

safety and the engineered and natural barriers important to waste isolation.

(d) The applicant for a license to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area sited, constructed, or operated in accordance with the Nuclear Waste Policy Act of 1982 shall protect Safeguards Information in accordance with the requirements in § 73.21 and the requirements in § 73.22 or § 73.23 of this chapter, as applicable, and shall protect classified information in accordance with the requirements of parts 25 and 95 of this chapter, as applicable.

[46 FR 13980, Feb. 25, 1981, as amended at 48 FR 28219, June 21, 1983; 54 FR 27871, July 3, 1989; 61 FR 64268, Dec. 4, 1996; 63 FR 26961, May 15, 1998; 73 FR 63571, Oct. 24, 2008]

**§ 60.22 Filing and distribution of application.**

(a) An application for a construction authorization for a high-level radioactive waste repository at a geologic repository operations area, and an application for a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area at a site which has been characterized, and any amendments thereto, and an accompanying environmental impact statement and any supplements, shall be signed by the Secretary of Energy or the Secretary's authorized representative and must be filed with the Director.

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

(c) DOE shall, upon notification of the appointment of an Atomic Safety and Licensing Board, update the application, eliminating all superseded information, and supplement the environmental impact statement if necessary, and serve the updated application and environmental impact statement (as it may have been supplemented) as directed by the Board. At that time DOE shall also serve one such copy of the application and environmental impact statement on the Atomic Safety and Licensing Appeal Panel. Any subsequent amendments to

the application or supplements to the environmental impact statement shall be served in the same manner.

(d) At the time of filing of an application and any amendments thereto, one copy shall be made available in an appropriate location near the proposed geologic repository operations area (which shall be a public document room, if one has been established) for inspection by the public and updated as amendments to the application are made. The environmental impact statement and any supplements thereto shall be made available in the same manner. An updated copy of the application, and the environmental impact statement and supplements, shall be produced at any public hearing held by the Commission on the application, for use by any party to the proceeding.

(e) The DOE shall certify that the updated copies of the application, and the environmental impact statement as it may have been supplemented, as referred to in paragraphs (c) and (d) of this section, contain the current contents of such documents submitted in accordance with the requirements of this part.

[54 FR 27871, July 3, 1989, as amended at 68 FR 58814, Oct. 10, 2003; 69 FR 2279, Jan. 14, 2004]

**§ 60.23 Elimination of repetition.**

In its application, environmental report, or Site Characterization Report, the DOE may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission: *Provided*, That such references are clear and specific and that copies of the information so incorporated are available in the public document room located near the site of the proposed geologic repository.

**§ 60.24 Updating of application and environmental impact statement.**

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

(b) The DOE shall update its application in a timely manner so as to permit the Commission to review, prior to issuance of a license:

(1) Additional geologic, geophysical, geochemical, hydrologic, meteorologic

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and other data obtained during construction.

(2) Conformance of construction of structures, systems, and components with the design.

(3) Results of research programs carried out to confirm the adequacy of designs.

(4) Other information bearing on the Commission's issuance of a license that was not available at the time a construction authorization was issued.

(c) The DOE shall supplement its environmental impact statement in a timely manner so as to take into account the environmental impacts of any substantial changes in its proposed actions or any significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

[46 FR 13980, Feb. 25, 1981, as amended at 54 FR 27872, July 3, 1989]

### CONSTRUCTION AUTHORIZATION

#### § 60.31 Construction authorization.

Upon review and consideration of an application and environmental impact statement submitted under this part, the Commission may authorize construction if it determines:

(a) *Safety*. That there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received, possessed, and disposed of in a geologic repository operations area of the design proposed without unreasonable risk to the health and safety of the public. In arriving at this determination, the Commission shall consider whether:

(1) DOE has described the proposed geologic repository including but not limited to: (i) The geologic, geophysical, geochemical and hydrologic characteristics of the site; (ii) the kinds and quantities of radioactive waste to be received, possessed, stored, and disposed of in the geologic repository operations area; (iii) the principal architectural and engineering criteria for the design of the geologic repository operations area; (iv) construction procedures which may affect the capability of the geologic repository to serve its intended function; and (v) features or components incorporated in

the design for the protection of the health and safety of the public.

(2) The site and design comply with the performance objectives and criteria contained in Subpart E of this part.

(3) The DOE's quality assurance program complies with the requirements of Subpart G of this part.

(4) The DOE's personnel training program complies with the criteria contained in Subpart H of this part.

(5) The DOE's emergency plan complies with the criteria contained in Subpart I of this part.

(6) The DOE's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(b) *Common defense and security*. That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security.

(c) *Environmental*. That, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, the action called for is issuance of the construction authorization, with any appropriate conditions to protect environmental values.

[46 FR 13980, Feb. 25, 1981, as amended at 48 FR 28220, June 21, 1983; 54 FR 27872, July 3, 1989; 63 FR 26961, May 15, 1998]

#### § 60.32 Conditions of construction authorization.

(a) A construction authorization shall include such conditions as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, or environmental values.

(b) The Commission will incorporate in the construction authorization provisions requiring DOE to furnish periodic or special reports regarding: (1) Progress of construction, (2) any data about the site obtained during construction which are not within the predicted limits upon which the facility design was based, (3) any deficiencies in design and construction which, if uncorrected, could adversely affect safety at any future time, and (4) results of research and development programs being conducted to resolve safety questions.