives, or adjusts the inventory, in any manner, of uranium or thorium source material with foreign obligations by 1 kilogram or more or who imports or exports 1 kilogram of uranium or thorium source material shall complete a Nuclear Material Transactions Report in computer-readable format in accordance with instructions (NUREG/BR-0006 and NMMSS Report D-24, "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Office of Nuclear Security and Incident Response, Washington, DC 20555-0001, by e-mail to RidsNsirDns@nrc.gov, or by calling (301) 415-6828. Each licensee who transfers the material shall submit a Nuclear Material Transactions Report in computer-readable format in accordance with instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transactions Report in computer-readable format in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 741, which has been previously submitted in paper form.

[45 FR 65532, Oct. 3, 1980]

(b) Except as specified in paragraphs (d) and (e) of this section, each licensee authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year or with the licensee's material status reports on special nuclear material filed under part 72 or 74, a statement of its source material inventory with foreign obligations as defined in this part. This statement must be submitted to the address specified in the reporting instructions (NUREG/BR–0007), and include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee. Copies of the reporting instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Nuclear Security, Office of Nuclear Security and Incident Response, Washington, DC 20555–0001, by e-mail to RidsNsirDns@nrc.gov, or by calling (301) 415–6028.

(c)(1) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess uranium or thorium pursuant to a specific license shall notify the NRC Headquarters Operations Center by telephone, at the numbers listed in appendix A of part 73 of this chapter, of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 6.8 kilograms (kg) [15 pounds] of such material at any one time or more than 68 kg [150 pounds] of such material in any one calendar year.

(2) The licensee shall notify the NRC as soon as possible, but within 4 hours, of discovery of any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of such material. A copy of the written followup notification should also be made to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, by an appropriate method listed in §40.5.

(3) The initial notification shall be followed within a period of sixty (60) days by a written followup notification submitted in accordance with §40.5. A copy of the written followup notification shall also be sent to: ATTN: Document Control Desk, Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

(4) Subsequent to the submission of the written followup notification required by this paragraph, the licensee shall promptly update the written followup notification, in accordance with this paragraph, with any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of source material.

(d) The reports described in paragraphs (a), (b), and (c) of this section are not required for:

1. Processed ores containing less than five (5) percent of uranium or thorium, or any combination of uranium or thorium, by dry weight;

2. Thorium contained in magnesium-thorium and tungsten-thorium alloys, if the thorium content in the alloys does not exceed 4 percent by weight;

3. Chemical catalysts containing uranium depleted in the U-235 isotope to 0.4 percent or less, if the uranium content of the catalyst does not exceed 15 percent by weight; or

4. Any source material contained in non-nuclear end use devices or components, including but not limited to permanently installed shielding, teletherapy, radiography, X-ray, accelerator devices, or munitions.

(e) Any licensee who is required to submit inventory change reports and material status reports pursuant to part 75 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit such reports only as provided in §§75.34 and 75.35 of this chapter (instead of as provided in paragraphs (a) and (b) of this section).

§ 40.65 Effluent monitoring reporting requirements.

(a) Each licensee authorized to possess and use source material in uranium milling, in production of uranium hexafluoride, or in a uranium enrichment facility shall:

(1) Within 60 days after January 1, 1976 and July 1, 1976, and within 60 days after January 1 and July 1 of each year thereafter, submit a report to the Director of the Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in §40.5, with a copy to the appropriate NRC Regional Office shown in appendix D to part 20 of this chapter; which report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, and such other information as the Commission may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above the licensee's design objectives previously reviewed as part of the licensing action, the report shall cover this specifically. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

(2) [Reserved]

(b) [Reserved]


§ 40.66 Requirements for advance notice of export shipments of natural uranium.

(a) Each licensee authorized to export natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, shall notify the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, by an appropriate method listed in §40.5.

The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

(b) The notification must include the following information:

(1) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);

(2) A physical description of the shipment;

(3) A listing of the mode(s) of shipment, transfer points, and routes to be used;

(4) The estimated date and time that shipment will commence and that each nation (other than the United States) along the route is scheduled to be entered; and

(5) A certification that arrangements have been made to notify the Division of Nuclear Safety, Office of Nuclear Security and Incident Response when the shipment is received at the receiving facility.

(c) A licensee who needs to amend a notification may do so by telephoning the Division of Nuclear Safety, Office of Nuclear Security and Incident Response at (301) 816-5100.


§ 40.67 Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) Each licensee authorized to import natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material (see appendix F to Part 73 of this chapter) shall notify the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, using an appropriate method listed in §40.5. The notification must be in writing and must be received at least 10 days before transport of the shipment commences at the shipping facility.

(b) The notification must include the following information:

(1) The name(s), address(es), and telephone number(s) of the shipper, receiver, and carrier(s);
(2) A physical description of the shipment;
(3) A listing of the mode(s) of shipment, transfer points, and routes to be used;
(4) The estimated date and time that shipment will commence and that each nation along the route is scheduled to be entered.
(c) The licensee shall notify the Division of Nuclear Security by telephone at (301) 816-5100 when the shipment is received in the receiving facility.
(d) A licensee who needs to amend a notification may do so by telephoning the Division of Nuclear Security at (301) 816-5100.

ENFORCEMENT
§ 40.82 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 40 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 40 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 40.1, 40.2, 40.2a, 40.4, 40.5, 40.6, 40.8, 40.11, 40.12, 40.13, 40.14,

§ 40.71 Modification and revocation of licenses.
(a) The terms and conditions of each license shall be subject to amendment, revision, or modification by reason of amendments to the Act, or by reason of rules, regulations, or orders issued in accordance with the Act.
(b) 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 such 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 on an original application, or for violation of, or failure to observe any of, the terms and conditions of the Act, or the license, or of any rule, regulation or order of the Commission.
(c) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements.

[57 FR 55074, Nov. 24, 1992]
APPENDIX A TO PART 40—CRITERIA RELATING TO THE OPERATION OF URANIUM MILLS AND THE DISPOSITION OF TAILINGS OR WASTES PRODUCED BY THE EXTRACTION OR CONCENTRATION OF SOURCE MATERIAL FROM ORES PROCESSED PRIMARILY FOR THEIR SOURCE MATERIAL CONTENT

Introduction. Every applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or byproduct material at sites formerly associated with such milling, is required by the provisions of §40.31(h) to include in a license application proposed specifications relating to milling operations and the disposition of tailings or wastes resulting from such milling activities. This appendix establishes technical, financial, ownership, and long-term site surveillance criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located. As used in this appendix, the term “as low as is reasonably achievable” has the same meaning as in §20.1003 of this chapter.

In many cases, flexibility is provided in the criteria to allow achieving an optimum tailings disposal program on a site-specific basis. However, in such cases the objectives, technical alternatives and concerns which must be taken into account in developing a tailings program are identified. As provided by the provisions of §40.31(h) applications for licenses must clearly demonstrate how the criteria have been addressed.

The specifications must be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely (for example, where large quantities of ore now marginally uneconomical may be stockpiled), the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors must be evaluated.

Licensees or applicants may propose alternatives to the specific requirements in this appendix. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The Commission may find that the proposed alternatives meet the Commission’s requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of this appendix and the standards promulgated by the Environmental Protection Agency in 40 CFR part 192, subparts D and E.

All site specific licensing decisions based on the criteria in this appendix or alternatives proposed by licensees or applicants will take into account the risk to the public health and safety and the environment with due consideration to the economic costs involved and any other factors the Commission determines to be appropriate. In implementing this appendix, the Commission will consider “practicable” and “reasonably achievable” as equivalent terms. Decisions involved these terms will take into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the utilization of atomic energy in the public interest.

The following definitions apply to the specified terms as used in this appendix:

Aquifer means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs. Any saturated zone created by uranium or thorium recovery operations would not be considered an aquifer unless the zone is or potentially is (1) hydraulically interconnected to a natural aquifer, (2) capable of discharge to surface water, or (3) reasonably accessible because of migration beyond the vertical projection of the boundary of the land transferred for long-term government ownership and care in accordance with Criterion 11 of this appendix.

As expeditiously as practicable considering technological feasibility, for the purposes of Criterion 6A, means as quickly as possible considering the physical characteristics of the tailings and the site; the limits of available technology; the need for consistency with mandatory requirements of other regulatory programs; and factors beyond the control of the licensee. The phrase permits consideration of the cost of compliance only to the extent specifically provided for by use of the term available technology.

Available technology means technologies and methods for emplacing a final radon barrier on uranium mill tailings piles or impoundments. This term shall not be construed to include extraordinary measures or techniques that would impose costs that are grossly excessive as measured by practice within the industry (or one that is reasonably analogous), (such as, by way of illustration only, unreasonable overtime, staffing, or transportation requirements, etc., considering normal practice in the industry; laser
Nuclear Regulatory Commission

fusion of soils, etc.), provided there is reasonable progress toward emplacement of the final radon barrier. To determine grossly excessive costs, the relevant baseline against which cost shall be compared is the cost estimate for tailings impoundment closure contained in the licensee's approved reclamation plan, but costs beyond these estimates shall not automatically be considered grossly excessive.

Closure means the activities following operations to decontaminate and decommis-
sion the buildings and site used to produce byproduct materials and reclaim the tailings and/or waste disposal area.

Compliance period begins when the Commission sets secondary ground-water protection standards and ends when the owner or operator's license is terminated and the site is transferred to the State or Federal agency for long-term care.

Dike means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.

Disposal area means the area containing byproduct materials to which the require-
ments of Criterion 6 apply.

Existing portion means that land surface area of an existing surface impoundment on which significant quantities of uranium or thorium byproduct materials had been placed prior to September 30, 1983.

Factors beyond the control of the licensee means factors proximately causing delay in meeting the schedule in the applicable reclamation plan for the timely emplacement of the final radon barrier notwithstanding the good faith efforts of the licensee to complete the barrier in compliance with paragraph (1) of Criterion 6A. These factors may include, but are not limited to—

(1) Physical conditions at the site;
(2) Inclement weather or climatic conditions;
(3) An act of God;
(4) An act of war;
(5) A judicial or administrative order or decision, or change to the statutory, regu-
latory, or other legal requirements applicable to the licensee's facility that would pre-
clude or delay the performance of activities required for compliance;
(6) Labor disturbances;
(7) Any modifications, cessation or delay ordered by State, Federal, or local agencies;
(8) Delays beyond the time reasonably re-
quired in obtaining necessary government permits, licenses, approvals, or consent for
activities described in the reclamation plan proposed by the licensee that result from
government failure to take final action after the licensee has made a good faith, timely effort to submit legally sufficient applications, responses to requests (including relevant data
requested by the agencies), or other information, including approval of the reclamation plan; and
(9) An act or omission of any third party over whom the licensee has no control.

Final radon barrier means the earthen cover (or approved alternative cover) over tailings or waste constructed to comply with Cri-
terion 6 of this appendix (excluding erosion protection features).

Ground water means water below the land surface in a zone of saturation. For purposes of this appendix, ground water is the water contained within an aquifer as defined above.

Leachate means any liquid, including any suspended or dissolved components in the liquid, that has percolated through or drained from the byproduct material.

Licensed site means the area contained within the boundary of a location under the control of persons generating or storing by-
product materials under a Commission li-

cense.

Liner means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment which restricts the downward or lateral escape of by-
product material, hazardous constituents, or leachate.

Milestone means an action or event that is required to occur by an enforceable date.

Operation means that a uranium or thorium mill tailings pile or impoundment is being used for the continued placement of byproduct material or is in standby status for such placement. A pile or impoundment is in operation from the day that byproduct material is first placed in the pile or impoundment until the day final closure be-
gins.

Point of compliance is the site specific loca-
tion in the uppermost aquifer where the ground-water protection standard must be met.

Reclamation plan, for the purposes of Cri-
terion 6A, means the plan detailing activi-
ties to accomplish reclamation of the tailings or waste disposal area in accordance with the technical criteria of this appendix. The reclamation plan must include a sched-
ule for reclamation milestones that are key
to the completion of the final radon barrier including as appropriate, but not limited to, wind blown tailings retrieval and placement on the pile, interim stabilization (including dewatering or the removal of freestanding liquids and recontouring), and final radon barrier construction. (Reclamation of
tailings must also be addressed in the clo-
sure plan; the detailed reclamation plan may be incorporated into the closure plan.)

Surface impoundment means a natural topog-
graphic depression, man-made excavation, or diked area, which is designed to hold an ac-
cumulation of liquid wastes or wastes con-
taining free liquids, and which is not an in-
jection well.
Uppermost aquifer means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

I. TECHNICAL CRITERIA

Criterion 1—The general goal or broad objective in siting and design decisions is permanent isolation of tailings and associated contaminants by minimizing disturbance and dispersion by natural forces, and to do so without ongoing maintenance. For practical reasons, specific siting decisions and design standards must involve finite times (e.g., the long-term design standard in Criterion 6). The following site features which will contribute to such a goal or objective must be considered in selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites:

- Remote from populated areas;
- Hydrologic and other natural conditions as they contribute to continued immobilization and isolation of contaminants from groundwater sources; and
- Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis must be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site and engineering design, overriding consideration must be given to siting features given the long-term nature of the tailings hazards.

Tailings should be disposed of in a manner that no active maintenance is required to preserve conditions of the site.

Criterion 2—To avoid proliferation of small waste disposal sites and thereby reduce perpetual surveillance obligations, byproduct material from in situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations must be disposed of as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about 10 horizontal to 1 vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.

(d) A full self-sustaining vegetative cover must be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic or other conditions, such as in semi-arid and arid regions, rock cover must be employed on any such exposed area.
slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors must be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes or by excessive erosion:

- Shape, size, composition, and gradation of rock particles (excepting bedding material average particles size must be at least cobble size or greater);
- Rock cover thickness and zoning of particles by size; and
- Steepness of underlying slopes.

Individual rock fragments must be dense, sound, and resistant to abrasion, and must be free from cracks, seams, and other defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate may not be used.

Rock covering of slopes may be unnecessary where top covers are very thick (or less); bulk cover materials have inherently favorable erosion resistance characteristics; and, there is negligible drainage catchment area upstream of the pile and good wind protection as described in points (a) and (b) of this Criterion.

Furthermore, all impoundment surfaces must be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed must be well protected with substantial rock cover (rip rap). In addition to providing for stability of the impoundment system itself, overall stability, erosion potential, and geomorphology of surrounding terrain must be evaluated to assure that there are not ongoing or potential processes, such as gully erosion, which would lead to impoundment instability.

The impoundment may not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term “capable fault” has the same meaning as defined in section III(g) of appendix A of 10 CFR part 100. The term “maximum credible earthquake” means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the regional and local geology and geomorphology and specific characteristics of local subsurface materials.

The impoundment, where feasible, should be designed to incorporate features which will promote deposition. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.

Criterion 5—Criteria 5A–5D and new Criterion 13 incorporate the basic ground-water protection standards imposed by the Environmental Protection Agency in 40 CFR part 192, subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Ground-water monitoring to comply with these standards is required by Criterion 7A.

5A(1)—The primary ground-water protection standard is a design standard for surface impoundments used to manage uranium and thorium byproduct material. Unless exempted under paragraph 5A(3) of this criterion, surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility, including the closure period of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, ground water, or surface water) during the active life of the facility.

5A(2)—The liner required by paragraph 5A(1) above must be—
(a) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;
(b) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and
(c) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

5A(3)—The applicant or licensee will be exempted from the requirements of paragraph 5A(1) of this criterion if the Commission finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will...
established under Criterion 7A indicates

taminants, when the detection monitoring
tion as to the flow of ground water or con-
accord with developed data and site informa-
adjust the point of compliance if needed to
limits, set the compliance period, and may
ardous constituents, establish concentration
area. The Commission shall identify haz-
lically downgradient edge of the disposal
ground-water contamination on the hydrau-
be selected to provide prompt indication of
ground water. The point of compliance must
is releasing hazardous constituents to the
practicable warning that the impoundment
point of compliance is to provide the earliest
and orders. The objective in selecting the
site specific basis through license conditions
and orders. The objective in selecting the
point of compliance is to provide the earliest
practicable warning that the impoundment
is releasing hazardous constituents to the
ground water. The point of compliance must
be selected to provide prompt indication of
ground-water contamination on the hydrau-
lically downgradient edge of the disposal
area. The Commission shall identify haz-
ardous constituents, establish concentration
limits, set the compliance period, and may
adjust the point of compliance if needed to
accord with developed data and site informa-
tion as to the flow of ground water or con-
taminants, when the detection monitoring
established under Criterion 7A indicates

leakage of hazardous constituents from the
disposal area.

SB(2)—A constituent becomes a hazardous
contaminant subject to paragraph SB(5) only
when the constituent meets all three of the
following tests:

(a) The constituent is reasonably expected to
be in or derived from the byproduct mate-
rual in the disposal area;
(b) The constituent has been detected in
the ground water in the uppermost aquifer;
and
(c) The constituent is listed in Criterion 13
of this appendix.

SB(3)—Even when constituents meet all
three tests in paragraph SB(2) of this cri-
terion, the Commission may exclude a de-
tected constituent from the set of hazardous
constituents on a site specific basis if it finds
that the constituent is not capable of posing
a substantial present or potential hazard to
human health or the environment. In decid-
ing whether to exclude constituents, the
Commission will consider the following:
(a) Potential adverse effects on ground-
water quality, considering—
(i) The physical and chemical characteris-
tics of the waste in the licensed site, includ-
ing its potential for migration;
(ii) The hydrogeological characteristics of
the facility and surrounding land;
(iii) The quantity of ground water and the
direction of ground-water flow;
(iv) The proximity and withdrawal rates of
ground-water users;
(v) The current and future uses of ground
water in the area;
(vi) The existing quality of ground water,
including other sources of contamination
and their cumulative impact on the ground-
water quality;
(vii) The potential for health risks caused
by human exposure to waste constituents;
(viii) The potential damage to wildlife,
crops, vegetation, and physical structures
caused by exposure to waste constituents;
(ix) The persistence and permanence of the
potential adverse effects.
(b) Potential adverse effects on hydrau-
lically-connected surface water quality, con-
sidering—
(i) The volume and physical and chemical
characteristics of the waste in the licensed
site;
(ii) The hydrogeological characteristics of
the facility and surrounding land;
(iii) The quantity and quality of ground
water, and the direction of ground-water
flow;
(iv) The patterns of rainfall in the region;
(v) The proximity of the licensed site to
surface waters;
(vi) The current and future uses of surface
waters in the area and any water quality
standards established for those surface wa-
ters.
(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality;
(viii) The potential for health risks caused by human exposure to waste constituents;
(ix) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
(x) The persistence and permanence of the potential adverse effects.

5B(4)—In making any determinations under paragraphs 5B(3) and 5B(6) of this criterion about the use of ground water in the area around the facility, the Commission will consider any identification of underground sources of drinking water and exempted aquifers made by the Environmental Protection Agency.

5B(5)—At the point of compliance, the concentration of a hazardous constituent must not exceed—
(a) The Commission approved background concentration of that constituent in the ground water;
(b) The respective value given in the table in paragraph 5C if the constituent is listed in the table and if the background level of the constituent is below the value listed; or
(c) An alternate concentration limit established by the Commission.

5B(6)—Conceptually, background concentrations pose no incremental hazards and the drinking water limits in paragraph 5C state acceptable hazards but these two options may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for Commission consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are as low as reasonably achievable, and information on the factors the Commission must consider. The Commission will establish a site specific alternate concentration limit for a hazardous constituent as provided in paragraph 5B(5) of this criterion if it finds that the proposed limit is as low as reasonably achievable, after considering practicable corrective actions, and that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In making the present and potential hazard finding, the Commission will consider the following factors:
(a) Potential adverse effects on ground-water quality, considering—
(i) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;
(ii) The hydrogeological characteristics of the facility and surrounding land;
(iii) The quantity of ground water and the direction of ground-water flow;
(iv) The proximity and withdrawal rates of ground-water users;
(v) The current and future uses of ground water in the area;
(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;
(vii) The potential for health risks caused by human exposure to waste constituents;
(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
(ix) The persistence and permanence of the potential adverse effects.
(b) Potential adverse effects on hydraulically-connected surface water quality, considering—
(i) The volume and physical and chemical characteristics of the waste in the licensed site;
(ii) The hydrogeological characteristics of the facility and surrounding land;
(iii) The quantity and quality of ground water, and the direction of ground-water flow;
(iv) The patterns of rainfall in the region;
(v) The proximity of the licensed site to surface waters;
(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;
(vii) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;
(viii) The potential for health risks caused by human exposure to waste constituents;
(ix) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
(x) The persistence and permanence of the potential adverse effects.

5C—MAXIMUM VALUES FOR GROUND-WATER PROTECTION

<table>
<thead>
<tr>
<th>Constituent or property</th>
<th>Maximum concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milligrams per liter:</td>
<td></td>
</tr>
<tr>
<td>Arsenic</td>
<td>0.05</td>
</tr>
<tr>
<td>Barium</td>
<td>1.0</td>
</tr>
<tr>
<td>Cadmium</td>
<td>0.01</td>
</tr>
<tr>
<td>Chromium</td>
<td>0.05</td>
</tr>
<tr>
<td>Lead</td>
<td>0.05</td>
</tr>
<tr>
<td>Mercury</td>
<td>0.002</td>
</tr>
<tr>
<td>Selenium</td>
<td>0.01</td>
</tr>
<tr>
<td>Silver</td>
<td>0.05</td>
</tr>
<tr>
<td>Endrin (1,2,3,4,10,10-hexachloro-1,7-endo-5,8-dimethano naphthalene)</td>
<td>0.0002</td>
</tr>
<tr>
<td>Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)</td>
<td>0.004</td>
</tr>
</tbody>
</table>
liners are proposed or relatively thin, in-situ detected if they occur. This is in addition to below the liner to ensure major failures are detected. This information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be established to assure compliance with concentration levels and the downward facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the ground-water protection standard. The Commission will determine when the licensee may terminate corrective action measures based on data from the ground-water monitoring program and other information that provide reasonable assurance that the ground-water protection standard will not be exceeded.

5E—In developing and conducting ground-water protection programs, applicants and licensees shall also consider the following:

(1) Installation of bottom liners (Where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the ground-water monitoring program conducted as provided in Criterion 7). Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure).

(2) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment. (3) Dewatering of tailings by process devices and/or in-situ drainage systems (At new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(4) Neutralization to promote immobilization of hazardous constituents.

5F—Where ground-water impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore ground-water quality. The specific seepage control and ground-water protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

5G—In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(1) The chemical and radioactive characteristics of the waste solutions.

(2) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate to ground water. The information gathered on boreholes must
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include both geologic and geophysical logs in sufficient number and degree of sophistica-
tion to allow determining significant dis-
continuities, fractures, and channelled depos-
its of high hydraulic conductivity. If field
survey methods are used, they should be in
addition to and calibrated with borehole log-
ing. Hydrologic parameters such as perme-
ability may not be determined on the basis of

d of laboratory analysis of samples alone; a
sufficient amount of field testing (e.g., pump
tests) must be conducted to assure actual field
parameters are adequately understood.

Testing must be conducted to allow esti-
mating chemi-sorption attenuation prop-
erties of underlying soil and rock.

(3) Location, extent, quality, capacity and current uses of any ground water at and near
the site.

5H—Steps must be taken during stock-
piling of ore to minimize penetration of
radionuclides into underlying soils; suitable
methods include lining and/or compaction of
ore storage areas.

Criterion 6—(1) In disposing of waste by-
product material, licensees shall place an
earthen cover (or approved alternative) over
tailings or wastes at the end of milling oper-
ations and shall close the waste disposal area
in accordance with a design which provides
reasonable assurance of control of radio-
 logical hazards to (i) be effective for 1,000
years, to the extent reasonably achievable,
and, in any case, for at least 200 years, and
(ii) limit releases of radon-222 from uranium
byproduct materials, and radon-220 from tho-
rium byproduct materials, to the atmosphere
so as not to exceed an average release rate
of 20 picocuries per square meter per second
(pci/m² s) to the extent practicable through-
out the effective design life determined pur-
suant to (1)(i) of this Criterion. In computing
required tailings cover thicknesses, moisture
in soils in excess of amounts found normally
in similar soils in similar circumstances
may not be considered. Direct gamma expo-
sure from the tailings or wastes should be re-
duced to background levels. The effects of
any thin synthetic layer may not be taken

1In the case of thorium byproduct ma-
terials, the standard applies only to design.
Monitoring for radon emissions from tho-
rium byproduct materials, to the atmosphere
is concerned, as that of surrounding
waste or rock that contains elevated levels
of radium; soils used for near surface cover
material and prior to placement of erosion
protection barriers or other features nec-

necessary for long-term control of the tailings,
the licensee shall verify through appropriate
testing and analysis that the design and con-
struction of the final radon barrier is effec-
tive in limiting releases of radon-222 to a
level not exceeding 20 pCi/m²s averaged over
the entire pile or impoundment using the
procedures described in 40 CFR part 61, ap-
pendix B, Method 115, or another method of
verification approved by the Commission as
being at least as effective in demonstrating
the effectiveness of the final radon barrier.

(3) When phased emplacement of the final
radon barrier is included in the applicable
reclamation plan, the verification of radon-
222 release rates required in paragraph (2) of
this criterion must be conducted for each
portion of the pile or impoundment as the
final radon barrier for that portion is em-

placed.

(4) Within ninety days of the completion of
all testing and analysis relevant to the re-
quired verification in paragraphs (2) and (3)
of this criterion, the uranium mill licensee
shall report to the Commission the results
detailing the actions taken to verify that
levels of release of radon-222 do not exceed
20 pCi/m²s when averaged over the entire pile
or impoundment. The licensee shall main-
tain records until termination of the license
procedures described in 40 CFR part 61, ap-
pendix B, Method 115, or another method of
verification approved by the Commission as
being at least as effective in demonstrating
the effectiveness of the final radon barrier.

(5) Near surface cover materials (i.e., with-
in the top three meters) may not include
waste or rock that contains elevated levels
of radium; soils used for near surface cover
must be essentially the same, as far as radio-
activity is concerned, as that of surrounding
surface soils. This is to ensure that surface
radon exhalation level is not significantly above
background because of the cover material
itself.

(6) The design requirements in this cri-
terion for longevity and control of radon re-
leases apply to any portion of a licensed and/
or disposal site unless such portion contains
a concentration of radium in land, averaged
over areas of 100 square meters, which, as a result of byproduct material, does not exceed the background level by more than: (i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium byproduct material, radium-228, averaged over the first 15 centimeters (cm) below the surface, and (ii) 15 pCi/g of radium-228, or, in the case of thorium byproduct material, averaged over 15-cm thick layers more than 15 cm below the surface.

Byproduct material containing concentrations of radionuclides other than radium in soil, and surface activity on remaining structures, must not result in a total effective dose equivalent (TEDE) exceeding the dose from cleanup of radium contaminated soil to the above standard (benchmark dose), and must be at levels which are as low as is reasonably achievable. If more than one residual radionuclide is present in the same 100-square-meter area, the sum of the ratios for each radionuclide of concentration present to the concentration limit will not exceed “1” (unity). A calculation of the potential peak annual TEDE within 1000 years to the average member of the critical group that would result from applying the radium standard (not including radon) on the site must be submitted for approval. The use of decommissioning plans with benchmark doses which exceed 100 mrem/yr, before application of ALARA, requires the approval of the Commission after consideration of the recommendation of the NRC staff. This requirement for dose criteria does not apply to sites that have decommissioning plans for soil and structures approved before June 11, 1999.

(7) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

Criterion 6A—(1) For impoundments containing uranium byproduct materials, the final radon barrier must be completed as expeditiously as practicable considering technological feasibility of the pile or impoundment after the pile or impoundment ceases operation in accordance with a written, Commission-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in the Introduction of this appendix includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: windblown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of freestanding liquids and recontouring). The verification required in paragraph (2) of Criterion 6 that releases of radon-222 do not exceed an average of 20 pCi/m2 s averaged over the entire impoundment must be made annually during the period of delay. In addition, once the Commission has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the Commission may extend that date based on cost if, after providing an opportunity for public participation, the Commission finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definition of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(3) The Commission may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium byproduct material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes already in the pile or impoundment, from other sources, during the closure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of radon-222 releases not exceeding 20 pCi/m2 s averaged over the entire impoundment. The verification required in paragraph (2) of Criterion 6 may be completed with a portion of the impoundment being used for further disposal if the Commission makes a final finding that the impoundment will continue to achieve a level of radon-222 releases not exceeding 20 pCi/m2 s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area, (a) only byproduct material will be authorized for disposal, (b) the disposal will be limited to the specified existing disposal area, and (c) this authorization will only be made after providing opportunity for public participation. Reclamation
of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with paragraph (1) of Criterion 6; however, these actions may not be complete as part of meeting the deadline for final radon barrier construction.

Criterion 7—At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to measure or evaluate compliance with applicable standards and regulations; to evaluate performance of control systems and procedures; to evaluate environmental impacts of operation; and to detect potential long-term effects.

7A—The licensee shall establish a detection monitoring program needed for the Commission to set the site-specific ground-water protection standards in paragraph 5B(1) of this appendix. For all monitoring under this paragraph the licensee or applicant will propose for Commission approval as license conditions which constituents are to be monitored on a site specific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set ground-water protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the Commission to establish the standards under Criterion 5B. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the Commission to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the Commission in orders or license conditions. Once ground-water protection standards have been established pursuant to paragraph 5B(1), the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the Commission. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

Criterion 8—Milling operations must be conducted so that all airborne effluent releases are reduced to levels as low as is reasonably achievable. The primary means of accomplishing this must be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments of uranium or thorium byproduct materials must be kept as low as is reasonably achievable.

Checks must be made and logged hourly of all parameters (e.g., differential pressures and scrubber water flow rates) that determine the efficiency of yellowcake stack emission control equipment operation. The licensee shall retain each log as a record for three years after the last entry in the log is made. It must be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action must be taken when performance is outside of prescribed ranges. Effluent control devices must be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack. Drying and packaging operations must terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions must be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations must cease as soon as practicable. Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All these cessations, corrective actions, and restarts must be reported to the appropriate NRC regional office as indicated in Criterion 9A, in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids must be wetted or chemically stabilized to prevent or
minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where tailings are disposed of below grade and the tailings surface is not exposed to wind. Consideration must be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments because this will help in controlling particulate emissions during operation.

To control dusting from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop and implement procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium byproduct material must be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed 25 millicuries to the whole body, 75 millicuries to the thyroid, and 25 millicuries to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, radon-220 and its daughters excepted, to the general environment.


Criterion 8A—Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The licensee shall retain the documentation for each daily inspection as a record for three years after the document is made. The appropriate NRC regional office as indicated in appendix D to 10 CFR part 40 shall review annually by the Commission to assure that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability must be retained until final compliance with the reclamation plan is determined.

This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. 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 would be provided with
III. SITE AND BYPRODUCT MATERIAL

A. These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

1. Any uranium or thorium milling license or tailings license must contain such terms and conditions as the Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

2. Title to the byproduct material licensed under this part and land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any such byproduct material, or is essential to ensure the long-term stability of such disposal site, must be transferred to the United States or the State in which such land is located, at the option of such State. In view of the fact that physical isolation must be the primary means of long-term control, and Government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, however, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either an NRC general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or a State.

B. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in Criterion 12 (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the Commission. In any case, the total charge to cover the costs of long-term surveillance must be such that, with an assumed 1 percent annual real interest rate, the collected funds will yield in an amount sufficient to cover the annual costs of site surveillance. The total charge will be adjusted annually prior to actual payment to recognize inflation. The inflation rate to be used is that indicated by the change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics.
E. Material and land transferred to the United States or a State in accordance with this Criterion must be transferred without cost to the United States or a State other than administrative and legal costs incurred in carrying out such transfer.

F. The provisions of this part respecting transfer of title and custody to land and tailings and wastes do not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in this part, the licensee shall enter into arrangements with the Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

IV. LONG-TERM SITE SURVEILLANCE

Criterion 12—The final disposition of tailings, residual radioactive material, or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency responsible for long-term care of the disposal site to confirm its integrity and to determine the need, if any, for maintenance and/or monitoring. Results of the inspections for all the sites under the licensee’s jurisdiction will be reported to the Commission annually within 90 days of the last site inspection in that calendar year. Any site where unusual damage or disruption is discovered during the inspection, however, will require a preliminary site inspection report to be submitted within 60 days. On the basis of a site specific evaluation, the Commission may require more frequent site inspections if necessary due to the features of a particular disposal site. In this case, a preliminary inspection report is required to be submitted within 60 days following each inspection.

V. HAZARDOUS CONSTITUENTS

Criterion 13—Secondary ground-water protection standards required by Criterion 5 of this appendix are concentration limits for individual hazardous constituents. The following list of constituents identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the byproduct material and has been detected in ground water. For purposes of this appendix, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when setting standards under paragraph 5B(5) of Criterion 5, the Commission will also set a limit for gross alpha activity. The Commission does not consider the following list imposed by 40 CFR part 192 to be exhaustive and may determine other constituents to be hazardous on a case-by-case basis, independent of those specified by the U.S. Environmental Protection Agency in part 192.

Hazardous Constituents

Aldrin (1,2,3,4,10-Hexachloro-1,4,4a,5,8,8a,9,9,9-bis(hydroxymethyl)-8-(hydroxymethyl)-8a-methoxy-5-methyl-carmate) (Aldrin (2,3,3a,4,4,4a,5,8,8,8a,8b-hexahydro-endo, exo-1,4,5,8-dimethanaphthalene) Alkyl alcohol (2-Propanol)

Aluminum phosphate

Ammonia

Amitrole (1H-1,2,4-Triazol-3-amine) Aniline (Benzenamine) Antimony and compounds, N.O.S.

Arachidic acid (12-Carbonic acid, 12-carboxylic acid) Acrolein (2-Propenal) Acriflavine (2-Acridineamine) Acrinoline (2-Acridineamine) Acrystalline (2-Acridineamine) Acrylamide (2-Propenamide) Acrylic acid (2-Propenoic acid)

Aflatoxins (Aflatoxins)

Aldrin (1,2,3,4,10-Hexachloro-1,4,4a,5,8,8a,9,9,9-bis(hydroxymethyl)-8-(hydroxymethyl)-8a-methoxy-5-methyl-carmate) (Aldrin (2,3,3a,4,4,4a,5,8,8,8a,8b-hexahydro-endo, exo-1,4,5,8-dimethanaphthalene) Alkyl alcohol (2-Propanol)

Aluminum phosphate

Ammonia

Amitrole (1H-1,2,4-Triazol-3-amine) Aniline (Benzenamine) Antimony and compounds, N.O.S.

Arachidic acid (12-Carbonic acid, 12-carboxylic acid) Acrolein (2-Propenal) Acriflavine (2-Acridineamine) Acrinoline (2-Acridineamine) Acrystalline (2-Acridineamine) Acrylamide (2-Propenamide) Acrylic acid (2-Propenoic acid)

Aflatoxins (Aflatoxins)

Aldrin (1,2,3,4,10-Hexachloro-1,4,4a,5,8,8a,9,9,9-bis(hydroxymethyl)-8-(hydroxymethyl)-8a-methoxy-5-methyl-carmate) (Aldrin (2,3,3a,4,4,4a,5,8,8,8a,8b-hexahydro-endo, exo-1,4,5,8-dimethanaphthalene) Alkyl alcohol (2-Propanol)

Aluminum phosphate

Ammonia

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Aflatoxins (Aflatoxins)

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Aluminum phosphate

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Aldrin (1,2,3,4,10-Hexachloro-1,4,4a,5,8,8a,9,9,9-bis(hydroxymethyl)-8-(hydroxymethyl)-8a-methoxy-5-methyl-carmate) (Aldrin (2,3,3a,4,4,4a,5,8,8,8a,8b-hexahydro-endo, exo-1,4,5,8-dimethanaphthalene) Alkyl alcohol (2-Propanol)

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Aflatoxins (Aflatoxins)

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Aluminum phosphate

Ammonia

Amitrole (1H-1,2,4-Triazol-3-amine) Aniline (Benzenamine) Antimony and compounds, N.O.S.
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<thead>
<tr>
<th>Chemical Name</th>
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<td>2-Chloronaphthalene</td>
<td>(452-72-0)</td>
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<td>DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl))</td>
<td>(50-29-6)</td>
<td>(Dichlorodiphenyltrichloroethane)</td>
</tr>
<tr>
<td>Diallate (S-(1,3-Dichloroallyl)diisopropylthiocarbamate)</td>
<td>(73-05-0)</td>
<td>(1,3-Dichloroallyl)diisopropylthiocarbamate)</td>
</tr>
<tr>
<td>Dibenzen[a]acridine (1,2,5,6-Dibenzoacridine)</td>
<td>(592-85-8)</td>
<td>(1,2,5,6-Dibenzoacridine)</td>
</tr>
<tr>
<td>Dibenzen[a]acridine (1,2,7,8-Dibenzoacridine)</td>
<td>(592-85-8)</td>
<td>(1,2,7,8-Dibenzoacridine)</td>
</tr>
<tr>
<td>Dibenzen[a]anthracene (1,2,5,6-Dibenzoanthracene)</td>
<td>(120-74-7)</td>
<td>(1,2,5,6-Dibenzoanthracene)</td>
</tr>
<tr>
<td>7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzocarbazole)</td>
<td>(120-74-7)</td>
<td>(3,4,5,6-Dibenzocarbazole)</td>
</tr>
<tr>
<td>Dibenz[a]pyrene (1,2,5,6-Dibenzo[a]pyrene)</td>
<td>(120-74-7)</td>
<td>(1,2,5,6-Dibenzo[a]pyrene)</td>
</tr>
<tr>
<td>Dibenzo[a]pyrene (1,2,5,6-Dibenzo[a]pyrene)</td>
<td>(120-74-7)</td>
<td>(1,2,5,6-Dibenzo[a]pyrene)</td>
</tr>
<tr>
<td>Dibenz[b]pyrene (1,2,7,8-Dibenzo[b]pyrene)</td>
<td>(120-74-7)</td>
<td>(1,2,7,8-Dibenzo[b]pyrene)</td>
</tr>
<tr>
<td>1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)</td>
<td>(120-74-7)</td>
<td>(1,2-Dibromo-3-chloropropane)</td>
</tr>
<tr>
<td>1,2-Dibromoethane (Ethylene dibromide)</td>
<td>(120-74-7)</td>
<td>(1,2-Dibromoethane)</td>
</tr>
<tr>
<td>Dibromomethane (Methylene bromide)</td>
<td>(120-74-7)</td>
<td>(Methylene bromide)</td>
</tr>
<tr>
<td>Di-n-butyl phthalate (1,2-Benzene dicarboxylic acid, dibutyl ester)</td>
<td>(120-74-7)</td>
<td>(1,2-Benzene dicarboxylic acid, dibutyl ester)</td>
</tr>
<tr>
<td>o-Dichlorobenzene (Benzene, 1,2-dichloro-)</td>
<td>(110-87-4)</td>
<td>(Benzene, 1,2-dichloro-)</td>
</tr>
<tr>
<td>m-Dichlorobenzene (Benzene, 1,3-dichloro-)</td>
<td>(108-46-3)</td>
<td>(Benzene, 1,3-dichloro-)</td>
</tr>
<tr>
<td>p-Dichlorobenzene (Benzene, 1,4-dichloro-)</td>
<td>(108-46-3)</td>
<td>(Benzene, 1,4-dichloro-)</td>
</tr>
<tr>
<td>Dichlorobenzene, N.O.S.³ (Benzene, dichloro-N.O.S.)</td>
<td>(108-46-3)</td>
<td>(Benzene, dichloro-N.O.S.)</td>
</tr>
<tr>
<td>3,3-Dichlorobenzidine [(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-)</td>
<td>(108-46-3)</td>
<td>(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-)</td>
</tr>
<tr>
<td>1,4-Dichloro-2-butene (2-Butene, 1,4-dichloro-)</td>
<td>(108-46-3)</td>
<td>(2-Butene, 1,4-dichloro-)</td>
</tr>
<tr>
<td>Dichlorodifluoromethane (Methylene dichloro-fluoro-)</td>
<td>(108-46-3)</td>
<td>(Methylene dichloro-fluoro-)</td>
</tr>
</tbody>
</table>
1,1-Dichloroethane (Ethylene dichloride) 
1,2-Dichloroethane (Ethylene dichloride) 
trans-1,2-Dichloroethene (1,2-Dichloroethene) 
Dichloromethane (Methylene chloride) 
2,4-Dichlorophenol (Phenol, 2,4-dichloro-) 
2,4-Dichloro-2,4-dimethylpentane (1,2-Dichloro-2,4-dimethylpentane) 
Dichlorophenylarsine (Phenyl dichloroarsine) 
1,1-Dichloroethylene (Ethene, 1,1-dichloro-) 
Dichloroethylene, N.O.S.3 (Ethene, dichloro-, N.O.S.3) 
1,2-Dichloroethylene (Ethene, 1,2-dichloro-) 
Dichloropropane, N.O.S.3 (Propane, dichloro-, N.O.S.3) 
1,2-Dichloropropane (Propylene dichloride) 
Dichloropropanol, N.O.S.3 (Propanol, dichloro-, N.O.S.3) 
Dichloropropene, N.O.S.3 (Propene, dichloro-, N.O.S.3) 
1,3-Dichloropropene (1-Propene, 1,3-dichloro-) 
Dieldin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene) 
1,2-Diepoxybutane (2,2′-Bioxirane) 
Diethylarsine (Arsine, diethyl-) 
N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl) 
O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester) 
Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester) 
O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester) 
Diethylstilbesterol (4,4′-Stilbenediol, alpha-alpha-diethyl, bis(dihydrogen phosphate, E-)) 
Dihydrosafrole (Benzo[e]pyrene) 
2-Methyl-4-ethylphenol (Phenol, 2-methyl-4-ethyl-) 
2,4-Dinitrophenol (Phenol, 2,4-dinitro-) 
2,4-Dinitrophenylhydrazine (Hydrazine, 1,2-dinitro-) 
Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, diocetyl ester) 
3,3′-Dimethylbenzidine (Benzenamine, N,N-dimethyl-4-(phenylazo), (E)-) 
Ethyl cyanide (propanenitrile) 
Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediyl-bis(carbamodithioic acid, diethyl ester) 
Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester) 
Ethyl cyanide (propanenitrile) 
Ethyl methacrylate (2-Propenoic acid, 2-methyl ethyl ester) 
Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester) 
Fluoranthene (Benzo[j,k,l]fluorene) 
Fluroene 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Dimethoate (Phosphorodithioic acid, O,O-dimethyl) 5-[2-(methylamino)-2-oxoethyl] ester) 
3,3-Dimethoxybenzidine (1,1′-Biphenyl-4,4′-diamine, 3,3-dimethoxy-) 
3,3-Dimethyl-4-aminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-) 
7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-) 
3,3-Dimethylbenzidine (1,1′-Biphenyl-4,4′-diamine, 3,3-dimethyl-) 
Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-) 
1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-) 
1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-) 
3,3-Dimethyl-1-(methylthio)-2-butane, O-[methylamino] carbonyl oxime (Thiofanox) 
alpha,alpha-Dimethylphenetidylamine (Ethylamine, 1,1-dimethyl-2-phenyl-) 
2,4-Dimethylphenol (Phenol, 2,4-dimethyl-) 
Diphenylphthalate (1,2-Benzenedicarboxylic acid, dimethyl ester) 
Dimethyl sulfate (Sulfuric acid, dimethyl ester) 
Dinitrobenzene, N.O.S.3 (Benzene, dinitro-, N.O.S.3) 
4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts) 
2,4-Dinitrophenol (Phenol, 2,4-dinitro-) 
2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-) 
2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-) 
Di-n-propylnitrosamine (N-Nitroso-di-n-propylamine) 
Disulfoton (O,O-diethyl O-[2-(ethylthio)ethyl] phosphorodithioate) 
2,4-Dithiobisuret (Thioimidodicarbonic diamide) 
Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,8-hexachloro-5,8-dimethanonaphthalene, and metabolites) 
Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester) 
Ethylene oxide (Oxirane) 
Ethylene oxide (Oxirane) 
Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester) 
Fluoranthene (Benzo[j,k,l]fluorene) 
Fluorine 
2,4-Dihydroxycarbamide (Acetamide, 2-fluoro-) 
Fluorine 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Fluorine 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Fluorine 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Fluorine 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Fluorine 
2,4-Dihydroxy-3-methyl-5-nitropyridine (5-Chloro-2-nitropyridine) 
Fluorine
<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Molecular Formula</th>
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</thead>
<tbody>
<tr>
<td>Tetrahydro- (alpha, beta, and gamma isomers)</td>
<td></td>
</tr>
<tr>
<td>Hexachlorobenzene (Benzene, hexachloro-)</td>
<td>C6H2Cl6</td>
</tr>
<tr>
<td>Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)</td>
<td>C6H4Cl6</td>
</tr>
<tr>
<td>Hexachlorocyclohexane (all isomers) (Lindane and isomers)</td>
<td>C6H8Cl6</td>
</tr>
<tr>
<td>Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5-hexachloro-)</td>
<td>C6H2Cl5</td>
</tr>
<tr>
<td>Hexachloroethane (Ethane, 1,1,2,3,3,3-hexachloro-)</td>
<td>C2H4Cl6</td>
</tr>
<tr>
<td>Hexachlorocyclohexane (all isomers) (Lindane and isomers)</td>
<td>C6H8Cl6</td>
</tr>
<tr>
<td>Hexachloroethane (Ethane, 1,1,2,3,3,3-hexachloro-)</td>
<td>C2H4Cl6</td>
</tr>
<tr>
<td>Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)</td>
<td>P6H12Cl10</td>
</tr>
<tr>
<td>Hydrazine (Diamine)</td>
<td>N2H4</td>
</tr>
<tr>
<td>Hydrocyanic acid (Hydrogen cyanide)</td>
<td>CNH2</td>
</tr>
<tr>
<td>Hydrofluoric acid (Hydrogen fluoride)</td>
<td>HF</td>
</tr>
<tr>
<td>Hydrogen sulfide (Sulfur hydride)</td>
<td>H2S</td>
</tr>
<tr>
<td>Hydrazine (Diamine)</td>
<td>N2H4</td>
</tr>
<tr>
<td>Hydrocyanic acid (Hydrogen cyanide)</td>
<td>CNH2</td>
</tr>
<tr>
<td>Hydrofluoric acid (Hydrogen fluoride)</td>
<td>HF</td>
</tr>
<tr>
<td>Hydrogen sulfide (Sulfur hydride)</td>
<td>H2S</td>
</tr>
<tr>
<td>Hydroxydimethylarsine oxide (Cacodylic acid)</td>
<td>CH3AsH2</td>
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<tr>
<td>Indeno (1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)</td>
<td>C20H12</td>
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<td>Iodomethane (Methyl iodide)</td>
<td>CH3I</td>
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<tr>
<td>Iron dextran (Ferric dextran)</td>
<td>Fe(C6H11O6)</td>
</tr>
<tr>
<td>Isocyanic acid, methyl ester (Methyl isocyanate)</td>
<td>CH3NCO</td>
</tr>
<tr>
<td>Isobutyl alcohol (1-Propanol, 2-methyl-)</td>
<td>C4H10OH</td>
</tr>
<tr>
<td>Isoafrrole (Benzene, 1,2-methylenedioxy-4-allyl-)</td>
<td>C6H4O2Cl</td>
</tr>
<tr>
<td>Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobutal)</td>
<td>C8H8Cl8</td>
</tr>
<tr>
<td>L-aspartic acid (2-Butenoic acid, 2-methyl-, methyl ester)</td>
<td>C5H8O3Cl</td>
</tr>
<tr>
<td>Methyl chlorocarbonate (Carbonchloric acid, methyl ester)</td>
<td>C2H5CCl</td>
</tr>
<tr>
<td>Methyl ethyl ketone (MEK) (2-Butanone)</td>
<td>C4H8O2Cl</td>
</tr>
<tr>
<td>Methyl hydrazine (Hydrazine, methyl-)</td>
<td>CH3N2</td>
</tr>
<tr>
<td>Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)</td>
<td>C5H8O2Cl</td>
</tr>
<tr>
<td>Methyl methanesulfonate (Methanesulfonic acid, methyl ester)</td>
<td>C5H8O3Cl</td>
</tr>
<tr>
<td>Methyl parathion (0,0-dimethyl 0-(4-nitrophenyl) phosphorothioate)</td>
<td>C12H11NO5S</td>
</tr>
<tr>
<td>Methyl thiourea (4H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)</td>
<td>C6H7N3S</td>
</tr>
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<td>Nitric oxide (Nitrogen (II) oxide)</td>
<td>N2O</td>
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<tr>
<td>Nitrosamine, N.O.S.3</td>
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<tr>
<td>Nitrobenzene (Benzene, nitro-)</td>
<td>C6H4NO4</td>
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<tr>
<td>Nitrogen dioxide (Nitrogen (IV) oxide)</td>
<td>N2O5</td>
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<tr>
<td>Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-</td>
<td>C7H14NO3S</td>
</tr>
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<td>Nickel and compounds, N.O.S.3</td>
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<tr>
<td>Nickel carbonyl (Nickel tetracarbonyl)</td>
<td>C12H12Ni3O4</td>
</tr>
<tr>
<td>Nickel cyanide (Nickel (II) cyanide)</td>
<td>C6H7NiCl</td>
</tr>
<tr>
<td>Nicotine and salts (Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)</td>
<td>C11H12N3</td>
</tr>
<tr>
<td>Nitric acid (Nitrogen (II) oxide)</td>
<td>N2O5</td>
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<tr>
<td>Nitroglycerine (1,2,3-Propanetriol, trinitrate)</td>
<td>C3H5N3O3</td>
</tr>
<tr>
<td>Nitrosamine, N.O.S.3</td>
<td></td>
</tr>
<tr>
<td>Nitrosodimethylamine (Dimethylnitrosamine)</td>
<td>C7H14NO3S</td>
</tr>
<tr>
<td>Nitroso-N-ethylurea (Carbamide, N-ethyl-N-</td>
<td>C7H14NO3S</td>
</tr>
<tr>
<td>Nitroso-N-ethylurea (Carbamide, N-ethyl-N-).</td>
<td>C7H14NO3S</td>
</tr>
</tbody>
</table>
N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methyl-N-nitroso-ethyl ester)
N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, N-nitroso-s)
N-Nitrosornonicotine (Nornicotine, N-nitroso-s)
N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
N-Nitrosopyrrolidine (Pyrrole, tetrahydro-, N-nitroso-)
N-Nitrososarcosine (Sarcosine, N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramide (Diphosphoramide, octamethyl-)
Osmium tetroxide (Osmium (VIII) oxide)
7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)
Paraldehyde (1,3,5-Trioxane, 2,4,6-trimethyl-)
Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester)
Pentachlorobenzene (Benzene, pentachloro-)
Pentachloroethane (Ethane, pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
Pentachloropropene (Parachloro-)
Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
Phenol (Benzene, hydroxy-)
Phenylenediamine (Benzenediamine)
Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)
Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)
Phthalic acid esters, N.O.S. 3 (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.3)
Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)
2-Picoline (Pyridine, 2-methyl-)
Polychlorinated biphenyl, N.O.S.3
Potassium cyanide
Potassium silver cyanide (Argentate(1-), dicyano- potassium)
Propanamide (3,5-Dichloro-N-[1,1-dimethyl-2-propynyl]benzamide)
1,3-Propane sulfone (1,2-Oxathiolane, 2,2-dioxide)
N-Propylamine (1-Propanamine)
Propylthiouacil (Undecamethylenediamine, N,N′-bis(2-chlorobenzyl)-, dihydrochloride)
2-Propyn-1-ol (Propargyl alcohol)
Pyridine
Radon -226 and -228
Reserpine (Yohimbab-16-carboxylic acid, 11,17-dimethoxy-18(3,4,5-
trimethoxybenzoyl)oxy), methyl ester)
Resorcinol (1,3-Benzenediol)
Saccharin and salts (1,2-Benzisothiazolin-3-one, 1,1-dioxide, and salts)
Safrole (Benzene, 1,2-methyleneedioxy-4-allyl-
Selenious acid (Selenium dioxide)
Selenium and compounds, N.O.S.3
Selenium sulfide (Sulfur selenide)
Selenourea (Carbamimidoseleinoic acid)
Silver and compounds, N.O.S.3
Silver cyanide
Sodium cyanide
Streptozotocin (D-Glucopyranose, 2-deoxy-2-
(3-methyl-3-nitrosoureido)-)
Strontium sulfide
Strychnine and salts (Strophanthidin-10-one, and salts)
Tetrachlorobenzene (Benzene, 1,2,4,5-
tetrachloro-)
Tetrachlorodibenzop-dioxin (TCDD)
Tetrachloroethane (Ethane, tetra-
chloro-, N.O.S.3)
Tetraethylenehexyl-6 (Ethane, 1,1,2-
tetrachloro-)
Tetraethylethylenehexyl-6 (Ethane, 1,1,2-
tetrachloro-)
Tetrachloromethane (Carbon tetrachloride)
2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tet-
rachloro-)
Tetraethylthiophosphosphate (Dithiophosphoric acid, tetraethyl-
ester)
Tetraethyllead (Plumbane, tetraethyl-)
Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)
Tetranitromethane (Methane, tetranitro-
Thallium and compounds, N.O.S.3
Thallous oxide (Thallium (II) oxide)
Thallium (I) acetate (Acetic acid, thallium (I) salt)
Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
Thallium (I) chloride
Thallium (I) nitrate (Nitrific acid, thallium (I) salt)
Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
Thiazole (Ethanethioamide)
Thiosalicyclic acid
Thiouracil (Ethylenediamine, N.N′-bis(2-chlorobenzyl)-, dihydrochloride)
Toluene (Benzenes, methyl-)
Toluenediamine (Diaminotoluene)
Toxaphene (Camphene, octachloro-)
Tri bromomethane (Bromoform)
1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
1,1,1-Trichloroethane (Methyl chloroform)
1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
Trichloroethylene (Trichloroethylene)
Trichloromonofluoromethane (Methane, trichlorofluoro-)
2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)
2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP) (Silvex) (Propionoic acid, 2-(2,4,5-trichlorophenoxy)-)
Trichloropropane, N.O.S. 3 (Propane, trichloro-, N.O.S.3)
O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl-))
Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3′-[(3,3′-dimethyl (1,1′-biphenyl)-4,4′-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
Uracil mustard (Uracil 5-[bis(2-chloroethyl)amino]-)
Uranium and compounds, N.O.S. 3
Vanadic acid, ammonium salt (ammonium vanadate)
Vanadium pentoxide (Vanadium (V) oxide)
Vinyl chloride (Ethene, chloro-)
Zinc cyanide
Zinc phosphate

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

General Provisions
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50.3 Interpretations.
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50.7 Employee protection.
50.8 Information collection requirements: OMB approval.
50.9 Completeness and accuracy of information.

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50.12 Specific exemptions.
50.13 Attacks and destructive acts by enemies of the United States; and defense activities.

CLASSIFICATION AND DESCRIPTION OF LICENSES
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50.22 Class 103 licenses; for commercial and industrial facilities.
50.23 Construction permits.

APPLICATIONS FOR LICENSES, CERTIFICATIONS, AND REGULATORY APPROVALS; FORM; CONTENTS; INELIGIBILITY OF CERTAIN APPLICANTS
50.30 Filing of application; oath or affirmation.
50.31 Combining applications.
50.32 Elimination of repetition.
50.33 Contents of applications; general information.
50.34 Contents of construction permit and operating license applications; technical information.
50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors.
50.35 Issuance of construction permits.
50.36 Technical specifications.
50.36a Technical specifications on effluents from nuclear power reactors.
50.36b Environmental conditions.
50.37 Agreement limiting access to classified information.
50.38 Ineligibility of certain applicants.
50.39 Public inspection of applications.

STANDARDS FOR LICENSES, CERTIFICATIONS, AND REGULATORY APPROVALS
50.40 Common standards.
50.41 Additional standards for class 104 licenses.
50.42 Additional standards for class 103 licenses.
50.43 Additional standards and provisions affecting class 103 licenses and certifications for commercial power.
50.44 Combustible gas control for nuclear power reactors.
50.45 Standards for construction permits, operating licenses, and combined licenses.