

## § 61.1

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**AUTHORITY:** Atomic Energy Act secs. 53, 57, 62, 63, 65, 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846), sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Pub. L. 95–601, sec. 10, 14, 92 Stat. 2951, 2953 (42 U.S.C. 2021a, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

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

### Subpart A—General Provisions

#### § 61.1 Purpose and scope.

(a) The regulations in this part establish, for land disposal of radioactive waste, the procedures, criteria, and terms and conditions upon which the Commission issues licenses for the disposal of radioactive wastes containing byproduct, source and special nuclear material received from other persons. Disposal of waste by an individual licensee is set forth in part 20 of this chapter. Applicability of the requirements in this part to Commission licenses for waste disposal facilities in effect on the effective date of this rule will be determined on a case-by-case basis and implemented through terms and conditions of the license or by orders issued by the Commission.

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

(1) Disposal of high-level waste as provided for in part 60 or 63 of this chapter;

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

(3) Disposal of licensed material as provided for in part 20 of this chapter.

(c) This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or sub-

contractor, components, equipment, materials, or other goods or services, that relate to a licensee’s or applicant’s activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 61.9b.

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

#### § 61.2 Definitions.

As used in this part:

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

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

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

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

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

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

*Director* means the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission.

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

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

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

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

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

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

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

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

*Inadvertent intruder* means a person who might occupy the disposal site after closure and engage in normal activities, such as agriculture, dwelling construction, or other pursuits in which the person might be unknowingly exposed to radiation from the waste.

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

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

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

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

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

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

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

*Pyrophoric liquid* means any liquid that ignites spontaneously in dry or moist air at or below 130 °F (54.5 °C). A pyrophoric solid is any solid material, other than one classed as an explosive,

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which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

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

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

*Stability* means structural stability.

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

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

*Waste* means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct material* set forth in §20.1003 of this chapter.

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

#### §61.3 License required.

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

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

#### §61.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov); or by writing the Office of 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.

[73 FR 5725, Jan. 31, 2008, as amended at 74 FR 62683, Dec. 1, 2009]

#### §61.5 Interpretations.

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

#### §61.6 Exemptions.

The Commission may, upon application by any interested person, or upon its own initiative, grant any exemption