

characterization will be established. Other topics related to site characterization must also be covered if requested by the Director.

(c) During the conduct of site characterization activities at the Yucca Mountain site, NRC staff shall be permitted to visit and inspect the locations at which such activities are carried out and to observe excavations, borings, and in situ tests, as they are done.

(d) The Director may comment at any time in writing to DOE, expressing current views on any aspect of site characterization or performance assessment at the Yucca Mountain site. In particular, the Director shall comment whenever he or she determines that there are substantial grounds for making recommendations or stating objections to DOE's site characterization program. The Director shall invite public comment on any comments that the Director makes to DOE on review of the DOE semiannual reports or on any other comments that the Director makes to DOE on site characterization and performance assessment by placing the comments in a public forum to allow the public to comment on them after the Director's comments are sent to DOE.

(e) The Director shall transmit copies of all comments to DOE made by the Director under this section to the Governor and legislature of the State of Nevada and to the governing body of any affected Indian Tribe.

(f) The NRC shall place all correspondence between DOE and NRC resulting from the requirements of this section, including the reports described in paragraph (b) of this section, in the Publicly Available Records System (PARS) Library.

(g) The activities described in paragraphs (a) through (f) of this section constitute informal conference between a prospective applicant and the NRC staff, as described in § 2.101(a)(1) of this chapter, and are not part of a proceeding under the Atomic Energy Act of 1954, as amended. Accordingly, the issuance of the Director's comments made under this section does not constitute a commitment to issue any authorization or license, or in any way affect the authority of the Commis-

sion, Atomic Safety and Licensing Board, other presiding officers, or the Director, in any such proceeding.

[66 FR 55792, Nov. 2, 2001, as amended at 68 FR 58815, Oct. 10, 2003]

#### LICENSE APPLICATION

##### § 63.21 Content of application.

(a) An application consists of general information and a Safety Analysis Report. An environmental impact statement must be prepared in accordance with the Nuclear Waste Policy Act of 1982, as amended, and must accompany the application. Any Restricted Data or National Security Information must be separated from unclassified information. The application must be as complete as possible in the light of information that is reasonably available at the time of docketing.

(b) The general information must include:

(1) A general description of the proposed geologic repository at the Yucca Mountain site, identifying the location of the geologic repository operations area, the general character of the proposed activities, and the basis for the exercise of the Commission's licensing authority.

(2) Proposed schedules for construction, receipt of waste, and emplacement of wastes at the proposed geologic repository operations area.

(3) A description of the detailed security measures for physical protection of high-level radioactive waste in accordance with § 73.51 of this chapter. This plan must include the design for physical protection, the licensee's safeguards contingency plan, and security organization personnel training and qualification plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

(4) A description of the material control and accounting program to meet the requirements of § 63.78.

(5) A description of work conducted to characterize the Yucca Mountain site.

(c) The Safety Analysis Report must include:

(1) A description of the Yucca Mountain site, with appropriate attention to those features, events, and processes of

the site that might affect design of the geologic repository operations area and performance of the geologic repository. The description of the site must include information regarding features, events, and processes outside of the site to the extent the information is relevant and material to safety or performance of the geologic repository. The information referred to in this paragraph must include:

- (i) The location of the geologic repository operations area with respect to the boundary of the site;
- (ii) Information regarding the geology, hydrology, and geochemistry of the site, including geomechanical properties and conditions of the host rock;
- (iii) Information regarding surface water hydrology, climatology, and meteorology of the site; and
- (iv) Information regarding the location of the reasonably maximally exposed individual, and regarding local human behaviors and characteristics, as needed to support selection of conceptual models and parameters used for the reference biosphere and reasonably maximally exposed individual.

(2) Information relative to materials of construction of the geologic repository operations area (including geologic media, general arrangement, and approximate dimensions), and codes and standards that DOE proposes to apply to the design and construction of the geologic repository operations area.

(3) A description and discussion of the design of the various components of the geologic repository operations area and the engineered barrier system including:

- (i) Dimensions, material properties, specifications, analytical and design methods used along with any applicable codes and standards;
- (ii) The design criteria used and their relationships to the preclosure and postclosure performance objectives specified at §63.111(b), §63.113(b), and §63.113(c); and
- (iii) The design bases and their relation to the design criteria.

(4) A description of the kind, amount, and specifications of the radioactive material proposed to be received and possessed at the geologic repository op-

erations area at the Yucca Mountain site.

(5) A preclosure safety analysis of the geologic repository operations area, for the period before permanent closure, to ensure compliance with §63.111(a), as required by §63.111(c). For the purposes of this analysis, it is assumed that operations at the geologic repository operations area will be carried out at the maximum capacity and rate of receipt of radioactive waste stated in the application.

(6) A description of the program for control and monitoring of radioactive effluents and occupational radiological exposures to maintain such effluents and exposures in accordance with the requirements of §63.111.

(7) A description of plans for retrieval and alternate storage of the radioactive wastes, should retrieval be necessary.

(8) A description of design considerations that are intended to facilitate permanent closure and decontamination or decontamination and dismantlement of surface facilities.

(9) An assessment to determine the degree to which those features, events, and processes of the site that are expected to materially affect compliance with §63.113—whether beneficial or potentially adverse to performance of the geologic repository—have been characterized, and the extent to which they affect waste isolation. Investigations must extend from the surface to a depth sufficient to determine principal pathways for radionuclide migration from the underground facility. Specific features, events, and processes of the geologic setting must be investigated outside of the site if they affect performance of the geologic repository.

(10) An assessment of the anticipated response of the geomechanical, hydrogeologic, and geochemical systems to the range of design thermal loadings under consideration, given the pattern of fractures and other discontinuities and the heat transfer properties of the rock mass and water.

(11) An assessment of the ability of the proposed geologic repository to limit radiological exposures to the reasonably maximally exposed individual for the period after permanent closure, as required by §63.113(b).

(12) An assessment of the ability of the proposed geologic repository to limit releases of radionuclides into the accessible environment as required by §63.113(c).

(13) An assessment of the ability of the proposed geologic repository to limit radiological exposures to the reasonably maximally exposed individual for the period after permanent closure in the event of human intrusion into the engineered barrier system as required by §63.113(d).

(14) An evaluation of the natural features of the geologic setting and design features of the engineered barrier system that are considered barriers important to waste isolation as required by §63.115.

(15) An explanation of measures used to support the models used to provide the information required in paragraphs (c)(9) through (c)(14) of this section. Analyses and models that will be used to assess performance of the geologic repository must be supported by using an appropriate combination of such methods as field tests, in situ tests, laboratory tests that are representative of field conditions, monitoring data, and natural analog studies.

(16) An identification of those structures, systems, and components of the geologic repository, both surface and subsurface, that require research and development to confirm the adequacy of design. For structures, systems, and components important to safety and for the engineered and natural barriers important to waste isolation, DOE shall provide a detailed description of the programs designed to resolve safety questions, including a schedule indicating when these questions would be resolved.

(17) A description of the performance confirmation program that meets the requirements of subpart F of this part.

(18) An identification and justification for the selection of those variables, conditions, or other items that are determined to be probable subjects of license specifications. Special attention must be given to those items that may significantly influence the final design.

(19) An explanation of how expert elicitation was used.

(20) A description of the quality assurance program to be applied to the structures, systems, and components important to safety and to the engineered and natural barriers important to waste isolation. The description of the quality assurance program must include a discussion of how the applicable requirements of §63.142 will be satisfied.

(21) A description of the plan for responding to, and recovering from, radiological emergencies that may occur at any time before permanent closure and decontamination or decontamination and dismantlement of surface facilities, as required by §63.161.

(22) The following information concerning activities at the geologic repository operations area:

(i) The organizational structure of DOE as it pertains to construction and operation of the geologic repository operations area, including a description of any delegations of authority and assignments of responsibilities, whether in the form of regulations, administrative directives, contract provisions, or otherwise.

(ii) Identification of key positions that are assigned responsibility for safety at and operation of the geologic repository operations area.

(iii) Personnel qualifications and training requirements.

(iv) Plans for startup activities and startup testing.

(v) Plans for conduct of normal activities, including maintenance, surveillance, and periodic testing of structures, systems, and components of the geologic repository operations area.

(vi) Plans for permanent closure and plans for the decontamination or decontamination and dismantlement of surface facilities.

(vii) Plans for any uses of the geologic repository operations area at the Yucca Mountain site for purposes other than disposal of radioactive wastes, with an analysis of the effects, if any, that such uses may have on the operation of the structures, systems, and components important to safety and the engineered and natural barriers important to waste isolation.

(23) A description of the program to be used to maintain the records described in §§63.71 and 63.72.

(24) A description of the controls that DOE will apply to restrict access and to regulate land use at the Yucca Mountain site and adjacent areas, including a conceptual design of monuments that would be used to identify the site after permanent closure.

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

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

(b) DOE shall submit 30 additional copies, on paper and optical storage media, of each portion of the application and any amendments, and each environmental impact statement and any supplements. DOE shall maintain the capability to generate additional copies for distribution in accordance with written instructions from the Director or the Director's designee.

(c) On notification of the appointment of an Atomic Safety and Licensing Board, DOE shall update the application, eliminating all superseded information, and supplement the environmental impact statement if necessary, and serve the updated application and environmental impact statement (as it may have been supplemented) as directed by the Board. Any subsequent amendments to the application or supplements to the environmental impact statement must be served in the same manner.

(d) When an application, and any amendment to it is filed, copies on paper and optical storage media must be made available in appropriate locations near the proposed geologic repository operations areas at the Yucca Mountain site for inspection by the

public. These copies must be updated as amendments to the application are made. The environmental impact statement and any supplements to it must be made available in the same manner. An updated copy of the application, and the environmental impact statement and supplements, must be produced at any public hearing held by the Commission on the application for use by any party to the proceeding.

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

[66 FR 55792, Nov. 2, 2001, as amended at 68 FR 58815, Oct. 10, 2003; 69 FR 2280, Jan. 14, 2004]

**§ 63.23 Elimination of repetition.**

In its application or environmental impact statement, DOE may incorporate, by reference, information contained in previous applications, statements, or reports filed with the Commission, if the references are clear and specific and copies of the information incorporated are made available to the public locations near the site of the proposed geologic repository, as specified in § 63.22(d).

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

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

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

(1) Additional geologic, geophysical, geochemical, hydrologic, meteorologic, materials, design, and other data obtained during construction;

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

(3) Results of research programs carried out to confirm the adequacy of designs, conceptual models, parameter values, and estimates of performance of the geologic repository.