

## Department of Energy

## § 960.5-2-4

by 1 mile as defined by the most recent decennial count of the U.S. census.

(d) *Disqualifying conditions.* A site shall be *disqualified* if—

(1) Any surface facility of a repository would be located in a highly populated area; or

(2) Any surface facility of a repository would be located adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals as enumerated by the most recent U.S. census; or

(3) The DOE could not develop an emergency preparedness program which meets the requirements specified in DOE Order 5500.3 (Reactor and Non-Reactor Facility Emergency Planning, Preparedness, and Response Program for Department of Energy Operations) and related guides or, when issued by the NRC, in 10 CFR part 60, subpart I, “Emergency Planning Criteria.”

### § 960.5-2-2 Site ownership and control.

(a) *Qualifying condition.* The site shall be located on land for which the DOE can obtain, in accordance with the requirements of 10 CFR 60.121, ownership, surface and subsurface rights, and control of access that are required in order that surface and subsurface activities during repository operation and closure will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable condition.* Present ownership and control of land and all surface and subsurface mineral and water rights by the DOE.

(c) *Potentially adverse condition.* Projected land-ownership conflicts that cannot be successfully resolved through voluntary purchase-sell agreements, nondisputed agency-to-agency transfers of title, or Federal condemnation proceedings.

### § 960.5-2-3 Meteorology.

(a) *Qualifying condition.* The site shall be located such that expected meteorological conditions during repository operation and closure will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable condition.* Prevailing meteorological conditions such that any radioactive releases to the atmosphere during repository operation and closure would be effectively dispersed, thereby reducing significantly the likelihood of unacceptable exposure to any member of the public in the vicinity of the repository.

(c) *Potentially adverse conditions.* (1) Prevailing meteorological conditions such that radioactive emissions from repository operation or closure could be preferentially transported toward localities in the vicinity of the repository with higher population densities than are the average for the region.

(2) History of extreme weather phenomena—such as hurricanes, tornadoes, severe floods, or severe and frequent winter storms—that could significantly affect repository operation or closure.

### § 960.5-2-4 Offsite installations and operations.

(a) *Qualifying condition.* The site shall be located such that present projected effects from nearby industrial, transportation, and military installations and operations, including atomic energy defense activities, (1) will not significantly affect repository siting, construction, operation, closure, or decommissioning or can be accommodated by engineering measures and (2), when considered together with emissions from repository operation and closure, will not be likely to lead to radionuclide releases to an unrestricted area greater than those allowable under the requirements specified in § 960.5-1(a)(1).

(b) *Favorable condition.* Absence of contributing radioactive releases from other nuclear installations and operations that must be considered under the requirements of 40 CFR 191, subpart A.

(c) *Potentially adverse conditions.* (1) The presence of nearby potentially hazardous installations or operations that could adversely affect repository operation or closure.

(2) Presence of other nuclear installations and operations, subject to the requirements of 40 CFR part 190 or 40 CFR part 191, subpart A, with actual or projected releases near the maximum