

§ 61.84

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

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

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

[57 FR 55077, Nov. 24, 1992]

§ 61.84 Criminal penalties.

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

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

[57 FR 55077, Nov. 24, 1992]

PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

Subpart A—General Provisions

Sec.

- 62.1 Purpose and scope.
- 62.2 Definitions.
- 62.3 Communications.
- 62.4 Interpretations.
- 62.5 Specific exemptions.
- 62.8 Information collection requirements: OMB approval.

Subpart B—Request for a Commission Determination

- 62.11 Filing and distribution of a determination request.

10 CFR Ch. I (1–1–08 Edition)

- 62.12 Contents of a request for emergency access: General information.
- 62.13 Contents of a request for emergency access: Alternatives.
- 62.14 Contents of a request for an extension of emergency access.
- 62.15 Additional information.
- 62.16 Withdrawal of a determination request.
- 62.17 Elimination of repetition.
- 62.18 Denial of request.

Subpart C—Issuance of a Commission Determination

- 62.21 Determination for granting emergency access.
- 62.22 Notice of issuance of a determination.
- 62.23 Determination for granting temporary emergency access.
- 62.24 Extension of emergency access.
- 62.25 Criteria for a Commission determination.
- 62.26 Criteria for designating a disposal facility.

Subpart D—Termination of Emergency Access

- 62.31 Termination of emergency access.

AUTHORITY: Secs. 81, 161, as amended, 68 Stat. 935, 948, 950, 951, as amended (42 U.S.C. 211, 2201; secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 3, 4, 5, 6, 99 Stat. 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857 (42 U.S.C. 2021c, 2021d, 2021e, 2021f; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

SOURCE: 54 FR 5420, Feb. 3, 1989, unless otherwise noted.

Subpart A—General Provisions

§ 62.1 Purpose and scope.

(a) The regulations in this part establish for specific low-level radioactive waste:

(1) Criteria and procedures for granting emergency access under section 6 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021) to any non-Federal or regional low-level radioactive waste (LLW) disposal facility or to any non-Federal disposal facility within a State that is not a member of a Compact, and

(2) The terms and conditions upon which the Commission will grant this emergency access.

Nuclear Regulatory Commission

§ 62.3

(b) The regulations in this part apply to all persons as defined by this regulation, who have been denied access to existing regional or non-Federal low-level radioactive waste disposal facilities and who submit a request to the Commission for a determination pursuant to this part.

(c) The regulations in this part apply only to the LLW that the States have the responsibility to dispose of pursuant to section 3(1)(a) of the Act.

§ 62.2 Definitions.

As used in this part:

Act means the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240).

Agreement State means a State that—

(1) Has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

(2) Has authority to regulate the disposal of low-level radioactive waste under such agreement.

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

Compact means a Compact entered into by two or more States pursuant to the Low-Level Radioactive Waste Policy Amendments Act of 1985.

Compact Commission means the regional commission, committee, or board established in a Compact to administer such Compact.

Disposal means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an Agreement State if such isolation occurs in this Agreement State.

Emergency access means access to an operating non-Federal or regional low-level radioactive waste disposal facility or facilities for a period not to exceed 180 days, which is granted by NRC to a generator of low-level radioactive waste who has been denied the use of those facilities.

Extension of emergency access means an extension of the access that had been previously granted by NRC to an operating non-Federal or regional low-level radioactive waste disposal facility or facilities for a period not to exceed 180 days.

Low-level radioactive waste (LLW) means radioactive material that—

(1) Is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct Material* set forth in § 20.1003 of this chapter); and

(2) The NRC, consistent with existing law and in accordance with paragraph (1) of this definition, classifies as low-level radioactive waste.

Non-Federal disposal facility means a low-level radioactive waste disposal facility that is commercially operated or is operated by a State.

Person means any individual, corporation, partnership, firm, association, trust, State, public or private institution, group or agency who is an NRC or NRC Agreement State licensed generator of low-level radioactive waste within the scope of § 62.1(c) of this part; any Governor (or for any State without a Governor, the chief executive officer of the State) on behalf of any NRC or NRC Agreement State licensed generator or generators of low-level radioactive waste within the scope of § 62.1(c) of this part located in his or her State; or their duly authorized representative, legal successor, or agent.

Regional disposal facility means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

State means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Temporary emergency access means access that is granted at NRC's discretion under § 62.23 of this part upon determining that access is necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. Such access expires 45 days after the granting and cannot be extended.

[54 FR 5420, Feb. 3, 1989, as amended at 72 FR 55933, Oct. 1, 2007]

§ 62.3 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be

§ 62.4

sent by mail addressed: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by 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 nonpublic information.

[68 FR 58814, Oct. 10, 2003]

§ 62.4 Interpretations.

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

§ 62.5 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant an exemption from the requirements of the regulations in this part that it determines is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

§ 62.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction

10 CFR Ch. I (1-1-08 Edition)

Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0143.

(b) The approved information collection requirements contained in this part appear in §§ 62.11, 62.12, 62.13, 62.14, and 62.15.

[54 FR 5420, Feb. 3, 1989, as amended at 62 FR 52188, Oct. 6, 1997]

Subpart B—Request for a Commission Determination

§ 62.11 Filing and distribution of a determination request.

(a) The person submitting a request for a Commission determination shall file a signed original of the request with the Commission at the address specified in § 62.3 of this part, with a copy also provided to the appropriate Regional Administrator at the address specified in appendix D to part 20 of this chapter. The request must be signed by the person requesting the determination or the person's authorized representative under oath or affirmation.

(b) Upon receipt of a request for a determination, the Secretary of the Commission shall publish a notice acknowledging receipt of the request in the FEDERAL REGISTER. The notice must require that public comment on the request be submitted within 10 days of the publication date of the notice. A copy of the request will be made available for inspection or copying at the NRC Web site, <http://www.nrc.gov>, and/or at the NRC Public Document Room. The Secretary of the Commission shall also transmit a copy of the request to the U.S. Department of Energy, to the Governors of the States of the Compact region where the waste is generated, to the Governors of the States with operating non-Federal low-level radioactive waste disposal facilities, to the Compact Commissions with operating regional low-level radioactive waste disposal facilities, and to the Governors of the States in the Compact Commissions with operating disposal facilities.

(c) Upon receipt of a request for a determination based on a serious and immediate threat to the common defense and security, the Commission will notify DOD and/or DOE and provide a copy of the request as needed for their consideration.

(d) Fees applicable to a request for a Commission determination under this part will be determined in accordance with the procedures set forth for special projects under category 12 of § 170.31 of this chapter.

(e) In the event that the allocations or limitations established in section 5(b) or 6(h) of the Act are met at all operating non-Federal or regional LLW disposal facilities, the Commission may suspend the processing or acceptance of requests for emergency access determinations until additional LLW disposal capacity is authorized by Congress.

[54 FR 5420, Feb. 3, 1989, as amended at 64 FR 48954, Sept. 9, 1999; 68 FR 58814, Oct. 10, 2003]

§ 62.12 Contents of a request for emergency access: General information.

A request for a Commission determination under this part must include the following information for each generator to which the request applies:

(a) Name and address of the person making the request;

(b) Name and address of the person(s) or company(ies) generating the low-level radioactive waste for which the determination is sought;

(c) A statement indicating whether the generator is basing the request on the grounds of a serious and immediate threat to the public health and safety or the common defense and security;

(d) Certification that the radioactive waste for which emergency access is requested is low-level radioactive waste within § 62.1(c) of this part;

(e) The low-level waste generation facility(ies) producing the waste for which the request is being made;

(f) A description of the activity that generated the waste;

(g) Name of the disposal facility or facilities which had been receiving the waste stream of concern before the generator was denied access;

(h) A description of the low-level radioactive waste for which emergency access is requested, including—

(1) The characteristics and composition of the waste, including, but not limited to—

(i) Type of waste (e.g. solidified oil, scintillation fluid, failed equipment);

(ii) Principal chemical composition;

(iii) Physical state (solid, liquid, gas);

(iv) Type of solidification media; and

(v) Concentrations and percentages of any hazardous or toxic chemicals, chelating agents, or infectious or biological agents associated with the waste;

(2) The radiological characteristics of the waste such as—

(i) The classification of the waste in accordance with § 61.55;

(ii) A list of the radionuclides present or potentially present in the waste, their concentration or contamination levels, and total quantity;

(iii) Distribution of the radionuclides within the waste (surface or volume distribution);

(iv) Amount of transuranics (nanocuries/gram);

(3) The minimum volume of the waste requiring emergency access to eliminate the threat to the public health and safety or the common defense and security;

(4) The time duration for which emergency access is requested (not to exceed 180 days);

(5) Type of disposal container or packaging (55 gallon drum, box, liner, etc.); and

(6) Description of the volume reduction and waste minimization techniques applied to the waste which assure that it is reduced to the maximum extent practicable, and the actual reduction in volume that occurred;

(i) Basis for requesting the determination set out in this part, including—

(1) The circumstances that led to the denial of access to existing low-level radioactive waste disposal facilities;

(2) A description of the situation that is responsible for creating the serious and immediate threat to the public health and safety or the common defense and security, including the date when the need for emergency access was identified;

§ 62.13

10 CFR Ch. I (1-1-08 Edition)

(3) A chronology and description of the actions taken by the person requesting emergency access to prevent the need for making such a request, including consideration of all alternatives set forth in § 62.13 of this part, and any supporting documentation as appropriate;

(4) An explanation of the impacts of the waste on the public health and safety or the common defense and security if emergency access is not granted, and the basis for concluding that these impacts constitute a serious and immediate threat to the public health and safety or the common defense and security. The impacts to the public health and safety or the common defense and security should also be addressed if the generator's services, including research activities, were to be curtailed, either for a limited period of time or indefinitely;

(5) Other consequences if emergency access is not granted;

(j) Steps taken by the person requesting emergency access to correct the situation requiring emergency access and the person's plans to eliminate the need for additional or future emergency access requests;

(k) Documentation certifying that access has been denied;

(l) Documentation that the waste for which emergency access is requested could not otherwise qualify for disposal pursuant to the Unusual Volumes provision (Section 5(c)(5) of the Act) or is not simultaneously under consideration by the Department of Energy (DOE) for access through the Unusual Volumes allocation;

(m) Date by which access is required;

(n) Any other information which the Commission should consider in making its determination.

§ 62.13 Contents of a request for emergency access: Alternatives.

(a) A request for emergency access under this part must include information on alternatives to emergency access. The request shall include a discussion of the consideration given to any alternatives, including, but not limited to, the following:

(1) Storage of low-level radioactive waste at the site of generation;

(2) Storage of low-level radioactive waste in a licensed storage facility;

(3) Obtaining access to a disposal facility by voluntary agreement;

(4) Purchasing disposal capacity available for assignment pursuant to the Act;

(5) Requesting disposal at a Federal low-level radioactive waste disposal facility in the case of a Federal or defense related generator of LLW;

(6) Reducing the volume of the waste;

(7) Ceasing activities that generate low-level radioactive waste; and

(8) Other alternatives identified under paragraph (b) of this section.

(b) The request must identify all of the alternatives to emergency access considered, including any that would require State or Compact action, or any others that are not specified in paragraph (a) of this section. The request should also include a description of the process used to identify the alternatives, a description of the factors that were considered in identifying and evaluating them, a chronology of actions taken to identify and implement alternatives during the process, and a discussion of any actions that were considered, but not implemented.

(c) The evaluation of each alternative must consider:

(1) Its potential for mitigating the serious and immediate threat to public health and safety or the common defense and security posed by lack of access to disposal;

(2) The adverse effects on public health and safety and the common defense and security, if any, of implementing each alternative, including the curtailment or cessation of any essential services affecting the public health and safety or the common defense and security;

(3) The technical and economic feasibility of each alternative including the person's financial capability to implement the alternatives;

(4) Any other pertinent societal costs and benefits;

(5) Impacts to the environment;

(6) Any legal impediments to implementation of each alternative, including whether the alternatives will comply with applicable NRC and NRC Agreement States regulatory requirements; and

Nuclear Regulatory Commission

§ 62.21

(7) The time required to develop and implement each alternative.

(d) The request must include the basis for:

- (1) Rejecting each alternative; and
- (2) Concluding that no alternative is available.

§ 62.14 Contents of a request for an extension of emergency access.

A request for an extension of emergency access must include:

(a) Updates of the information required in §§ 62.12 and 62.13; and

(b) Documentation that the generator of the low-level radioactive waste granted emergency access and the State in which the low-level radioactive waste was generated have diligently, though unsuccessfully, acted during the period of the initial grant to eliminate the need for emergency access. Documentation must include:

(1) An identification of additional alternatives that have been evaluated during the period of the initial grant, and

(2) A discussion of any reevaluation of previously considered alternatives, including verification of continued attempts to gain access to a disposal facility by voluntary agreement.

§ 62.15 Additional information.

(a) The Commission may require additional information from a person making a request for a Commission determination under this part concerning any portion of the request.

(b) The Commission shall deny a request for a Commission determination under this part if the person making the request fails to respond to a request for additional information under paragraph (a) of this section within ten (10) days from the date of the request for additional information, or any other time that the Commission may specify. This denial will not prejudice the right of the person making the request to file another request for a Commission determination under this part.

§ 62.16 Withdrawal of a determination request.

(a) A person may withdraw a request for a Commission determination under this part without prejudice at any time

prior to the issuance of an initial determination under § 62.21 of this part.

(b) The Secretary of the Commission will cause to be published in the FEDERAL REGISTER a notice of the withdrawal of a request for a Commission determination under this part.

§ 62.17 Elimination of repetition.

In any request under this part, the person making the request may incorporate by reference information contained in a previous application, Statement, or report filed with the Commission provided that these references are updated, clear, and specific.

§ 62.18 Denial of request.

If a request for a determination is based on circumstances that are too remote and speculative to allow an informed determination, the Commission may deny the request.

Subpart C—Issuance of a Commission Determination

§ 62.21 Determination for granting emergency access.

(a) Not later than (45) days after the receipt of a request for a Commission determination under this part from any generator of low-level radioactive waste, or any Governor on behalf of any generator or generators located in his or her State, the Commission shall determine whether—

(1) Emergency access to a regional disposal facility or a non-Federal disposal facility within a State that is not a member of a Compact for specific low-level radioactive waste is necessary because of an immediate and serious threat—

- (i) To the public health and safety or
- (ii) The common defense and security; and

(2) The threat cannot be mitigated by any alternative consistent with the public health and safety, including those identified in § 62.13.

(b) In making a determination under this section, the Commission shall be guided by the criteria set forth in § 62.25 of this part.

(c) A determination under this section must be in writing and contain a full explanation of the facts upon which the determination is based and

§ 62.22

the reasons for granting or denying the request. An affirmative determination must designate an appropriate non-Federal or regional LLW disposal facility or facilities for the disposal of wastes, specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration (not to exceed 180 days) necessary to eliminate the immediate threat to public health and safety or the common defense and security. It may also contain conditions upon which the determination is dependent.

§ 62.22 Notice of issuance of a determination.

(a) Upon the issuance of a Commission determination the Secretary of the Commission will notify in writing the following persons of the final determination: The person making the request, the Governor of the State in which the low-level radioactive waste requiring emergency access was generated, the Governor of the State in which the designated disposal facility is located, and if pertinent, the appropriate Compact Commission for such approval as is specified as necessary in section 6(g) of the Act. For the Governor of the State in which the designated disposal facility is located and for the appropriate Compact Commission, the notification must set forth the reasons that emergency access was granted and specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration (not to exceed 180 days) necessary to alleviate the immediate and serious threat to public health and safety or the common defense and security. For the Governor of the State in which the low-level waste was generated, the notification must indicate that no extension of emergency access will be granted under § 62.24 of this part absent diligent State and generator action during the period of the initial grant.

(b) The Secretary of the Commission will cause to be published in the FEDERAL REGISTER a notice of the issuance of the determination.

(c) The Secretary of the Commission shall make a copy of the final deter-

10 CFR Ch. I (1-1-08 Edition)

mination available for inspection at the NRC Web site, <http://www.nrc.gov>.

[54 FR 5420, Feb. 3, 1989, as amended at 64 FR 48954, Sept. 9, 1999]

§ 62.23 Determination for granting temporary emergency access.

(a) The Commission may grant temporary emergency access to an appropriate non-Federal or regional disposal facility or facilities provided that the determination required under § 62.21(a)(1) of this part is made;

(b) The notification procedures under § 62.22 of this part are complied with; and

(c) The temporary emergency access duration will not exceed forty-five (45) days.

§ 62.24 Extension of emergency access.

(a) After the receipt of a request from any generator of low-level waste, or any Governor on behalf of any generator or generators in his or her State, for an extension of emergency access that was initially granted under § 62.21, the Commission shall make an initial determination of whether—

(1) Emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security;

(2) The threat cannot be mitigated by any alternative that is consistent with public health and safety; and

(3) The generator of low-level waste and the State have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access.

(b) After making a determination pursuant to paragraph (a) of this section, the requirements specified in §§ 62.21(c) and 62.22 of this part, must be followed.

§ 62.25 Criteria for a Commission determination.

(a) In making the determination required by § 62.21(a) of this part, the Commission will determine whether the circumstances described in the request for emergency access create a serious and immediate threat to the public health and safety or the common defense and security.

Nuclear Regulatory Commission

§ 62.25

(b) In making the determination that a serious and immediate threat exists to the public health and safety, the Commission will consider, notwithstanding the availability of any alternative identified in §62.13 of this part:

(1) The nature and extent of the radiation hazard that would result from the denial of emergency access, including consideration of—

(i) The standards for radiation protection contained in part 20 of this chapter;

(ii) Any standards governing the release of radioactive materials to the general environment that are applicable to the facility that generated the low level waste; and

(iii) Any other Commission requirements specifically applicable to the facility or activity that is the subject of the emergency access request; and

(2) The extent to which essential services affecting the public health and safety (such as medical, therapeutic, diagnostic, or research activities) will be disrupted by the denial of emergency access.

(c) For purposes of granting temporary emergency access under §62.23 of this part, the Commission will consider the criteria contained in the Commission's Policy Statement (45 FR 10950, February 24, 1977) for determining whether an event at a facility or activity licensed or otherwise regulated by the Commission is an abnormal occurrence within the purview of section 208 of the Energy Reorganization Act of 1974.

(d) In making the determination that a serious and immediate threat to the common defense and security exists, the Commission will consider, notwithstanding the availability of any alternative identified in §62.13 of this part:

(1) Whether the activity generating the wastes is necessary to the protection of the common defense and security, and

(2) Whether the lack of access to a disposal site would result in a significant disruption in that activity that would seriously threaten the common defense and security.

The Commission will consider the views of the Department of Defense (DOD) and or the Department of Energy (DOE) regarding the importance

of the activities responsible for generating the LLW to the common defense and security, when evaluating requests based all, or in part, on a serious and immediate threat to the common defense and security.

(e) In making the determination required by §62.21(a)(2) of this part, the Commission will consider whether the person submitting the request—

(1) Has identified and evaluated any alternative that could mitigate the need for emergency access; and

(2) Has considered all pertinent factors in its evaluation of alternatives including state-of-the-art technology and impacts on public health and safety.

(f) In making the determination required by §62.21(a)(2) of this part, the Commission will consider implementation of an alternative to be unreasonable if:

(1) It adversely affects public health and safety, the environment, or the common defense and security; or

(2) It results in a significant curtailment or cessation of essential services, affecting public health and safety or the common defense and security; or

(3) It is beyond the technical and economic capabilities of the person requesting emergency access; or

(4) Implementation of the alternative would conflict with applicable State or local or Federal laws and regulations; or

(5) It cannot be implemented in a timely manner.

(g) The Commission shall make an affirmative determination under §62.21(a) of this part only if all of the alternatives that were considered are found to be unreasonable.

(h) As part of its mandated evaluation of the alternatives that were considered by the generator, the Commission shall consider the characteristics of the wastes (including: physical properties, chemical properties, radioactivity, pathogenicity, infectiousness, and toxicity, pyrophoricity, and explosive potential); condition of current container; potential for contaminating the disposal site; the technologies or combination of technologies available for treatment of the waste (including incinerators; evaporators-crystallizers;

§ 62.26

fluidized bed dryers; thin film evaporators; extruders, evaporators; and Compactors); the suitability of volume reduction equipment to the circumstances (specific activity considerations, actual volume reduction factors, generation of secondary wastes, equipment contamination, effluent releases, worker exposure, and equipment availability); and the administrative controls which could be applied, in making a determination whether waste to be delivered for disposal under this part has been reduced in volume to the maximum extent practicable using available technology.

§ 62.26 Criteria for designating a disposal facility.

(a) The Commission shall designate an appropriate non-Federal or regional disposal facility if an affirmative determination is made pursuant to §§ 62.21, 62.23, or 62.24 of this part.

(b) The Commission will exclude a disposal facility from consideration if:

(1) The low-level radioactive wastes of the generator do not meet the criteria established by the license agreement or the license agreement of the facility; or

(2) The disposal facility is in excess of its approved capacity; or

(3) Granting emergency access would delay the closing of the disposal facility pursuant to plans established before the receipt of the request for emergency access; or

(4) The volume of waste requiring emergency access exceeds 20 percent of the total volume of low-level radioactive waste accepted for disposal at the facility during the previous calendar year.

(c) If, after applying the exclusionary criteria in paragraph (b) of this section, more than one disposal facility is identified as appropriate for designation, the Commission will then consider additional factors in designating a facility or facilities including—

(1) Type of waste and its characteristics,

(2) Previous disposal practices,

(3) Transportation

(4) Radiological effects,

(5) Site capability for handling waste,

(6) The volume of emergency access waste previously accepted by each site

10 CFR Ch. I (1–1–08 Edition)

both for the particular year and overall, and

(7) Any other considerations deemed appropriate by the Commission.

(d) The Commission, in making its designation, will also consider any information submitted by the operating non-Federal or regional LLW disposal sites, or any information submitted by the public in response to a FEDERAL REGISTER notice requesting comment, as provided in paragraph (b) of § 62.11 of this part.

Subpart D—Termination of Emergency Access

§ 62.31 Termination of emergency access.

(a) The Commission may terminate a grant of emergency access when emergency access is no longer necessary to eliminate an immediate threat to public health and safety or the common defense and security.

(b) The Commission may terminate a grant of emergency access if an applicant has provided inaccurate information in its application for emergency access or if the applicant has failed to comply with this part or any conditions set by the Commission pursuant to this part.

PART 63—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Subpart A—General Provisions

Sec.

63.1 Purpose and scope.

63.2 Definitions.

63.3 License required.

63.4 Communications and records.

63.5 Interpretations.

63.6 Exemptions.

63.7 License not required for certain preliminary activities.

63.8 Information collection requirements: OMB approval.

63.9 Employee protection.

63.10 Completeness and accuracy of information.

63.11 Deliberate misconduct.

Subpart B—Licenses

PREAPPLICATION REVIEW

63.15 Site characterization.