

**§ 40.38**

**10 CFR Ch. I (1-1-05 Edition)**

facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with § 40.41(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 depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:

- (i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.1003;
- (ii) All areas outside of restricted areas that require documentation under § 40.36(f)(1);
- (iii) All areas outside of restricted areas where current and previous

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.

[53 FR 24047, June 27, 1988, as amended at 58 FR 39633, July 26, 1993; 58 FR 67661, Dec. 22, 1993; 58 FR 68731, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 60 FR 38238, July 26, 1995; 61 FR 24674, May 16, 1996; 62 FR 39090, July 21, 1997; 63 FR 29543, June 1, 1998; 68 FR 57336, Oct. 3, 2003]

**§ 40.38 Ineligibility of certain applicants.**

A license may not be issued to the Corporation if the Commission determines that:

- (a) The Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or
- (b) The issuance of such a license would be inimical to—
  - (1) The common defense and security of the United States; or
  - (2) The maintenance of a reliable and economical domestic source of enrichment services.

[62 FR 6669, Feb. 12, 1997]

LICENSES

**§ 40.41 Terms and conditions of licenses.**

- (a) Each license issued pursuant to the regulations in this part shall be subject to all the provisions of the act, now or hereafter in effect, and to all rules, regulations and orders of the Commission.
- (b) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the Act.
- (c) Each person licensed by the Commission pursuant to the regulations in