

(1) Provide the means for identifying quickly which individuals have received doses of 10 rads or more.

(2) Maintain facilities and supplies at the site for decontamination of personnel, arrangements for the services of a physician and other medical personnel qualified to handle radiation emergencies, arrangements for transportation of injured or contaminated individuals to treatment facilities, and arrangements for treatment of individuals at treatment facilities outside the site boundary.

(c) Holders of licenses for construction or operation of a nuclear reactor issued pursuant to part 50 of this chapter, except critical assembly reactors, are exempt for the requirements of paragraph (b) of this section with respect to special nuclear material used or to be used in the reactor.

(d)(1) The requirements in paragraphs (a) through (c) of this section do not apply to a holder of a construction permit or operating license for a nuclear power reactor issued under part 50 of this chapter or a combined license issued under part 52 of this chapter, if the holder complies with the requirements of paragraph (b) of 10 CFR 50.68.

(2) An exemption from § 70.24 held by a licensee who thereafter elects to comply with requirements of paragraph (b) of 10 CFR 50.68 does not exempt that licensee from complying with any of the requirements in § 50.68, but shall be ineffective so long as the licensee elects to comply with § 50.68.

[39 FR 39021, Nov. 5, 1974, as amended at 41 FR 31522, July 29, 1976; 53 FR 19252, May 27, 1988; 62 FR 63828, Dec. 3, 1997; 63 FR 9403, Feb. 25, 1998; 63 FR 63130, Nov. 12, 1998]

§ 70.25 Financial assurance and recordkeeping for decommissioning.

(a) Each applicant for a specific license of the types described in paragraphs (a) (1) and (2) of this section shall submit a decommissioning funding plan as described in paragraph (e) of this section.

(1) A specific license for a uranium enrichment facility;

(2) A specific license authorizing the possession and use of unsealed special nuclear material in quantities exceeding 10^5 times the applicable quantities set forth in appendix B to part 30. A de-

commissioning 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 the sum of the ratios of the quantity of each isotope to the applicable value in appendix B to part 30.

(b) Each applicant for a specific license authorizing possession and use of unsealed special nuclear material 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

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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, described in paragraph (e) of this section, or a certification of financial assurance for decommissioning in 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 § 70.33 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.

(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 \$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. (For a combination of isotopes, if R, as defined in § 70.25(a), divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.)	\$1,125,000
Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of appendix B to part 30. (For a combination of isotopes, if R, as defined in § 70.25(a), divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.)	\$225,000

(e) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for de-

commissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates must be adjusted at intervals not to exceed 3 years. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

(f) Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) Prepayment. Prepayment is the deposit prior to 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 may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(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, letter of credit, or line 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 part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. 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 part 30. 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 part 30. 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 part 30. 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 or 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 or insurance, 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 may be in the form of a trust, es-

crow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance 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 governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

(g) Each person licensed under this part shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. 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 cleanup of any leak), 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 (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 § 70.25(g)(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 24053, June 27, 1988, as amended at 56 FR 23474, May 21, 1991; 57 FR 18393, Apr. 30, 1992; 58 FR 39634, July 26, 1993; 58 FR 67662, Dec. 22, 1993; 58 FR 68731, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 60 FR 38239, July 26, 1995; 61 FR 24675, May 16, 1996; 62 FR 39091, July 21, 1997; 63 FR 29544, June 1, 1998; 68 FR 57337, Oct. 3, 2003]

Subpart E—Licenses

§ 70.31 Issuance of licenses.

(a) Upon a determination that an application meets the requirements of the act and of the regulations of the Commission, the Commission will issue a license in such form and containing such conditions and limitations as it deems appropriate or necessary to effectuate the purposes of the act.

(b) [Reserved]

(c) Each license issued to a person for use of special nuclear material in activities in which special nuclear material will be produced shall (subject to

the provisions of § 70.41(b)) be deemed to authorize such person to receive title to, own, acquire, receive, possess, use, and transfer the special nuclear material produced in the course of such authorized activities.

(d) No license will be issued by the Commission to any person within the United States if the Commission finds that the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(e) No license to construct and operate a uranium enrichment facility may be issued until a hearing pursuant to 10 CFR part 2, subparts G and I, is completed and decision issued on the application.

[21 FR 764, Feb. 3, 1956, as amended at 32 FR 2563, Feb. 7, 1967; 32 FR 4056, Mar. 15, 1967; 43 FR 6925, Feb. 17, 1978; 57 FR 18393, Apr. 30, 1992]

§ 70.32 Conditions of licenses.

(a) Each license shall contain and be subject to the following conditions:

(1) [Reserved]

(2) No right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the Act;

(4) All special nuclear material shall be subject to the right of recapture or control reserved by section 108 and to all other provisions of the Act;

(5) No special nuclear material may be used in any utilization or production facility except in accordance with the provisions of the Act;

(6) The licensee shall not use the special nuclear material to construct an atomic weapon or any component of an atomic weapon;

(7) Except to the extent that the indemnification and limitation of liability provisions of part 140 of this chapter apply, the licensee will hold the United States and the Department harmless from any damages resulting from the use or possession of special nuclear material leased from the Department by the licensee;