

Nuclear Regulatory Commission

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(b) The regulations in Part 26 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 26.1, 26.3, 26.5, 26.7, 26.8, 26.9, 26.11, 26.51, 26.81, 26.121, 26.151, 26.181, 26.201, 26.823, and 26.825.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

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AUTHORITY: Atomic Energy Act of 1954, secs. 11, 81, 161, 181, 182, 183, 184, 186, 187, 223, 234, 274 (42 U.S.C. 2014, 2111, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

EDITORIAL NOTE: Nomenclature changes to part 30 appear at 79 FR 75739, Dec. 19, 2014.

GENERAL PROVISIONS

§ 30.1 Scope.

This part prescribes rules applicable to all persons in the United States governing domestic licensing of byproduct material under the Atomic Energy Act of 1954, as amended (68 Stat. 919), and

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under title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), and exemptions from the domestic licensing requirements permitted by Section 81 of the Act. This part also gives notice to all persons who knowingly provide to any licensee, applicant, certificate of registration holder, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's, applicant's or certificate of registration holder's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 30.10.

[63 FR 1895, Jan. 13, 1998]

§ 30.2 Resolution of conflict.

The requirements of this part are in addition to, and not in substitution for, other requirements of this chapter. In any conflict between the requirements in this part and a specific requirement in another part of the regulations in this chapter, the specific requirement governs.

[30 FR 8185, June 26, 1965]

§ 30.3 Activities requiring license.

(a) Except as provided in paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section and for persons exempt as provided in this part and part 150 of this chapter, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter.

(b)(1) The requirements, including provisions that are specific to licensees, in this part and parts 19, 20, 21, and 71 of this chapter, as well as the additional requirements for specific broad scope, industrial radiography, irradiator, or well logging uses in 10 CFR parts 33, 34, 36, or 39, respectively, shall apply to Government agencies or Federally recognized Indian Tribes on November 30, 2007, when conducting activities under the authority provided by paragraphs (b)(2) and (b)(3) of this section.

(2) A specifically licensed Government agency or Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive mate-

rial or discrete sources of radium-226 for which a license amendment is required to authorize the activities in paragraph (a) of this section, may continue to use these materials for uses permitted under this part until the date of the NRC's final licensing determination, provided that the licensee submits an amendment application on or before June 2, 2008.

(3) A Government agency or Federally recognized Indian Tribe that possesses and uses accelerator-produced radioactive material or discrete sources of radium-226 for which a specific license is required in paragraph (a) of this section, may continue to use such material for uses permitted under this part until the date of the NRC's final licensing determination provided that the agency or Indian Tribe submits an application for a license authorizing activities involving these materials on or before December 1, 2008.

(c)(1) The requirements, including provisions that are specific to licensees in this part and parts 19, 20, 21, and 71 of this chapter, as well as the additional requirements for specific broad scope, industrial radiography, irradiator, or well logging uses in 10 CFR parts 33, 34, 36, or 39, respectively, shall apply to all persons, other than those included in paragraph (b)(1) of this section, on August 8, 2009, or earlier as noticed by the NRC, when conducting activities under the authority provided by paragraphs (c)(2) and (c)(3) of this section.

(2) Except as provided in paragraph (b)(2) of this section, all other licensees, who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a license amendment is required to authorize the activities in paragraph (a) of this section, may continue to use these materials for uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits an amendment application within 6 months from the waiver expiration date of August 7, 2009 or within 6 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

(3) Except as provided in paragraph (b)(3) of this section, all other persons, who possess and use accelerator-produced radioactive material or discrete sources of radium-226 for which a specific license is required in paragraph (a) of this section, may continue to use such material for uses permitted under this part until the date of the NRC's final licensing determination, provided that the person submits a license application within 12 months from the waiver expiration date of August 7, 2009 or within 12 months from the date of an earlier termination of the waiver as noticed by the NRC, whichever date is earlier.

(d) If a person or licensee is required to file an application for a license or amendment in accordance with paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section, but does not file for the license or amendment within the required time, the authority provided by paragraphs (b)(2), (b)(3), (c)(2), and (c)(3) of this section to receive or use the accelerator-produced radioactive material or discrete sources of radium-226 shall expire with respect to the person's or licensee's authority to receive and use such byproduct material. This authority shall not expire with respect to the responsibility of the person or licensee regarding the possession of such byproduct material, the decommissioning (including financial assurance) of facilities, or the disposal of such byproduct material.

[72 FR 55924, Oct. 1, 2007]

§ 30.4 Definitions.

Accelerator-produced radioactive material means any material made radioactive by a particle accelerator.

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 Act. *Non-agreement State* means any other State;

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 re-

sponse organizations to protect persons offsite.

Byproduct material means—

(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(2)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) Any material that—

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(3) Any discrete source of naturally occurring radioactive material, other than source material, that—

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

Commencement of construction means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to:

(1) Radiological health and safety; or
(2) Common defense and security.

Commission means the Nuclear Regulatory Commission and its duly authorized representatives;

Consortium means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET

radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a Federal facility or a medical facility.

Construction means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include:

- (1) Changes for temporary use of the land for public recreational purposes;
- (2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;
- (3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;
- (4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;
- (5) Excavation;
- (6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;
- (7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);
- (8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(9) Taking any other action that has no reasonable nexus to:

- (i) Radiological health and safety, or
- (ii) Common defense and security.

Curie means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second;

Cyclotron means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

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.

Dentist means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

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).

Discrete source means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

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Effective dose equivalent means the sum of the products of the dose equivalent to the organ or tissue and the weighting factors applicable to each of the body organs or tissues that are irradiated. Weighting factors are: 0.25 for gonads, 0.15 for breast, 0.12 for red bone marrow, 0.12 for lungs, 0.03 for thyroid, 0.03 for bone surface, and 0.06 for each of the other five organs receiving the highest dose equivalent.

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 for by-product material issued pursuant to the regulations in this part and parts 31 through 36 and 39 of this chapter;

Medical use means the intentional internal or external administration of byproduct material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user as defined in 10 CFR part 35.

Microcurie means that amount of radioactive material which disintegrates at the rate of 37 thousand atoms per second;

Millicurie means that amount of radioactive material which disintegrates at the rate of 37 million atoms per second;

Particle accelerator means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt. For purposes of this definition, accelerator is an equivalent term.

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, except that the Department 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), 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;

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;

Podiatrist means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

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.

Production facility means production facility as defined in the regulations contained in part 50 of this chapter;

Research and development means: (1) Theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials and processes. "Research and development" as used in this part and parts 31 through 35 does not include the internal or external administration of byproduct material, or the radiation therefrom, to human beings;

Sealed source means any byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material;

Site area emergency means events may occur, are in progress, or have occurred

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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 source material as defined in the regulations contained in part 40 of this chapter;

Special nuclear material means special nuclear material as defined in the regulations contained in part 70 of this chapter;

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

Utilization facility means a utilization facility as defined in the regulations contained in part 50 of this chapter;

[30 FR 8185, June 26, 1965]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 30.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 30.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part and parts 31 through 36 and 39 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.

[30 FR 8185, June 26, 1965, as amended at 43 FR 6921, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993]

§ 30.6 Communications.

(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 parts 30 through 37 and 39 of this chapter and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(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 e-mail to MSHD.Resource@nrc.gov; or by writing the Office of the Chief Information Officer, 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.

(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.

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

(iv) Distribution of products containing radioactive material under §§32.11 through 32.30 and 40.52 of this chapter to persons exempt from licensing requirements.

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

(2) *Submissions.* (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, and Vermont. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination request 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, Suite 102, King of Prussia, PA 19406-1415; where email is appropriate it should be addressed to *RidsRgn1MailCenter.Resource@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 and territories: West Virginia, Puerto Rico, and the Virgin Islands. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination request 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, Suite 102, King of Prussia, PA 19406-1415; where email is appropriate it should be addressed to *RidsRgn1MailCenter.Resource@nrc.gov*.

(iii) *Region III.* (A) The regional licensing program for mining and milling involves all Federal facilities in the region, and non-Federal licensees in the Region III non-Agreement States of Indiana, Michigan, Missouri and the Region III Agreement States of Minnesota, Wisconsin, and Iowa. All mailed or hand-delivered inquiries, communications, and applications for a

new license or an amendment, renewal, or termination request 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.Resource@nrc.gov*.

(B) Otherwise, the regional licensing program involves all Federal facilities in the region and non-Federal licensees in the Region III non-Agreement States of Indiana, Michigan, and Missouri. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination request 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.Resource@nrc.gov*.

(iv) *Region IV.* (A) The regional licensing program for mining and milling involves all Federal facilities in the region, and non-Federal licensees in the Region IV non-Agreement States and territory of Alaska, Hawaii, Idaho, Montana, South Dakota, Wyoming and Guam and Region IV Agreement States of Oregon, California, Nevada, New Mexico, Louisiana, Mississippi, Arkansas, Oklahoma, Kansas, Nebraska, and North Dakota. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination request of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV, Division of Nuclear Materials Safety, 1600 E. Lamar Blvd., Arlington, TX 76011-4511; where email is appropriate, it should be addressed to *RidsRgn4MailCenter@nrc.gov*.

(B) Otherwise, the regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region IV non-Agreement States and territory: Alaska, Hawaii, Idaho, Montana, South Dakota, Wyoming, and Guam. All mailed or

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hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination request of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV, Division of Nuclear Materials Safety, 1600 E. Lamar Blvd., Arlington, TX 76011-4511; where email is appropriate, it should be addressed to RidsRgn4MailCenter@nrc.gov.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 30.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 30.7 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 pro-

vision) 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, Employment Standards Administration, Wage and Hour Division. 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 non-discriminatory 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

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him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited 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(e)(1).

(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, via email to Forms.Resource@nrc.gov, or by visiting the NRC's online library at <http://www.nrc.gov/reading-rm/doc-collections/forms/>.

(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, as amended, 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.

[58 FR 52408, Oct. 8, 1993, as amended at 60 FR 24551, May 9, 1995; 61 FR 6764, Feb. 22, 1996; 68 FR 58803, Oct. 10, 2003; 72 FR 63973, Nov. 14, 2007; 73 FR 30458, May 28, 2008; 79 FR 66603, Nov. 10, 2014; 83 FR 58465, Nov. 20, 2018]

§ 30.8 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 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 3150-0017.

(b) The approved information collection requirements contained in this part appear in §§ 30.9, 30.11, 30.15, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.41, 30.50, 30.51, 30.55, and appendices A, C, D, and E to this part.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 30.32 and 30.37, NRC Form 313 is approved under control number 3150-0120.

(2) In § 30.36, NRC Form 314 is approved under control number 3150-0028.

(3) In § 30.34, DOC/NRC Forms AP-1, AP-A, and associated forms are approved under control number 0694-0135.

[49 FR 19625, May 9, 1984, as amended at 59 FR 61780, Dec. 2, 1994; 62 FR 52186, Oct. 6, 1997; 62 FR 63639, Dec. 2, 1997; 63 FR 29541, June 1, 1998; 67 FR 67099, Nov. 4, 2002; 73 FR 78604, Dec. 23, 2008; 77 FR 43689, July 25, 2012]

§ 30.9 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

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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 working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.

[52 FR 49371, Dec. 31, 1987]

§ 30.10 Deliberate misconduct.

(a) Any licensee, certificate of registration holder, applicant for a license or certificate of registration, employee of a licensee, certificate of registration holder or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or certificate of registration holder or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, certificate holder, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder'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, certificate of registration holder, 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, certificate of registration holder, an applicant, or a licensee's, certificate holder'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 inten-

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tional act or omission that the person knows:

(1) Would cause a licensee, certificate of registration holder 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, certificate of registration holder, applicant, contractor, or subcontractor.

[63 FR 1896, Jan. 13, 1998]

EXEMPTIONS

§ 30.11 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 regulations in this part and parts 31 through 36 and 39 of this chapter 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) Any licensee's activities are exempt from the requirements of this part to the extent that its activities are licensed under the requirements of part 72 of this chapter.

(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 61 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.

[37 FR 5746, Mar. 21, 1972, as amended at 39 FR 26279, July 18, 1974; 40 FR 8784, Mar. 3, 1975; 43 FR 6921, Feb. 21, 1978; 45 FR 65530, Oct. 3, 1980; 46 FR 13979, Feb. 25, 1981; 47 FR 57480, Dec. 27, 1982; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993; 66 FR 51838, Oct. 11, 2001; 66 FR 55790, Nov. 2, 2001]

§ 30.12 Persons using byproduct material under certain Department of Energy and Nuclear Regulatory Commission contracts.

Except to the extent that Department facilities or activities of the

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types subject to licensing pursuant to section 202 of the Energy Reorganization Act of 1974 are involved, any prime contractor of the Department is exempt from the requirements for a license set forth in sections 81 and 82 of the Act and from the regulations in this part to the extent that such contractor, under his prime contract with the Department manufactures, produces, transfers, receives, acquires, owns, possesses, or uses byproduct material for:

(a) The performance of work for the Department at a United States Government-owned or controlled site, including the transportation of byproduct material to 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, any prime contractor or subcontractor of the Department or the Commission is exempt from the requirements for a license set forth in sections 81 and 82 of the Act and from the regulations in this part to the extent that such prime contractor or subcontractor manufacturers, produces, transfers, receives, acquires, owns, possesses, or uses byproduct 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 thereunder can be accomplished without undue risk to the public health and safety.

[40 FR 8784, Mar. 3, 1975, as amended at 43 FR 6921, Feb. 17, 1978]

§ 30.13 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and

the U.S. Postal Service are exempt from the regulations in this part and parts 31 through 37 and 39 of this chapter and the requirements for a license set forth in section 81 of the Act to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident thereto.

[78 FR 17006, Mar. 19, 2013]

§ 30.14 Exempt concentrations.

(a) Except as provided in paragraphs (c) and (d) of this section, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in this part and parts 31 through 36 and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires products or materials containing byproduct material in concentrations not in excess of those listed in § 30.70.

(b) This section shall not be deemed to authorize the import of byproduct material or products containing byproduct material.

(c) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in this part and parts 31 through 36 and 39 of this chapter to the extent that this person transfers byproduct material contained in a product or material in concentrations not in excess of those specified in § 30.70 and introduced into the product or material by a licensee holding a specific license issued by the Commission expressly authorizing such introduction. This exemption does not apply to the transfer of byproduct material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(d) No person may introduce byproduct material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under this section or equivalent regulations of an Agreement

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State, except in accordance with a license issued under §32.11 of this chapter.

[30 FR 8185, June 26, 1965, as amended at 40 FR 8785, Mar. 3, 1975; 43 FR 6921, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993; 72 FR 58486, Oct. 16, 2007]

§ 30.15 Certain items containing by-product material.

(a) Except for persons who apply by-product material to, or persons who incorporate byproduct material into, the following products, or persons who initially transfer for sale or distribution the following products containing by-product material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 20 and 30 through 36 and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires the following products:

(1) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(i) 25 millicuries of tritium per timepiece,

(ii) 5 millicuries of tritium per hand,

(iii) 15 millicuries of tritium per dial (bezels when used shall be considered as part of the dial),

(iv) 100 microcuries of promethium 147 per watch or 200 microcuries of promethium 147 per any other timepiece,

(v) 20 microcuries of promethium 147 per watch hand or 40 microcuries of promethium 147 per other timepiece hand,

(vi) 60 microcuries of promethium 147 per watch dial or 120 microcuries of promethium 147 per other timepiece dial (bezels when used shall be considered as part of the dial),

(vii) The levels of radiation from hands and dials containing promethium 147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(A) For wrist watches, 0.1 millirad per hour at 10 centimeters from any surface,

(B) For pocket watches, 0.1 millirad per hour at 1 centimeter from any surface,

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(C) For any other timepiece, 0.2 millirad per hour at 10 centimeters from any surface.

(viii) 0.037 megabecquerel (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

(2)(i) Static elimination devices which contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device.

(ii) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.

(iii) Such devices authorized before October 23, 2012 for use under the general license then provided in §31.3 and equivalent regulations of Agreement States and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Commission.

(3) Balances of precision containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part manufactured before December 17, 2007.

(4) [Reserved]

(5) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas manufactured before December 17, 2007.

(6) [Reserved]

(7) Ionization chamber smoke detectors containing not more than 1 microcurie (µCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(8) Electron tubes: *Provided*, That each tube does not contain more than one of the following specified quantities of byproduct material:

(i) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

(ii) 1 microcurie of cobalt-60;

(iii) 5 microcuries of nickel-63;

(iv) 30 microcuries of krypton-85;

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- (v) 5 microcuries of cesium-137;
- (vi) 30 microcuries of promethium-147;

And provided further, That the levels of radiation from each electron tube containing byproduct material do not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.¹

(9) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of byproduct material: *Provided*, That;

(i) Each source contains no more than one exempt quantity set forth in § 30.71, Schedule B, and

(ii) Each instrument contains no more than 10 exempt quantities. For purposes of this paragraph (a)(9), an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in § 30.71, Schedule B, provided that the sum of such fractions shall not exceed unity.

(iii) For purposes of this paragraph (a)(9), 0.05 microcurie of americium-241 is considered an exempt quantity under § 30.71, Schedule B.

(10) [Reserved]

(b) Any person who desires to apply byproduct material to, or to incorporate byproduct material into, the products exempted in paragraph (a) of this section, or who desires to initially transfer for sale or distribution such products containing byproduct material, should apply for a specific license pursuant to § 32.14 of this chapter, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to paragraph (a) of this section.

[31 FR 5316, Apr. 2, 1966]

¹For purposes of this paragraph "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 30.15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 30.18 Exempt quantities.

(a) Except as provided in paragraphs (c) through (e) of this section, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 30 through 34, 36, and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in individual quantities, each of which does not exceed the applicable quantity set forth in § 30.71, Schedule B.

(b) Any person, who possesses byproduct material received or acquired before September 25, 1971, under the general license then provided in § 31.4 of this chapter or similar general license of a State, is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 30 through 34, 36 and 39 of this chapter to the extent that this person possesses, uses, transfers, or owns byproduct material.

(c) This section does not authorize for purposes of commercial distribution the production, packaging, repackaging, or transfer of byproduct material or the incorporation of byproduct material into products intended for commercial distribution.

(d) No person may, for purposes of commercial distribution, transfer byproduct material in the individual quantities set forth in § 30.71 Schedule B, knowing or having reason to believe that such quantities of byproduct material will be transferred to persons exempt under this section or equivalent regulations of an Agreement State, except in accordance with a license issued under § 32.18 of this chapter, which license states that the byproduct material may be transferred by the licensee to persons exempt under this section or the equivalent regulations of an Agreement State.

(e) No person may, for purposes of producing an increased radiation level, combine quantities of byproduct material covered by this exemption so that the aggregate quantity exceeds the limits set forth in § 30.71, Schedule B,

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except for byproduct material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the regulations in this part.

[35 FR 6427, Apr. 22, 1970, as amended at 36 FR 16898, Aug. 26, 1971; 43 FR 6921, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993; 72 FR 55925, Oct. 1, 2007; 72 FR 58486, Oct. 16, 2007]

§ 30.19 Self-luminous products containing tritium, krypton-85, or promethium-147.

(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in paragraph (c) of this section, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 20 and 30 through 36 and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to § 32.22 of this chapter, which license authorizes the initial transfer of the product for use under this section.

(b) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under paragraph (a) of this section, should apply for a license under § 32.22 of this chapter and for a certificate of registration in accordance with § 32.210 of this chapter.

(c) The exemption in paragraph (a) of this section does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

[34 FR 9026, June 6, 1969, as amended at 40 FR 8785, Mar. 3, 1975; 43 FR 6921, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993; 77 FR 43689, July 25, 2012]

§ 30.20 Gas and aerosol detectors containing byproduct material.

(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and

aerosol detectors containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 19, 20, 21, and 30 through 36 and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under § 32.26 of this chapter, which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a State under comparable provisions to § 32.26 of this chapter authorizing distribution to persons exempt from regulatory requirements.

(b) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under paragraph (a) of this section, should apply for a license under § 32.26 of this chapter and for a certificate of registration in accordance with § 32.210 of this chapter.

[77 FR 43689, July 25, 2012]

§ 30.21 Radioactive drug: Capsules containing carbon-14 urea for “in vivo” diagnostic use for humans.

(a) Except as provided in paragraphs (b) and (c) of this section, any person is exempt from the requirements for a license set forth in Section 81 of the Act and from the regulations in this part and part 35 of this chapter provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 µCi) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for “in vivo” diagnostic use for humans.

(b) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to part 35 of this chapter.

(c) Any person who desires to manufacture, prepare, process, produce,

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package, repackaging, or transfer for commercial distribution such capsules shall apply for and receive a specific license pursuant to §32.21 of this chapter.

(d) Nothing in this section relieves persons from complying with applicable FDA, other Federal, and State requirements governing receipt, administration, and use of drugs.

[62 FR 63640, Dec. 2, 1997]

§ 30.22 Certain industrial devices.

(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 19, 20, 21, 30 through 36, and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under §32.30 of this chapter, which license authorizes the initial transfer of the device for use under this section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

(b) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under paragraph (a) of this section, should apply for a license under §32.30 of this chapter and for a certificate of registration in accordance with §32.210 of this chapter.

[77 FR 43689, July 25, 2012]

LICENSES

§ 30.31 Types of licenses.

Licenses for byproduct material are of two types: General and specific.

(a) The Commission issues a specific license to a named person who has filed an application for the license under the provisions of this part and parts 32 through 36, and 39.

(b) A general license is provided by regulation, grants authority to a person for certain activities involving byproduct material, and is effective without the filing of an application with the Commission or the issuance of a licensing document to a particular person. However, registration with the Commission may be required by the particular general license.

[65 FR 79187, Dec. 18, 2000]

§ 30.32 Application for specific licenses.

(a) A person may file an application on NRC Form 313, "Application for Material License," in accordance with the instructions in §30.6 of this chapter. Information contained in previous applications, statements or reports filed with the Commission or the Atomic Energy 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.

(c) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(d) An application for license filed pursuant to the regulations in this part and parts 32 through 35 of this chapter 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 byproduct 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 receive and possess byproduct material for the conduct of any 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 any Environmental Report required pursuant to subpart A of part 51 of this chapter.

(g)(1) Except as provided in paragraphs (g)(2), (3), and (4) of this section, an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either—

(i) Identify the source or device by manufacturer and model number as registered with the Commission under §32.210 of this chapter, with an Agreement State, or for a source or a device containing radium-226 or accelerator-produced radioactive material with a State under provisions comparable to §32.210 of this chapter; or

(ii) Contain the information identified in §32.210(c) of this chapter.

(2) For sources or devices manufactured before October 23, 2012 that are not registered with the Commission under §32.210 of this chapter or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in §32.210(c) of this chapter, the application must include:

(i) All available information identified in §32.210(c) of this chapter concerning the source, and, if applicable, the device; and

(ii) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a de-

scription of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

(3) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with §32.210(g)(1) of this chapter, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

(4) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

(h) As provided by §30.35, certain applications for specific licenses filed under this part and parts 32 through 35 of this chapter 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.

(i)(1) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in §30.72, “Schedule C—Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release,” must contain either:

(i) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(ii) An emergency plan for responding to a release of radioactive material.

(2) One or more of the following factors may be used to support an evaluation submitted under paragraph (i)(1)(i) of this section:

(i) The radioactive material is physically separated so that only a portion could be involved in an accident;

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

(iii) The release fraction in the respirable size range would be lower than the release fraction shown §30.72 due to the chemical or physical form of the material;

(iv) The solubility of the radioactive material would reduce the dose received;

(v) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in §30.72;

(vi) Operating restrictions or procedures would prevent a release fraction as large as that shown in §30.72; or

(vii) Other factors appropriate for the specific facility.

(3) An emergency plan for responding to a release of radioactive material submitted under paragraph (i)(1)(ii) of this section must include the following information:

(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 radio-active materials 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 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 onsite, 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 off-

site 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 appropriate 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

¹These reporting requirements do not supercede 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.

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response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(xiii) *Hazardous chemicals.* A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(4) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to NRC. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(j) An application from a medical facility, educational institution, or Federal facility to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to licensees in its consortium authorized for medical use under part 35 of this chapter or equivalent Agreement State requirements shall include:

(1) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under part 30 of this chapter or Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(2) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in § 32.72(a)(2) of this chapter.

(3) Identification of individual(s) authorized to prepare the PET radioactive drugs if the applicant is a phar-

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macy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in § 32.72(b)(2) of this chapter.

(4) Information identified in § 32.72(a)(3) of this chapter on the PET drugs to be noncommercially transferred to members of its consortium.

[30 FR 8185, June 26, 1965, as amended at 36 FR 145, Jan. 6, 1971; 37 FR 5747, Mar. 21, 1972; 43 FR 6922, Feb. 17, 1978; 49 FR 9403, Mar. 12, 1984; 49 FR 27924, July 9, 1984; 52 FR 27786, July 24, 1987; 53 FR 24044, June 27, 1988; 54 FR 14060, Apr. 7, 1989; 68 FR 58004, Oct. 10, 2003; 72 FR 55925, Oct. 1, 2007; 73 FR 63570, Oct. 24, 2008; 77 FR 43689, July 25, 2012; 79 FR 58671, Sept. 30, 2014]

§ 30.33 General requirements for issuance of specific licenses.

(a) An application for a specific license will be approved if:

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

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

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

(4) The applicant satisfies any special requirements contained in parts 32 through 37 and 39 of this chapter; and

(5) In the case of an application for a license to receive and possess byproduct material for the conduct of any activity which the NRC determines will significantly affect the quality of the environment, the Director, Office of Nuclear Material Safety and Safeguards or his/her 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 such conclusion shall be

grounds for denial of a license to receive and possess byproduct material in such plant or facility. Commencement of construction as defined in § 30.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.

(b) Upon a determination that an application meets the requirements of the Act, and the regulations of the Commission, the Commission will issue a specific license authorizing the possession and use of byproduct material (Form NRC 374, "Byproduct Material License").

[30 FR 8185, June 26, 1965, as amended at 36 FR 12731, July 7, 1971; 37 FR 5747, Mar. 21, 1972; 39 FR 26279, July 18, 1974; 43 FR 6922, Feb. 17, 1978; 49 FR 9403, Mar. 12, 1984; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993; 73 FR 5717, Jan. 31, 2008; 76 FR 56962, Sept. 15, 2011; 78 FR 17006, Mar. 19, 2013]

§ 30.34 Terms and conditions of licenses.

(a) Each license issued pursuant to the regulations in this part and the regulations in parts 31 through 36 and 39 of this chapter shall be subject to all the provisions of the Act, now or hereafter in effect, and to all valid rules, regulations and orders of the Commission.

(b)(1) No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license 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 the Act and shall give its consent in writing.

(2) An application for transfer of license must include:

(i) The identity, technical and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by § 30.35.

(c) Each person licensed by the Commission pursuant to the regulations in this part and parts 31 through 36 and 39 shall confine his possession and use of

the 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 and parts 31 through 36 and 39 of this chapter shall carry with it the right to receive, acquire, own, and possess byproduct material. Preparation for shipment and transport of 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 and parts 31 through 36 and 39 shall be deemed to contain the provisions set forth in section 183b.-d., inclusive, of the Act, whether or not these provisions are expressly set forth in the license.

(e) The Commission may incorporate, in any license issued pursuant to the regulations in this part and parts 31 through 36 and 39, 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 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 to 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) Licensees required to submit emergency plans by § 30.32(i) shall follow the emergency plan approved by the Commission. The licensee may change the approved without Commission approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the appropriate NRC Regional Office specified in § 30.6 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Commission.

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(g) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with §35.204 of this chapter. The licensee shall record the results of each test and retain each record for 3 years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in §35.204(a) of this chapter at the time of generator elution, in accordance with §35.3204 of this chapter.

(h)(1) Each general licensee that is required to register by §31.5(c)(13) of this chapter and each specific 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(15)) 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.

(i) *Security requirements for portable gauges.* Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

(j)(1) Authorization under §30.32(j) to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

(2) Each licensee authorized under §30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

(i) Satisfy the labeling requirements in §32.72(a)(4) of this chapter for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.

(ii) Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in §32.72(c) of this chapter.

(3) A licensee that is a pharmacy authorized under §30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radioactive drugs shall be:

(i) an authorized nuclear pharmacist that meets the requirements in §32.72(b)(2) of this chapter, or

(ii) an individual under the supervision of an authorized nuclear pharmacist as specified in §35.27 of this chapter.

(4) A pharmacy, authorized under §30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of §32.72(b)(5) of this chapter.

(k) As required by the Additional Protocol, each specific licensee authorized to possess and use byproduct material shall file with the Commission location information described in §75.11 of this chapter on DOC/NRC Forms AP-1 and associated forms. The licensee shall also permit verification of this information by the International Atomic Energy Agency (IAEA) and

shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

[30 FR 8185, June 26, 1965, as amended at 38 FR 33969, Dec. 10, 1973; 43 FR 6922, Feb. 17, 1978; 48 FR 32328, July 15, 1983; 52 FR 1295, Jan. 12, 1987; 52 FR 8241, Mar. 17, 1987; 53 FR 19245, May 27, 1988; 53 FR 23383, June 22, 1988; 54 FR 14061, Apr. 7, 1989; 58 FR 7736, Feb. 9, 1993; 59 FR 61780, Dec. 2, 1994; 65 FR 79187, Dec. 18, 2000; 70 FR 2009, Jan. 12, 2005; 72 FR 55926, Oct. 1, 2007; 73 FR 63570, Oct. 24, 2008; 73 FR 78604, Dec. 23, 2008; 74 FR 7785, Feb. 20, 2009; 76 FR 35564, June 17, 2011; 77 FR 39905, July 6, 2012; 79 FR 58671, Sept. 30, 2014; 83 FR 33101, July 16, 2018]

§ 30.35 Financial assurance and recordkeeping for decommissioning.

(a)(1) Each applicant for a specific license authorizing the possession and use of unsealed byproduct material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in appendix B to part 30 shall submit a decommissioning funding plan as described in paragraph (e) of this section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in appendix B to part 30.

(2) Each holder of, or applicant for, any specific license authorizing the possession and use of sealed sources or plated foils of half-life greater than 120 days and in quantities exceeding 10^{12} times the applicable quantities set forth in appendix B to part 30 (or when a combination of isotopes is involved if R , as defined in § 30.35(a)(1), divided by 10^{12} is greater than 1), shall submit a decommissioning funding plan as described in paragraph (e) of this section. The decommissioning funding plan must be submitted to NRC by December 2, 2005.

(b) Each applicant for a specific license authorizing possession and use of byproduct material of half-life greater than 120 days and in quantities specified in paragraph (d) of this section shall either—

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

(2) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by paragraph (d) of this section using one of the methods described in paragraph (f) 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 (f) of this section must be submitted to NRC before 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 (f) of this section.

(c)(1) Each holder of a specific license issued on or after July 27, 1990, which is of a type described in paragraph (a) or (b) of this section, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section.

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (a) of this section shall submit a decommissioning funding plan as described in paragraph (e) of this section or a certification of financial assurance for decommissioning in an amount at least equal to \$1,125,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in any application for license renewal.

(3) 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 (e) of this section, or a certification of financial assurance for decommissioning in

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accordance with the criteria set forth in this section.

(4) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 30.37 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.

(5) Waste collectors and waste processors, as defined in 10 CFR part 20, Appendix G, must provide financial assurance in an amount based on a decommissioning funding plan as described in paragraph (e) of this section. The decommissioning funding plan must include the cost of disposal of the maximum amount (curies) of radioactive material permitted by license, and the cost of disposal of the maximum quantity, by volume, of radioactive material which could be present at the licensee's facility at any time, in addition to the cost to remediate the licensee's site to meet the license termination criteria of 10 CFR part 20. The decommissioning funding plan must be submitted by December 2, 2005.

(6) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in the facility and environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

(d) Table of required amounts of financial assurance for decommissioning by quantity of material. Licensees required to submit the \$1,125,000 amount must do so by December 2, 2004. Licensees required to submit the \$113,000 or \$225,000 amount must do so by June 2, 2005. Licensees having possession limits exceeding the upper bounds of this table must base financial assurance on a decommissioning funding plan.

Greater than 10^4 but less than or equal to 10^5 times the applicable quantities of appendix B to part 30 in unsealed form. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1)	\$1,125,000
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Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of appendix B to part 30 in unsealed form. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1)	225,000
Greater than 10^{10} but less than or equal to 10^{12} times the applicable quantities of appendix B to part 30 in sealed sources or plated foils. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by 10^{10} is greater than, 1, but R divided by 10^{12} is less than or equal to 1)	113,000

(e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain —

(i) A detailed cost estimate for decommissioning, in an amount reflecting:

(A) The cost of an independent contractor to perform all decommissioning activities;

(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;

(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

(D) An adequate contingency factor.

(ii) Identification of and justification for using the key assumptions contained in the DCE;

(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(v) A signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

- (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;
- (ii) Waste inventory increasing above the amount previously estimated;
- (iii) Waste disposal costs increasing above the amount previously estimated;
- (iv) Facility modifications;
- (v) Changes in authorized possession limits;
- (vi) Actual remediation costs that exceed the previous cost estimate;
- (vii) Onsite disposal; and
- (viii) Use of a settling pond.

(f) The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before 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 must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(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, or letter 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 this part. 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 this part. 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 this part. 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 this part. Except for an external sinking fund, a parent company guarantee or 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. A guarantee by the applicant or licensee may not be used 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, insurance, or other guarantee method, 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 must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (f)(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 the table in paragraph (d) 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.

(g) Each person licensed under this part or parts 32 through 36 and 39 of this chapter 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 § 30.34(b), licensees shall transfer all records described in this paragraph to the new licensee. In this

case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:

(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

(ii) All areas outside of restricted areas that require documentation under § 30.35(g)(1).

(iii) All areas outside of restricted areas where current and previous

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wastes have been buried as documented under 10 CFR 20.2108; and

(iv) All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in 10 CFR part 20, subpart E, or apply for approval for disposal under 10 CFR 20.2002.

(4) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(h) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 30 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 30 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraph (h)(1) or (h)(2) of this section, the licensee must provide a written report of such actions to the Director, Office of Nuclear Material Safety and Safeguards, and state the new balance of the fund.

[53 FR 24044, June 27, 1988, as amended at 56 FR 23471, May 21, 1991; 58 FR 39633, July 26, 1993; 58 FR 67659, Dec. 22, 1993; 58 FR 68730, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 60 FR 38238, July 26, 1995; 61 FR 24673, May 16, 1996; 62 FR 39090, July 21, 1997; 63 FR 29541, June 1, 1998; 68 FR 57335, Oct. 3, 2003; 76 FR 35564, June 17, 2011]

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

(a) 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 § 30.37 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, 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.

(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 byproduct material until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving byproduct 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 § 30.6, each licensee shall provide notification to the NRC in writing of such occurrence, 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—

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(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 that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements; 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 § 30.35 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 extend the time periods established in paragraph (d) if the Commission determines that this 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) Procedures such as those listed in paragraph (g)(1) of this section with potential health and safety impacts 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, the plan shall include 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 alternative 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:

(1) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be

achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(j) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E. The licensee shall, as appropriate—

(i) Report levels of gamma radiation in units of millisieverts (micro-roentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters—removable and fixed—for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(k) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that:

(1) Byproduct material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3)(i) A radiation survey has been performed which demonstrates that the

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premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E.

(4) Records required by § 30.51 (d) and (f) have been received.

[59 FR 36034, July 15, 1994, as amended at 60 FR 38238, July 26, 1995; 61 FR 1114, Jan. 16, 1996; 61 FR 24673, May 16, 1996; 61 FR 29637, June 12, 1996; 62 FR 39090, July 21, 1997; 73 FR 42673, July 23, 2008; 81 FR 86909, Dec. 2, 2016]

§ 30.37 Application for renewal of licenses.

Application for renewal of a specific license must be filed on NRC Form 313 and in accordance with § 30.32.

[75 FR 73942, Nov. 30, 2010]

§ 30.38 Application for amendment of licenses and registration certificates.

Applications for amendment of a license must be filed in accordance with § 30.32 and must specify the respects in which the licensee desires its license to be amended and the grounds for the amendment. Applications for amendment of sealed source and device registration certificates must be filed in accordance with § 32.210 of this chapter and any other applicable provisions and must specify the respects in which the certificate holder desires its certificate to be amended and the grounds for the amendment.

[77 FR 43690, July 25, 2012]

§ 30.39 Commission action on applications to renew or amend.

In considering an application to renew or amend a license or to amend a sealed source or device registration certificate, the Commission will apply the applicable criteria set forth in § 30.33 and parts 32 through 36 and 39 of this chapter.

[77 FR 43690, July 25, 2012]

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§ 30.41 Transfer of byproduct material.

(a) No licensee shall transfer 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 byproduct material:

(1) To the Department;

(2) To the agency in any Agreement State which regulates radioactive material pursuant to an agreement 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 exemption;

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

(6) To a 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 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 byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of 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

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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 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 reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the byproduct material.

[38 FR 33969, Dec. 10, 1973, as amended at 40 FR 8785, Mar. 3, 1975; 43 FR 6922, Feb. 17, 1978]

RECORDS, INSPECTIONS, TESTS, AND REPORTS

§ 30.50 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

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section by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter. 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 (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 using an appropriate method listed in § 30.6(a); and a copy must be sent 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 § 30.50 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 30,

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who are not subject to the notification requirements in § 50.72.

[56 FR 40767, Aug. 16, 1991, as amended at 59 FR 14086, Mar. 25, 1994; 68 FR 58804, Oct. 10, 2003; 85 FR 65661, Oct. 16, 2020]

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and parts 31 through 36 of this chapter shall keep records showing the receipt, transfer, and disposal of the byproduct material as follows:

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

(2) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another part of the regulations in this chapter dictates otherwise.

(3) The licensee who disposed of the material shall retain each record of disposal of byproduct material until the Commission terminates each license that authorizes disposal of the material.

(b) The licensee shall retain each record that is required by the regulations in this part and parts 31 through 36 of this chapter 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, the record must be retained until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(c)(1) Records which must be maintained pursuant to this part and parts 31 through 36 of this chapter may be the original or a reproduced copy or microform if such 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,

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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 and parts 31 through 36 and 39 of this chapter, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part and parts 31 through 36 and 39 of this chapter for such records shall apply unless the Commission, pursuant to § 30.11, has granted a specific exemption from the record retention requirements specified in the regulations in this part or parts 31 through 36 and 39 of this chapter.

(d) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the appropriate NRC Regional Office:

(1) Records of disposal of licensed material made under §§ 20.2002 (including burials authorized before January 28, 1981¹), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(e) If licensed activities are transferred or assigned in accordance with § 30.34(b), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(1) Records of disposal of licensed material made under §§ 20.2002 (including burials authorized before January 28, 1981¹), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(f) Prior to license termination, each licensee shall forward the records re-

quired by § 30.35(g) to the appropriate NRC Regional Office.

[41 FR 18301, May 5, 1976, as amended at 43 FR 6922, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 53 FR 19245, May 27, 1988; 58 FR 7736, Feb. 9, 1993; 61 FR 24673, May 16, 1996]

§ 30.52 Inspections.

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

[30 FR 8185, June 26, 1965]

§ 30.53 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 and parts 31 through 36 and 39 of this chapter, including tests of:

(a) Byproduct material;

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

(c) Radiation detection and monitoring instruments; and

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

[30 FR 8185, June 26, 1965, as amended at 43 FR 6922, Feb. 17, 1978; 52 FR 8241, Mar. 17, 1987; 58 FR 7736, Feb. 9, 1993]

§ 30.55 Tritium reports.

(a)-(b) [Reserved]

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess tritium shall report promptly to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter by telephone and telegraph, mailgram, or facsimile 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 10 curies of such material at any one time or more than 100 curies of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15)

¹A previous § 20.304 permitted burial of small quantities of licensed materials in soil before January 28, 1981, without specific Commission authorization. See § 20.304 contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1981.

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days by a written report submitted to the appropriate NRC Regional Office which sets forth the details of the incident and its consequences. Copies of such written report shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in §30.6(a). Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Office of Nuclear Material Safety and Safeguards by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an attempted or apparent theft or unlawful diversion of tritium.

(d) The reports described in this section are not required for tritium possessed pursuant to a general license provided in part 31 of this chapter or for tritium contained in spent fuel.

[37 FR 9208, May 6, 1972, as amended at 38 FR 1271, Jan. 11, 1973; 38 FR 2330, Jan. 24, 1973; 41 FR 16446, Apr. 19, 1976; 43 FR 6922, Feb. 17, 1978; 46 FR 55085, Nov. 6, 1981; 49 FR 24707, June 15, 1984; 52 FR 31611, Aug. 21, 1987; 68 FR 58804, Oct. 10, 2003; 73 FR 5718, Jan. 31, 2008]

ENFORCEMENT

§ 30.61 Modification and revocation of licenses and registration certificates.

(a) The terms and conditions of each license and registration certificate issued under the regulations in this part and parts 31 through 36 and 39 of this chapter shall be subject to amendment, revision, or modification by reason of amendments to the Act, or by reason of rules, regulations, and orders issued in accordance with the terms of the Act.

(b) Any license or registration certificate may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or in 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 that would warrant the Commission to refuse to grant a license or registration certificate on an original application, or for violation of, or failure to observe any of the terms and

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provisions of the Act 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 or registration certificate shall be modified, suspended, or revoked unless, before the institution of proceedings therefor, facts or conduct that may warrant such action shall have been called to the attention of the licensee or certificate holder in writing and the licensee or certificate holder shall have been given an opportunity to demonstrate or achieve compliance with all lawful requirements.

[77 FR 43690, July 25, 2012]

§ 30.62 Right to cause the withholding or recall of byproduct material.

The Commission may cause the withholding or recall of byproduct material from any licensee who is not equipped to observe or fails to observe such safety standards to protect health as may be established by the Commission, or who uses such materials in violation of law or regulation of the Commission, or in a manner other than as disclosed in the application therefor or approved by the Commission.

[30 FR 8185, June 26, 1965, as amended at 40 FR 8785, Mar. 3, 1975]

§ 30.63 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(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;

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(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 55072, Nov. 24, 1992]

§ 30.64 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 30 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 30 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 30.1, 30.2, 30.4, 30.5, 30.6, 30.8, 30.11, 30.12, 30.13, 30.15, 30.31, 30.32, 30.33, 30.37, 30.38, 30.39, 30.61, 30.62, 30.63, 30.64, 30.70, 30.71, and 30.72.

[57 FR 55072, Nov. 24, 1992, as amended at 73 FR 42673, July 23, 2008]

SCHEDULES

§ 30.70 Schedule A—Exempt concentrations.

[See footnotes at end of this table]

Element (atomic number)	Isotope	Col. I	Col. II
		Gas concentration $\mu\text{Ci}/\text{ml}^1$	Liquid and solid concentration $\mu\text{Ci}/\text{ml}^2$
Antimony (51)	Sb 122		3×10^{-4}
	Sb 124		2×10^{-4}
	Sb 125		1×10^{-3}
Argon (18)	A 37	1×10^{-3}	
	A 41	4×10^{-7}	
Arsenic (33)	As 73		5×10^{-3}
	As 74		5×10^{-4}
	As 76		2×10^{-4}
	As 77		8×10^{-4}
Barium (56)	Ba 131		2×10^{-3}
	Ba 140		3×10^{-4}
Beryllium (4)	Be 7		2×10^{-2}
Bismuth (83)	Bi 206		4×10^{-4}
Bromine (35)	Br 82	4×10^{-7}	3×10^{-3}
Cadmium (48)	Cd 109		2×10^{-3}
	Cd 115m		3×10^{-4}
Calcium (20)	Cd 115		3×10^{-4}
	Ca 45		9×10^{-5}
Carbon (6)	Ca 47		5×10^{-4}
	C 14	1×10^{-6}	8×10^{-3}
Cerium (58)	Ce 141		9×10^{-4}
	Ce 143		4×10^{-4}
	Ce 144		1×10^{-4}
Cesium (55)	Cs 131		2×10^{-2}
	Cs 134m		6×10^{-2}
	Cs 134		9×10^{-5}
Chlorine (17)	Cl 38	9×10^{-7}	4×10^{-3}
Chromium (24)	Cr 51		2×10^{-2}
Cobalt (27)	Co 57		5×10^{-3}
	Co 58		1×10^{-3}
	Co 60		5×10^{-4}
Copper (29)	Cu 64		3×10^{-3}
Dysprosium (66)	Dy 165		4×10^{-3}
	Dy 166		4×10^{-4}
Erbium (68)	Er 169		9×10^{-4}
	Er 171		1×10^{-3}
Europium (63)	Eu 152		6×10^{-4}
	(T/2 = 9.2 Hrs).		
Fluorine (9)	Eu 155		2×10^{-3}
	F 18	2×10^{-6}	8×10^{-3}
Gadolinium (64)	Gd 153		2×10^{-3}
	Gd 159		8×10^{-4}

[See footnotes at end of this table]

Element (atomic number)	Isotope	Col. I	Col. II
		Gas concentration $\mu\text{Ci}/\text{ml}^1$	Liquid and solid concentration $\mu\text{Ci}/$ ml^2
Gallium (31)	Ga 72 .....	.....	4×10^{-4}
Germanium (32)	Ge 71 .....	.....	2×10^{-2}
Gold (79)	Au 196 .....	.....	2×10^{-3}
	Au 198 .....	.....	5×10^{-4}
	Au 199 .....	.....	2×10^{-3}
	Hf 181 .....	.....	7×10^{-4}
Hafnium (72)	Hf 181 .....	.....	3×10^{-2}
Hydrogen (1)	H 3	5×10^{-6}	1×10^{-2}
Indium (49)	In 113m .....	.....	2×10^{-4}
	In 114m .....	.....	2×10^{-5}
Iodine (53)	I 126	3×10^{-9}	2×10^{-5}
	I 131	3×10^{-9}	2×10^{-5}
	I 132	8×10^{-8}	6×10^{-4}
	I 133	1×10^{-8}	7×10^{-5}
	I 134	2×10^{-7}	1×10^{-3}
Iridium (77)	Ir 190 .....	.....	2×10^{-3}
	Ir 192 .....	.....	4×10^{-4}
	Ir 194 .....	.....	3×10^{-4}
Iron (26)	Fe 55 .....	.....	8×10^{-3}
	Fe 59 .....	.....	6×10^{-4}
Krypton (36)	Kr 85m	1×10^{-6}	.....
	Kr 85	3×10^{-6}	.....
Lanthanum (57)	La 140 .....	.....	2×10^{-4}
Lead (82)	Pb 203 .....	.....	4×10^{-3}
Lutetium (71)	Lu 177 .....	.....	1×10^{-3}
Manganese (25)	Mn 52 .....	.....	3×10^{-4}
	Mn 54 .....	.....	1×10^{-3}
	Mn 56 .....	.....	1×10^{-3}
	Hg 197m .....	.....	2×10^{-3}
Mercury (80)	Hg 197 .....	.....	3×10^{-3}
	Hg 203 .....	.....	2×10^{-4}
	Mo 99 .....	.....	2×10^{-3}
	Nd 147 .....	.....	6×10^{-4}
Molybdenum (42)	Nd 149 .....	.....	3×10^{-3}
	Ni 65 .....	.....	1×10^{-3}
Nickel (28)	Nb 95 .....	.....	1×10^{-3}
Niobium (Columbium) (41)	Nb 97 .....	.....	9×10^{-3}
	Os 185 .....	.....	7×10^{-4}
Osmium (76)	Os 191m .....	.....	3×10^{-2}
	Os 191 .....	.....	2×10^{-3}
	Os 193 .....	.....	6×10^{-4}
	Pd 103 .....	.....	3×10^{-3}
Palladium (46)	Pd 109 .....	.....	9×10^{-4}
	P 32 .....	.....	2×10^{-4}
Phosphorus (15)	Pt 191 .....	.....	1×10^{-3}
Platinum (78)	Pt 193m .....	.....	1×10^{-2}
	Pt 197m .....	.....	1×10^{-2}
	Pt 197 .....	.....	1×10^{-3}
	K 42 .....	.....	3×10^{-3}
Potassium (19)	Pr 142 .....	.....	3×10^{-4}
Praseodymium (59)	Pr 143 .....	.....	5×10^{-4}
	Pm 147 .....	.....	2×10^{-3}
Promethium (61)	Pm 149 .....	.....	4×10^{-4}
	Re 183 .....	.....	6×10^{-3}
Rhenium (75)	Re 186 .....	.....	9×10^{-4}
	Re 188 .....	.....	6×10^{-4}
Rhodium (45)	Rh 103m .....	.....	1×10^{-1}
	Rh 105 .....	.....	1×10^{-3}
Rubidium (37)	Rb 86 .....	.....	7×10^{-4}
Ruthenium (44)	Ru 97 .....	.....	4×10^{-4}
	Ru 103 .....	.....	8×10^{-4}
	Ru 105 .....	.....	1×10^{-3}
	Ru 106 .....	.....	1×10^{-4}
Samarium (62)	Sm 153 .....	.....	8×10^{-4}
Scandium (21)	Sc 46 .....	.....	4×10^{-4}
	Sc 47 .....	.....	9×10^{-4}
	Sc 48	3×10^{-4}
	Se 75	3×10^{-3}
Selenium (34)	Si 31	9×10^{-3}
Silicon (14)	Ag 105	1×10^{-3}
Silver (47)			

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[See footnotes at end of this table]

Element (atomic number)	Isotope	Col. I	Col. II
		Gas concentration $\mu\text{Ci/ml}^1$	Liquid and solid concentration $\mu\text{Ci}/$ ml^2
	Ag 110m		3×10^{-4}
	Ag 111		4×10^{-4}
Sodium (11)	Na 24		2×10^{-3}
Strontium (38)	Sr 85		1×10^{-4}
	Sr 89		1×10^{-4}
	Sr 91		7×10^{-4}
	Sr 92		7×10^{-4}
Sulfur (16)	S 35	9×10^{-8}	6×10^{-4}
Tantalum (73)	Ta 182		4×10^{-4}
Technetium (43)	Tc 96m		1×10^{-1}
	Tc 96		1×10^{-3}
Tellurium (52)	Te 125m		2×10^{-3}
	Te 127m		6×10^{-4}
	Te 127		3×10^{-3}
	Te 129m		3×10^{-4}
	Te 131m		6×10^{-4}
	Te 132		3×10^{-4}
Terbium (65)	Tb 160		4×10^{-4}
Thallium (81)	Tl 200		4×10^{-3}
	Tl 201		3×10^{-3}
	Tl 202		1×10^{-3}
	Tl 204		1×10^{-3}
Thulium (69)	Tm 170		5×10^{-4}
	Tm 171		5×10^{-3}
Tin (50)	Sn 113		9×10^{-4}
	Sn 125		2×10^{-4}
Tungsten (Wolfram) (74)	W 181		4×10^{-3}
	W 187		7×10^{-4}
Vanadium (23)	V 48		3×10^{-4}
Xenon (54)	Xe 131m	4×10^{-6}	
	Xe 133	3×10^{-6}	
	Xe 135	1×10^{-6}	
Ytterbium (70)	Yb 175		1×10^{-3}
Yttrium (39)	Y 90		2×10^{-4}
	Y 91m		3×10^{-2}
	Y 91		3×10^{-4}
	Y 92		6×10^{-4}
	Y 93		3×10^{-4}
Zinc (30)	Zn 65		1×10^{-3}
	Zn 69m		7×10^{-4}
	Zn 69		2×10^{-2}
Zirconium (40)	Zr 95		6×10^{-4}
	Zr 97		2×10^{-4}
Beta and/or gamma emitting byproduct material not listed above with half-life less than 3 years.		1×10^{-10}	1×10^{-6}

Footnotes to Schedule A:

¹ Values are given only for those materials normally used as gases.

² $\mu\text{Ci/gm}$ for solids.

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A, the activity stated is that of the parent isotope and takes into account the daughters.

NOTE 2: For purposes of § 30.14 where there is involved a combination of isotopes, the limit for the combination should be derived as follows:

Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

Example:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

[30 FR 8185, June 26, 1965, as amended at 35 FR 3982, Mar. 3, 1970; 38 FR 29314, Oct. 24, 1973; 59 FR 5520, Feb. 7, 1994]

§ 30.71

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§ 30.71 Schedule B.

Byproduct material	Microcuries	Byproduct material	Microcuries
Antimony 122 (Sb 122)	100	Iridium 194 (Ir 194)	100
Antimony 124 (Sb 124)	10	Iron 52 (Fe 52)	10
Antimony 125 (Sb 125)	10	Iron 55 (Fe 55)	100
Arsenic 73 (As 73)	100	Iron 59 (Fe 59)	10
Arsenic 74 (As 74)	10	Krypton 85 (Kr 85)	100
Arsenic 76 (As 76)	10	Krypton 87 (Kr 87)	10
Arsenic 77 (As 77)	100	Lanthanum 140 (La 140)	10
Barium 131 (Ba 131)	10	Lutetium 177 (Lu 177)	100
Barium 133 (Ba 133)	10	Manganese 52 (Mn 52)	10
Barium 140 (Ba 140)	10	Manganese 54 (Mn 54)	10
Bismuth 210 (Bi 210)	1	Manganese 56 (Mn 56)	10
Bromine 82 (Br 82)	10	Mercury 197m (Hg 197m)	100
Cadmium 109 (Cd 109)	10	Mercury 197 (Hg 197)	100
Cadmium 115m (Cd 115m)	10	Mercury 203 (Hg 203)	10
Cadmium 115 (Cd 115)	100	Molybdenum 99 (Mo 99)	100
Calcium 45 (Ca 45)	10	Neodymium 147 (Nd 147)	100
Calcium 47 (Ca 47)	10	Neodymium 149 (Nd 149)	100
Carbon 14 (C 14)	100	Nickel 59 (Ni 59)	100
Cerium 141 (Ce 141)	100	Nickel 63 (Ni 63)	10
Cerium 143 (Ce 143)	100	Nickel 65 (Ni 65)	100
Cerium 144 (Ce 144)	1	Niobium 93m (Nb 93m)	10
Cesium 129 (Cs 129)	100	Niobium 95 (Nb 95)	10
Cesium 131 (Cs 131)	1,000	Niobium 97 (Nb 97)	10
Cesium 134m (Cs 134m)	100	Osmium 185 (Os 185)	10
Cesium 134 (Cs 134)	1	Osmium 191m (Os 191m)	100
Cesium 135 (Cs 135)	10	Osmium 191 (Os 191)	100
Cesium 136 (Cs 136)	10	Osmium 193 (Os 193)	100
Cesium 137 (Cs 137)	10	Palladium 103 (Pd 103)	100
Chlorine 36 (Cl 36)	10	Palladium 109 (Pd 109)	100
Chlorine 38 (Cl 38)	10	Phosphorus 32 (P 32)	10
Chromium 51 (Cr 51)	1,000	Platinum 191 (Pt 191)	100
Cobalt 57 (Co 57)	100	Platinum 193m (Pt 193m)	100
Cobalt 58m (Co 58m)	10	Platinum 193 (Pt 193)	100
Cobalt 58 (Co 58)	10	Platinum 197m (Pt 197m)	100
Cobalt 60 (Co 60)	1	Platinum 197 (Pt 197)	100
Copper 64 (Cu 64)	100	Polonium 210 (Po 210)	0.1
Dysprosium 165 (Dy 165)	10	Potassium 42 (K 42)	10
Dysprosium 166 (Dy 166)	100	Potassium 43 (K 43)	10
Erbium 169 (Er 169)	100	Praseodymium 142 (Pr 142)	100
Erbium 171 (Er 171)	100	Praseodymium 143 (Pr 143)	100
Europium 152 9.2 h (Eu 152 9.2 h)	100	Promethium 147 (Pm 147)	10
Europium 152 13 yr (Eu 152 13 yr)	1	Promethium 149 (Pm 149)	10
Europium 154 (Eu 154)	1	Rhenium 186 (Re 186)	100
Europium 155 (Eu 155)	10	Rhenium 188 (Re 188)	100
Fluorine 18 (F 18)	1,000	Rhodium 103m (Rh 103m)	100
Gadolinium 153 (Gd 153)	10	Rhodium 105 (Rh 105)	100
Gadolinium 159 (Gd 159)	100	Rubidium 81 (Rb 81)	10
Gallium 67 (Ga 67)	100	Rubidium 86 (Rb 86)	10
Gallium 72 (Ga 72)	10	Rubidium 87 (Rb 87)	10
Germanium 68 (Ge 68)	10	Ruthenium 97 (Ru 97)	100
Germanium 71 (Ge 71)	100	Ruthenium 103 (Ru 103)	10
Gold 195 (Au 195)	10	Ruthenium 105 (Ru 105)	10
Gold 198 (Au 198)	100	Ruthenium 106 (Ru 106)	1
Gold 199 (Au 199)	100	Samarium 151 (Sm 151)	10
Hafnium 181 (Hf 181)	10	Samarium 153 (Sm 153)	100
Holmium 166 (Ho 166)	100	Scandium 46 (Sc 46)	10
Hydrogen 3 (H 3)	1,000	Scandium 47 (Sc 47)	100
Indium 111 (In 111)	100	Scandium 48 (Sc 48)	10
Indium 113m (In 113m)	100	Selenium 75 (Se 75)	10
Indium 114m (In 114m)	10	Silicon 31 (Si 31)	100
Indium 115m (In 115m)	100	Silver 105 (Ag 105)	10
Indium 115 (In 115)	10	Silver 110m (Ag 110m)	1
Iodine 123 (I 123)	100	Silver 111 (Ag 111)	100
Iodine 125 (I 125)	1	Sodium 22 (Na 22)	10
Iodine 126 (I 126)	1	Sodium 24 (Na 24)	10
Iodine 129 (I 129)	0.1	Strontium 85 (Sr 85)	10
Iodine 131 (I 131)	1	Strontium 89 (Sr 89)	1
Iodine 132 (I 132)	10	Strontium 90 (Sr 90)	0.1
Iodine 133 (I 133)	1	Strontium 91 (Sr 91)	10
Iodine 134 (I 134)	10	Strontium 92 (Sr 92)	10
Iodine 135 (I 135)	10	Sulphur 35 (S 35)	100
Iridium 192 (Ir 192)	10	Tantalum 182 (Ta 182)	10
		Technetium 96 (Tc 96)	10
		Technetium 97m (Tc 97m)	100

Nuclear Regulatory Commission

§ 30.72

Byproduct material	Microcuries	Radioactive material ¹	Release fraction	Quantity (curies)
Technetium 97 (Tc 97)	100	Cesium-134 .....	.01	2,000
Technetium 99m (Tc 99m)	100	Cesium-137 .....	.01	3,000
Technetium 99 (Tc 99)	10	Chlorine-36 .....	.5	100
Tellurium 125m (Te 125m)	10	Chromium-51 .....	.01	300,000
Tellurium 127m (Te 127m)	10	Cobalt-60 .....	.001	5,000
Tellurium 127 (Te 127)	100	Copper-64 .....	.01	200,000
Tellurium 129m (Te 129m)	10	Curium-242 .....	.001	60
Tellurium 129 (Te 129)	100	Curium-243 .....	.001	3
Tellurium 131m (Te 131m)	10	Curium-244 .....	.001	4
Tellurium 132 (Te 132)	10	Curium-245 .....	.001	2
Terbium 160 (Tb 160)	10	Europium-152 .....	.01	500
Thallium 200 (Tl 200)	100	Europium-154 .....	.01	400
Thallium 201 (Tl 201)	100	Europium-155 .....	.01	3,000
Thallium 202 (Tl 202)	100	Germanium-68 .....	.01	2,000
Thallium 204 (Tl 204)	10	Gadolinium-153 .....	.01	5,000
Thulium 170 (Tm 170)	10	Gold-198 .....	.01	30,000
Thulium 171 (Tm 171)	10	Hafnium-172 .....	.01	400
Tin 113 (Sn 113)	10	Hafnium-181 .....	.01	7,000
Tin 125 (Sn 125)	10	Holmium-166m .....	.01	100
Tungsten 181 (W 181)	10	Hydrogen-3 .....	.5	20,000
Tungsten 185 (W 185)	10	Iodine-125 .....	.5	10
Tungsten 187 (W 187)	100	Iodine-131 .....	.5	10
Vanadium 48 (V 48)	10	Indium-114m .....	.01	1,000
Xenon 131m (Xe 131m)	1,000	Iridium-192 .....	.001	40,000
Xenon 133 (Xe 133)	100	Iron-55 .....	.01	40,000
Xenon 135 (Xe 135)	100	Iron-59 .....	.01	7,000
Ytterbium 175 (Yb 175)	100	Krypton-85	1.0	6,000,000
Yttrium 87 (Y 87)	10	Lead-210 .....	.01	8
Yttrium 88 (Y 88)	10	Manganese-56 .....	.01	60,000
Yttrium 90 (Y 90)	10	Mercury-203 .....	.01	10,000
Yttrium 91 (Y 91)	10	Molybdenum-99 .....	.01	30,000
Yttrium 92 (Y 92)	100	Neptunium-237 .....	.001	2
Yttrium 93 (Y 93)	100	Nickel-63 .....	.01	20,000
Zinc 65 (Zn 65)	10	Niobium-94 .....	.01	300
Zinc 69m (Zn 69m)	100	Phosphorus-32 .....	.5	100
Zinc 69 (Zn 69)	1,000	Phosphorus-33 .....	.5	1,000
Zirconium 93 (Zr 93)	10	Polonium-210 .....	.01	10
Zirconium 95 (Zr 95)	10	Potassium-42 .....	.01	9,000
Zirconium 97 (Zr 97)	10	Promethium-145 .....	.01	4,000
Any byproduct material not listed above other than alpha emitting byproduct material	0.1	Promethium-147 .....	.01	4,000
		Radium-226	0.001	100
		Ruthenium-106 .....	.01	200
		Samarium-151 .....	.01	4,000
		Scandium-46 .....	.01	3,000
		Selenium-75 .....	.01	10,000
		Silver-110m .....	.01	1,000
		Sodium-22 .....	.01	9,000
		Sodium-24 .....	.01	10,000
		Strontium-89 .....	.01	3,000
		Strontium-90 .....	.01	90
		Sulfur-35 .....	.5	900
		Technitium-99 .....	.01	10,000
		Technitium-99m .....	.01	400,000
		Tellurium-127m .....	.01	5,000
		Tellurium-129m .....	.01	5,000
		Terbium-160 .....	.01	4,000
		Thulium-170 .....	.01	4,000
		Tin-113 .....	.01	10,000
		Tin-123 .....	.01	3,000
		Tin-126 .....	.01	1,000
		Titanium-44 .....	.01	100
		Vanadium-48 .....	.01	7,000
		Xenon-133	1.0	900,000
		Yttrium-91 .....	.01	2,000
		Zinc-65 .....	.01	5,000
		Zirconium-93 .....	.01	400
		Zirconium-95 .....	.01	5,000
		Any other beta-gamma emitter .....	.01	10,000
		Mixed fission products .....	.01	1,000
		Mixed corrosion products .....	.01	10,000
		Contaminated equipment beta-gamma .....	.001	10,000
		Irradiated material, any form other than solid noncombustible .....	.01	1,000

[35 FR 6427, Apr. 22, 1970, as amended at 36 FR 16898, Aug. 26, 1971; 59 FR 5519, Feb. 7, 1994; 72 FR 55926, Oct. 1, 2007]

§30.72 Schedule C—Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release.

Radioactive material ¹	Release fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241 .....	.001	2
Americium-242 .....	.001	2
Americium-243 .....	.001	2
Antimony-124 .....	.01	4,000
Antimony-126 .....	.01	6,000
Barium-133 .....	.01	10,000
Barium-140 .....	.01	30,000
Bismuth-207 .....	.01	5,000
Bismuth-210 .....	.01	600
Cadmium-109 .....	.01	1,000
Cadmium-113 .....	.01	80
Calcium-45 .....	.01	20,000
Californium-252 .....	.001	9 (20 mg)
Carbon-14 (non-carbon dioxide) .....	.01	50,000
Cerium-141 .....	.01	10,000
Cerium-144 .....	.01	300

Radioactive material ¹	Release fraction	Quantity (curies)
Irradiated material, solid noncombustible .....	.001	10,000
Mixed radioactive waste, beta-gamma .....	.01	1,000
Packaged mixed waste, beta-gamma ⁴ .....	.001	10,000
Any other alpha emitter .....	.001	2
Contaminated equipment, alpha .....	.0001	20
Packaged waste, alpha ⁴ .....	.0001	20
Combinations of radioactive materials listed above ¹ .		

¹For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Schedule C exceeds one.

²Waste packaged in Type B containers does not require an emergency plan.

[54 FR 14061, Apr. 7, 1989, as amended at 61 FR 9902, Mar. 12, 1996; 72 FR 55926, Oct. 1, 2007]

APPENDIX A TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND PARENT COMPANY GUARANTEES FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING

I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

II. FINANCIAL TEST

A. To pass the financial test, the parent company must meet the criteria of either paragraph A.1 or A.2 of this section. For purposes of applying the Appendix A criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site.

1. The parent company must have:

(i) Two of the following three ratios: A ratio of total liabilities to total net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(ii) Net working capital and tangible net worth each at least six times the amount of decommissioning funds being assured by a

parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and

(iii) Tangible net worth of at least \$21 million; and

(iv) Assets located in the United States amounting to at least 90 percent of the total assets or at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof (or prescribed amount if a certification is used), or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof.

2. The parent company must have:

(i) A current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, A, or BBB (including adjustments of + and -) as issued by Standard and Poor's or Aaa, Aa, A, or Baa (including adjustment of 1, 2, or 3) as issued by Moody's; and

(ii) Total net worth at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and

(iii) Tangible net worth of at least \$21 million; and

(iv) Assets located in the United States amounting to at least 90 percent of the total assets or at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof (or prescribed amount if a certification is used), or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof.

B. The parent company's independent certified public accountant must compare the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the parent company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the parent company's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of paragraph A of this section. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

C.1. After the initial financial test, the parent company must annually pass the test and provide documentation of its continued eligibility to use the parent company guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

2. If the parent company no longer meets the requirements of paragraph A of this section, the licensee must send notice to the Commission of intent to establish alternate financial assurance as specified in the Commission's regulations. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. PARENT COMPANY GUARANTEE

The terms of a parent company guarantee which an applicant or licensee obtains must provide that:

A. The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Commission. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the Commission, as evidenced by the return receipts.

B. If the licensee fails to provide alternate financial assurance as specified in the Commission's regulations within 90 days after receipt by the licensee and Commission of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide alternative financial assurance that meets the provisions of the Commission's regulations in the name of the licensee.

C. The parent company guarantee and financial test provisions must remain in effect until the Commission has terminated the license, accepted in writing the parent company's alternate financial assurances, or accepted in writing the licensee's financial assurances.

D. A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the parent company guarantee agreement is submitted. 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, whose trust operations are regulated and examined by a Federal or State agency. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in these regulations that govern the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

E. The guarantor must agree that it would be subject to Commission orders to make payments under the guarantee agreement.

F. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

1. Declare that the financial assurance guaranteed by the parent company guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

2. Exercise any and all of its other rights under applicable law.

G. 1. The guarantor must agree to notify the NRC, 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, or the occurrence of any other event listed in paragraph F of this Appendix, by or against:

(i) The guarantor;

(ii) The licensee;

(iii) 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

(iv) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

2. This notification must include:

(i) A description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the parent company guarantee for decommissioning will be transferred to the standby trust as soon as possible;

(ii) If a petition of bankruptcy was filed, the identity of the bankruptcy court in which the petition for bankruptcy was filed; and

(iii) The date of filing of any petitions.

[53 FR 24046, June 27, 1988, as amended at 63 FR 50479, Sept. 22, 1998; 76 FR 35565, June 17, 2011]

Pt. 30, App. B

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APPENDIX B TO PART 30—QUANTITIES¹
OF LICENSED MATERIAL REQUIRING
LABELING

Material	Micro- curies
Americium-241 .....	.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 9.2 h	100
Europium-152 13 yr	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10

Material	Micro- curies
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239 .....	.01
Polonium-210	0.1
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226 .....	.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-110m	1
Silver-111	100
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulphur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10

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Material	Micro-curies
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural) ¹	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural) ²	100
Uranium-233 .....	.01
Uranium-234—Uranium-235 .....	.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition .....	.01
Any radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition .....	.1

¹ Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

² Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: For purposes of § 20.303, where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

[35 FR 6425, Apr. 22, 1970, as amended at 36 FR 16898, Aug. 26, 1971; 38 FR 29314, Oct. 24, 1973; 39 FR 23991, June 28, 1974; 45 FR 71763, Oct. 30, 1980. Redesignated at 56 FR 23391, May 21, 1991, and further redesignated at 58 FR 67659, Dec. 22, 1993]

APPENDIX C TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF GUARANTEES FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING

I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self guarantee and establishes the terms for a self-guarantee.

II. FINANCIAL TEST

A. To pass the financial test a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix C criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:

(1) Tangible net worth of at least \$21 million, and total net worth at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the amount of decommissioning funds being assured by a self-guarantee, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(3) A current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + and -) as issued by Standard and Poor's, or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

B. To pass the financial test, a company must meet all of the following additional requirements:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.

(2) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of Section II, paragraph A of this appendix. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

C. If the licensee no longer meets the requirements of Section II.A. of this appendix, the licensee must send immediate notice to the Commission of its intent to establish alternate financial assurance as specified in the Commission's regulations within 120 days of such notice.

III. COMPANY SELF-GUARANTEE

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Commission. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Commission, as evidenced by the return receipt.

B. The licensee shall provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The licensee will promptly forward to the Commission and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of section 13 of the Securities and Exchange Act of 1934.

E. (1) If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A-" and above by Standard and Poor's or in any category of "A3" and above by Moody's, the licensee will notify the Commission in writing within 20 days after publication of the change by the rating service.

(2) If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section II.A. of this appendix.

F. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount guaranteed by the self-guarantee agreement.

G. (1) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

(2) 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. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in these regulations that govern the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

H. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or

any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

I. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph H of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

[58 FR 68730, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994, as amended at 63 FR 50479, Sept. 22, 1998; 76 FR 35566, June 17, 2011]

APPENDIX D TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEE FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING BY COMMERCIAL COMPANIES THAT HAVE NO OUTSTANDING RATED BONDS

I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. FINANCIAL TEST

A. To pass the financial test a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix D criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:

(1) Tangible net worth of at least \$21 million, and total net worth of at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current de-

commissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(3) A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by total net worth less than 1.5.

B. In addition, to pass the financial test, a company must meet all of the following requirements:

(1) The company's independent certified public accountant must compare the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(2) After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

(3) If the licensee no longer meets the requirements of paragraph II.A of this appendix, the licensee must send notice to the NRC of intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within 120 days after the end of such fiscal year.

III. COMPANY SELF-GUARANTEE

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the NRC. Cancellation may not occur until an alternative financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the regulations within 90 days following receipt by the NRC of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount of the current cost estimates for decommissioning.

E. A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted. 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. The Commission will have the right to change the trustee. An acceptable trust will meet the regulatory criteria established in the part of these regulations that governs the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

F. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

G. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph F of this appendix, and must include a description of the event, including major creditors,

the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

[63 FR 29542, June 1, 1998, as amended at 76 FR 35567, June 17, 2011]

APPENDIX E TO PART 30—CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEES FOR PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING BY NONPROFIT COLLEGES, UNIVERSITIES, AND HOSPITALS

I. INTRODUCTION

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the applicant or licensee passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. FINANCIAL TEST

A. For colleges and universities, to pass the financial test a college or university must meet either the criteria in Paragraph II.A.(1) or the criteria in Paragraph II.A.(2) of this appendix.

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + or –) as issued by Standard and Poor's (S&P) or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

(2) For applicants or licensees that do not issue bonds, unrestricted endowment consisting of assets located in the United States of at least \$50 million, or at least 30 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

B. For hospitals, to pass the financial test a hospital must meet either the criteria in Paragraph II.B.(1) or the criteria in Paragraph II.B.(2) of this appendix:

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + or –) as issued

by Standard and Poor's or Aaa, Aa, or A (including adjustments of 1, 2, or 3) as issued by Moody's.

(2) For applicants or licensees that do not issue bonds, all the following tests must be met:

(a) (Total Revenues less total expenditures) divided by total revenues must be equal to or greater than 0.04.

(b) Long term debt divided by net fixed assets must be less than or equal to 0.67.

(c) (Current assets and depreciation fund) divided by current liabilities must be greater than or equal to 2.55.

(d) Operating revenues must be at least 100 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the hospital is responsible as a self-guaranteeing licensee.

C. In addition, to pass the financial test, a licensee must meet all the following requirements:

(1) The licensee's independent certified public accountant must compare the data used by the licensee in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. The accountant must evaluate the licensee's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the licensee's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of Section II of this appendix. In connection with the auditing procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

(2) After the initial financial test, the licensee must repeat passage of the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

(3) If the licensee no longer meets the requirements of Section I of this appendix, the licensee must send notice to the NRC of its intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. SELF-GUARANTEE

The terms of a self-guarantee which an applicant or licensee furnishes must provide that—

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, and/or return receipt requested, to the Commission. Cancellation may not occur unless an alternative financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer or officer of the institution) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will fund the standby trust in the amount of the current cost estimates for decommissioning.

E. (1) If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall notify the Commission in writing within 20 days after publication of the change by the rating service.

(2) If the licensee's most recent bond issuance ceases to be rated in any category of "A—" and above by Standard and Poor's or in any category of "A3" and above by Moody's, the licensee no longer meets the requirements of Section II.A. of this appendix.

F. (1) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

(2) 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. The Commission has the right to change the trustee. An acceptable trust will meet the regulatory criteria established in the part of these regulations that governs the issuance of the license for which the guarantor has accepted the obligation to pay for decommissioning costs.

G. The guarantor must agree that if the guarantor admits in writing its inability to pay its debts generally, or makes a general

assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:

(1) Declare that the financial assurance guaranteed by the self-guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor; and

(2) Exercise any and all of its other rights under applicable law.

H. The guarantor must notify the NRC, in writing, immediately following the occurrence of any event listed in paragraph G of this appendix, and must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the self-guarantee agreement for decommissioning will be transferred to the standby trust as soon as possible.

[63 FR 29542, June 1, 1998, as amended at 76 FR 35568, June 17, 2011]

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

Sec.

31.1 Purpose and scope.

31.2 Terms and conditions.

31.3 [Reserved]

31.4 Information collection requirements: OMB approval.

31.5 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.

31.6 General license to install devices generally licensed in §31.5.

31.7 Luminous safety devices for use in aircraft.

31.8 Americium-241 and radium-226 in the form of calibration or reference sources.

31.9 General license to own byproduct material.

31.10 General license for strontium 90 in ice detection devices.

31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

31.12 General license for certain items and self-luminous products containing radium-226.

31.13–31.20 [Reserved]

31.21 Maintenance of records.

31.22 Violations.

31.23 Criminal penalties.

AUTHORITY: Atomic Energy Act of 1954, secs. 81, 161, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); 44 U.S.C. 3504 note.

EDITORIAL NOTE: Nomenclature changes to part 31 appear at 79 FR 75739, Dec. 19, 2014.

§31.1 Purpose and scope.

This part establishes general licenses for the possession and use of byproduct material and a general license for ownership of byproduct material. Specific provisions of 10 CFR Part 30 are applicable to general licenses established by this part. These provisions are specified in §31.2 or in the particular general license.

[65 FR 79187, Dec. 18, 2000]

§31.2 Terms and conditions.

The general licenses provided in this part are subject to the general provisions of Part 30 of this chapter (§§30.1 through 30.10), the provisions of §§30.14(d), 30.34(a) to (e), 30.41, 30.50 to 30.53, 30.61 to 30.63, and Parts 19, 20, and 21, of this chapter¹ unless indicated otherwise in the specific provision of the general license.

[65 FR 79187, Dec. 18, 2000]

§31.3 [Reserved]

§31.4 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 Act (44 U.S.C. 3501 *et seq.*). The NRC

¹Attention is directed particularly to the provisions of Part 20 of this chapter concerning labeling of containers.