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Texas Department of Health

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January 2, 2003

Ms. Josephine Piccone
Deputy Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Ms. Piccone:

Enclosed is a copy of the final revisions to the Texas Regulations for Control of Radiation, 25 Texas Administrative Code, §289.254, "Licensing of Waste Processing and Storage Facilities."

The changes from the proposed rule to the final rule are identified by double underlining for new language and bold-faced, brackets, and single underlining for deleted language. These revisions are not items of compatibility, but are being provided for informational purposes.

NRC Regulation	FR Notice (State Due Date)	RATS ID	Texas Regulation*	Final Texas Regulation (Effective Date)**
Clarified intent of definition	Not a compatibility item	N/A	§289.254(b)(11)	12/26/02
Deleted unnecessary language	Not a compatibility item	N/A	§289.254(b)(12)	12/26/02
Deleted proposed language to allow department to further study consistency and appropriateness of decommissioning funding requirements	Not a compatibility item	N/A	§289.254(e)	12/26/02

Revisions to clarify that reference is to the chapter and not just those in §289.254	Not a compatibility item	N/A	§289.254(f)(11)(C)	12/26/02
Added requirement for emergency plan to be submitted with application	Not a compatibility item	N/A	§289.254(g)(21)	12/26/02
Clarified conditions under which a license is issued and modifications may be made	Not a compatibility item	N/A	§289.254(i)(2)	12/26/02
Clarified requirements in accordance with Texas Radiation Control Act	Not a compatibility item	N/A	§289.254(j)	12/26/02
Clarified bankruptcy requirements	Not a compatibility item	N/A	§289.254(l)(5)	12/26/02
Corrected reference	Not a compatibility item	N/A	§289.254(m)(3)	12/26/02
Added the word "routine" to clarify that requirement applies to normal operation	Not a compatibility item	N/A	§289.254(m)(6) (C) and (D)	12/26/02
Clarified by revising and reformatting paragraph	Not a compatibility item, but consistent with equivalent compatibility rule in §289.252	N/A	§289.254(n)(1)	12/26/02
Revised to clarify to whom requirements applied	Not a compatibility item	N/A	§289.254(n)(2)	12/26/02
Deleted language made unnecessary because of the clarifications in §289.254(n)(1),(2), and (5)	Not a compatibility item	N/A	§289.254(n)(2)(B)	12/26/02

Revised paragraph because of changes in §289.254(n)(5)	Not a compatibility item	N/A	§289.254(n)(4)	12/26/02
Added language to clarify when financial assurance in conjunction with a decommissioning funding plan must be submitted	Not a compatibility item, but consistent with equivalent compatibility rule in §289.252	N/A	§289.254(n)(5)	12/26/02
Deleted language made unnecessary because of clarifications in this paragraph	Not a compatibility item	N/A	§289.254(n)(6)	12/26/02
Deleted language made redundant because of new language in §289.252(n)(5)	Not a compatibility item	N/A	§289.254(n)(6)(A)	12/26/02
Deleted language that did not add to intent of the requirement	Not a compatibility item	N/A	§289.254(n)(7)(D)	12/26/02
Deleted date because it no longer applies	Not a compatibility item	N/A	§289.254(n)(8)	12/26/02
Added language to clarify when to reference drawings in a license renewal and information the reference should include	Not a compatibility item	N/A	§289.254(p)(1)	12/26/02

If you have any questions, please feel free to contact me at 512-834-6688 or Cindy.Cardwell@tdh.state.tx.us.

Sincerely,

Cynthia C. Cardwell, Deputy Director
Standards and Special Projects
Bureau of Radiation Control
Texas Department of Health

LEGEND: (New rule - With changes to proposed version)

Double Underline = New language not proposed

[Bold, underline, and brackets] = Proposed new language now being deleted

Regular print = Final language, same as proposed for final adoption

§289.254. Licensing of Radioactive Waste Processing and Storage Facilities.

(a) Purpose and scope.

(1) This section establishes the requirements for management of commercial radioactive waste processing and storage facilities, the procedures and criteria for the issuance of licenses to receive, possess, transport, store, and process radioactive waste from other persons, and the terms and conditions upon which the agency will issue such licenses.

(2) Except as otherwise provided, this section applies to all persons who transport, receive, possess, store, or process radioactive waste from other persons. In addition to the requirements of this section, all licensees, unless otherwise specified, are subject to the requirements §289.201 of this title (relating to General Provisions for Radioactive Material), §289.202 of this title (relating to Standards for Protection Against Radiation from Radioactive Material), §289.203 of this title (relating to Notices, Instructions, and Reports to Workers; Inspections), §289.204 of this title (relating to Fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation, and Other Regulatory Services), §289.205 of this title (relating to Hearing and Enforcement Procedures), §289.252 of this title (relating to Licensing of Radioactive Material), and §289.257 of this title (relating to Packaging and Transportation of Radioactive Material).

(b) Definitions. The following words and terms when used in this section shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commencement of major construction - Any major structural erection or major alterations to existing structures, or other substantial action that would change the facility design or site for the purpose of establishing a radioactive waste processing or storage facility. The term does not mean the acquisition of existing structures or minor changes thereto.

(2) Decommissioning - The final activities carried out at a radioactive waste processing or storage site after completion of processing operations to remove safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and/or termination of the license. Such activities shall include:

(A) disposing of all radioactive waste at a licensed radioactive waste disposal site;

(B) dismantling or decontaminating site structures;

(C) decontaminating site surfaces and remaining equipment; and

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(D) conducting final closure surveys, decontamination, and reclamation of the site.

(3) Disposal - Isolation or removal of radioactive wastes from mankind and his environment. The term does not include emissions and discharges under rules of the agency.

(4) Engineered barriers - Man-made devices to contain or limit the potential movement of radioactive material, which might result from spills or other accidents.

(5) Floodplain - The lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of off-shore islands.

(6) Local government - A county, an incorporated city or town, a special district, or other political subdivision of the state.

(7) Major aquifer - An aquifer that yields large quantities of water in a comparatively large area of the state. Major aquifers are located in the following formations: Ogallala, Alluvium and Bolson Deposits, Edwards-Trinity (Plateau), Edwards (Balcones Fault Zone - San Antonio Region), Edwards (Balcones Fault Zone - Austin Region), Trinity Group, Carrizo-Wilcox, and Gulf Coast.

(8) Natural barriers - The natural characteristics of a site or surface and subsurface composition that serves to impede the movement of radioactive material. Natural barriers may include, for example, the location of a facility remote from an aquifer, or the sorptive capability of the soil surrounding a facility.

(9) Person affected - A person:

(A) who is a resident of a county, or a county adjacent to the county, in which radioactive materials subject to the Texas Radiation Control Act (Act) are/or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and

(B) who shall demonstrate that he has suffered or will suffer actual injury or economic damage.

(10) Processing - The storage, extraction of materials, transfer, volume reduction, compaction, incineration, solidification, or other separation and preparation of radioactive waste from other persons for reuse or disposal, including any treatment or activity that renders the waste less hazardous, safer for transport, or amenable to recovery, storage, or disposal.

(11) Radioactive waste processing facility - A facility where radioactive waste

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received from other persons is processed and/or [and] repackaged according to United States Department of Transportation (DOT) regulations.

(12) Radioactive waste storage facility - A facility where radioactive waste received from other persons [and packaged according to DOT regulations] is stored while awaiting shipment to a licensed radioactive waste processing or disposal facility.

(13) Reconnaissance level information - Any information or analysis that can be retrieved or generated without the performance of new comprehensive site-specific investigations. Reconnaissance level information includes, but is not limited to, relevant published scientific literature; drilling records required by state agencies, such as the Railroad Commission of Texas, the Texas Environmental Quality Commission (Commission), and the Texas Natural Resources Information System; and reports of governmental agencies.

(14) Site - The real property, including the buffer zone, on which a radioactive waste processing or storage facility may be located.

(15) Site monitoring - The procedures for the monitoring of the site and environment to assess quality of site operations and performance and to detect and quantify levels and types of radioactivity and chemicals in the environment. It includes preoperational, operational, and license termination phases.

(16) Site operations - The routine day-to-day activities carried out at the site for the receipt, processing, and storage of radioactive waste.

(17) Site suitability - The capability of the various characteristics of a processing or storage facility or site to safely contain the radioactive waste expected to be present at the site.

(18) Sole source aquifer - The aquifer that is the sole or principal source of drinking water for an area designated under the Safe Drinking Water Act of 1974, 42 United States Codes Annotated 300f, et seq.

(19) Waste processing and storage categories - Radionuclides classified as follows:

(A) any one of seven groups into which radionuclides in normal form are classified, according to their toxicity and their relative potential hazard in transport, as specified in subsection (v) of this section; and

(B) any radionuclide not specifically listed in one of the categories in subsection (v) of this section shall be assigned to one of the categories in accordance with subsection (v)(2) of this section.

(20) Wetlands - Areas that are inundated or saturated by surface or groundwater at

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a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas.

(c) Activities requiring license. Except for persons exempted by this section, no person shall receive, possess, and store or process radioactive waste from another person except as authorized in a specific license issued in accordance with this section.

(d) Radioactive waste processing and storage facility classification.

(1) Classification of radioactive waste processing and storage facilities. Radioactive waste processing and storage facilities are classified according to the radionuclides, other than sealed sources, received, possessed, or processed in each of the waste processing and storage categories, as defined in subsection (b) of this section with all applicable provisions, except that, for the purposes of this section which apply to processing and storage of radioactive waste, Category IV shall include waste processing and storage categories IV-VII. The total possession limit of each category of unsealed (dispersible) radionuclides for each class of facility is as follows:

Figure: 25 TAC §289.254(d)(1)

(2) Class III storage facilities are those in which the applicable possession limit of radioactive waste exceeds any limit of Class II storage facilities.

(3) Class III processing facilities are those in which the applicable possession limit of radioactive waste exceeds any limit of Class II processing facilities.

(e) Exemptions.

(1) Sealed sources. Persons who receive, possess, or process sealed sources of radioactive material as radioactive waste from other persons are exempt from this section, provided that:

(A) encapsulated sources are tested upon receipt and determined to have less than 0.005 microcurie of removable contamination; and

(B) sealed sources of radioactive material remain in sealed form after receipt.

[(A) Persons who receive, possess, or process sealed sources of radioactive material as radioactive waste from other persons are exempt from this section, provided that:]

[(i) encapsulated sources are tested upon receipt and

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determined to have less than 0.005 microcurie of removable contamination; and]

[(ii) sealed sources of radioactive material remain in sealed form after receipt.]

[(B) Persons who receive, possess, or process sealed sources of radioactive material from other persons for recycle or beneficial reuse are exempt from this section, provided that:]

[(i) encapsulated sources are tested upon receipt and determined to have less than 0.005 microcurie of removable contamination; and]

[(ii) sealed sources of radioactive material remain in sealed form after receipt.]

[(C) Persons exempt from the requirements of this section in accordance with subparagraph (A) of this paragraph, shall meet the requirements for financial assurance and record keeping for decommissioning in accordance with §289.252(gg) of this title. Persons who store sealed sources of radioactive material, in accordance with subparagraph (B) of this paragraph, for longer than two years, are considered to be receiving, possessing, or processing sealed sources of radioactive material as radioactive waste from other persons and shall meet the requirements for financial assurance and record keeping for decommissioning in accordance with §289.252(gg) of this title.]

(2) Unsealed sources.

(A) Persons who receive, possess, or process sources of radioactive material in unsealed form as radioactive waste from other persons are exempt from this section provided that:

(i) the total radioactivity of all radioactive waste possessed at any one time does not exceed the applicable limits for Class I processing or storage facilities as described in subsection (d) of this section; and

(ii) the total volume of radioactive waste processed in any one year does not exceed 50 cubic feet.

(B) Persons who receive, possess, and store radioactive material in unsealed form as radioactive waste from other persons are exempt from this section provided that:

(i) the radioactive waste consists only of radiopharmaceutical residues resulting from radiopharmaceuticals manufactured, compounded, and supplied by those persons receiving the radiopharmaceutical residues as radioactive waste;

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(ii) the radioactive waste is held in storage for decay to background radiation levels; and

(iii) the radioactive waste is not shipped to a radioactive waste processing or disposal facility.

(3) Radioactive material. A person who receives, possesses, and stores radioactive material as radioactive waste from sites owned and controlled by that same person is not considered to have received waste from other persons.

(f) Filing application for a specific license.

(1) The applicant for a license to receive, possess, or process radioactive waste from other persons shall submit, on BRC Form 252-2, "Application for Radioactive Material License," seven copies of each license application or application for amendment and any supporting documents. Applications for issuance of licenses shall include all general and specific technical requirements, financial information, and environmental requirements, if applicable, described in this section.

(2) The agency may at any time after the submission of the original application, require further statements or data to enable the agency to determine whether the application should be denied or the license should be issued.

(3) Each application shall be signed by the chief executive officer or other individual delegated the authority to manage, direct, or administer the licensee's activities.

(4) An application for a license may include a request for one or more of the activities specified in paragraph (1) of this subsection. The agency may require the issuance of separate licenses for those activities.

(5) Each application for a license shall be accompanied by the fee prescribed in §289.204 of this title.

(6) If facility drawings submitted in conjunction with the application for a license are prepared by a professional engineer or engineering firm, those drawings shall be final and shall be signed, sealed and dated in accordance with the requirements of the Texas Board of Professional Engineers, 22 Texas Administrative Code, Chapter 131.

(7) Each application shall clearly demonstrate how the requirements of this subsection and subsections (g), (h), (i), and (j) of this section have been addressed.

(8) Each application shall be accompanied by a completed BRC Form 252-1,

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(Business Information Form).

(9) Applications for licenses shall be processed in accordance with the following time periods.

(A) The first period is the time from receipt of an application by the Division of Licensing, Registration and Standards to the date of issuance or denial of the license or a written notice outlining why the application is incomplete or unacceptable. This time period is 90 days.

(B) The second period is the time from receipt of the last item necessary to complete the application to the date of issuance or denial of the license. This time period is 90 days.

(C) These time periods are exclusive of any time period incident to hearings and post-hearing activities required by Government Code, Chapters 2001 and 2002.

(10) Notwithstanding the provisions of §289.204(e)(1) of this title, reimbursement of application fees may be granted in the following manner.

(A) In the event the application is not processed in the time periods as stated in paragraph (9) of this subsection, the applicant has the right to request of the director of the Radiation Control Program full reimbursement of all application fees paid in that particular application process. If the director does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(B) Good cause for exceeding the period established is considered to exist if:

(i) the number of applications for licenses to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(ii) another public or private entity utilized in the application process caused the delay; or

(iii) other conditions existed giving good cause for exceeding the established periods.

(C) If the request for full reimbursement authorized by subparagraph (A) of this paragraph is denied, the applicant may then request a hearing by appeal to the Commissioner of Health for a resolution of the dispute. The appeal will be processed in accordance with the Formal Hearing Procedures, §§1.21, 1.23, 1.25, and 1.27 of this title (relating to the Texas Board of Health).

(11) Applications for licenses may be denied for the following reasons:

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(A) any material false statement in the application or any statement of fact required under provisions of the Act;

(B) conditions revealed by the application or statement of fact or any report, record, or inspection, or other means that would warrant the agency to refuse to grant a license on an application; or

(C) failure to clearly demonstrate how the requirements in [of] this chapter [section] have been addressed.

(g) Additional requirements. An applicant for a license under this section shall include the following information in the application to the agency:

(1) identity of the applicant including the full name, address, telephone number, and description of the business(es) or occupation(s) of the applicant;

(2) the organizational structure of the applicant, both off-site and on-site, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;

(3) a description of past operations that the applicant has been involved in including any license limitations, suspensions or revocations of such licenses, and any other information that will allow the agency to assess the applicant's past operating history;

(4) the technical qualifications, including training and experience, of the applicant and members of the applicant's staff to engage in the proposed activities; and minimum training and experience requirements for personnel;

(5) a description of the personnel training and retraining program;

(6) a statement of need and a description of the proposed activities identifying:

(A) the location of the proposed site;

(B) the character of the proposed activities;

(C) the types, chemical and/or physical forms and quantities of radioactive waste to be received, possessed, and processed; and

(D) the plans for use of the facility for purposes other than processing of radioactive waste;

(7) proposed time schedules for construction and receipt and processing of

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radioactive waste at the proposed facility;

(8) description of the site and accurate drawings of the facility including, but not limited to:

- (A) construction;
 - (B) foundation details;
 - (C) ventilation;
 - (D) plumbing and fire suppression systems;
 - (E) physical security system;
 - (F) storage areas;
 - (G) radioactive waste handling or processing areas;
 - (H) proximity to creeks or culverts; and
- (I) soil types under the facility with respect to compatibility with foundation and structural design;

(9) a description that demonstrates that the site suitability characteristics will meet the following requirements:

(A) the overall hydrogeologic environment of the site, in combination with engineering design, shall act to minimize and control potential radioactive waste migration into surface water and groundwaters;

(B) no new site shall be located in a 100-year floodplain, as designated by the Commission, or a wetland; and

(C) no new site shall be located in the recharge area of a sole source aquifer or a major aquifer unless it can be demonstrated with reasonable assurance that the new site will be designed, constructed, operated, and closed without an unreasonable risk to the aquifer.

(10) minimum criteria for facility design and operation to include:

(A) the building used for processing radioactive wastes shall have a minimum classification of Type II (111) in accordance with National Fire Protection Association 220 titled, "Standard [Standards] Types of Building Construction";

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(i) buildings used for processing or storage of radioactive wastes shall have ventilation and fire protection systems to minimize the release of radioactive materials into the soils, waters, and the atmosphere; and

(ii) facilities and equipment for repackaging leaking and/or damaged containers shall be provided.

(B) the design and operation of the radioactive waste processing or storage facility shall be such that:

(i) releases of non-radiological noxious materials from the facility are minimized; and

(ii) radiation levels, concentrations, and potential exposures off-site due to airborne releases during operations are within the limits established in §289.202 of this title and are maintained as low as reasonably achievable.

(C) the design and operation of the radioactive waste processing or storage facility shall be compatible with the objectives of the site closure and decommissioning funding plan;

(D) the facility shall be designed to confine spills. Independent and diverse engineered barriers shall be provided, as necessary, to complement natural barriers in minimizing potential releases from the facility and in complying with this section;

(E) the location and construction of any new radioactive waste processing facility shall have a buffer zone adequate to permit emergency measures to be implemented following accidents and to address airborne plume dispersions and, as a minimum, shall be such that:

(i) the active components of a Class II facility are located at least 30 meters from the nearest residence as of the date of the license application; and

(ii) the active components of a Class III facility are located at least 30 meters from the nearest property not owned or occupied by the licensee.

(11) a flow diagram of radioactive waste processing operations;

(12) a description and accurate drawings of processing equipment and any required special handling techniques to be employed;

(13) a description of personnel monitoring methods, training, and procedures to be followed to keep employees from ingesting and inhaling radioactive materials, including a

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description of methods to keep the radiation exposure to levels as low as reasonably achievable;

(14) a description of the site monitoring program to include prelicense data and proposed operational monitoring programs for direct gamma radiation measurements and radioactive and chemical characteristics of the soils, groundwater, surface waters, and vegetation, as applicable;

(A) for radioactive waste storage facilities, the applicant shall address on-site air quality; and

(B) for radioactive waste processing facilities, the applicant shall address on-site and off-site air quality;

(15) spill detection and cleanup plans for the licensed site and for associated transportation of radioactive material;

(16) an operating, safety, and emergency procedures manual that shall provide detailed procedures for receiving, handling, storing, processing, and shipping radioactive waste;

(17) for radioactive waste processing facilities, a description of the equipment to be installed to maintain control over maximum concentrations of radioactive materials in gaseous and liquid effluents produced during normal operations and the means to be employed for keeping levels of radioactive material in effluents to unrestricted areas as low as reasonably achievable and within the limits listed in §289.202 of this title;

(18) methods of ultimate disposal and decommissioning;

(19) the system for maintaining inventory of receipt, storage, and transfer of radioactive waste; **and**

(20) demonstration to the agency that the applicant is financially qualified to conduct the licensed activity requested for licensure, including any required decontamination, decommissioning, reclamation, and disposal, before the department issues a license. Each licensee shall demonstrate to the agency that it remains financially qualified to conduct the licensed activity before a license is renewed. Methods for demonstrating financial qualifications are specified in §289.252(ii)(8) of this title. The requirement for demonstration of financial qualification is separate from the requirement specified in subsection (n) of this section for certain applicants or licensees to provide financial assurance in conjunction with a decommissioning funding plan; **and** **[.]**

(21) an emergency plan in accordance with subsection (o) of this section.

(h) Additional environmental requirements for Class III facilities. An application for a license for a class III processing or storage facility shall include environmental information that may be based on reconnaissance level information when appropriate and addresses the following:

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(1) description of present land uses and population distribution in the vicinity of the site:

(A) for radioactive waste storage facilities, the description shall address properties adjacent to the site; and

(B) for radioactive waste processing facilities, the description shall address properties adjacent to the site and shall include population distribution within a one-mile radius of the site;

(2) area/site suitability including geology, hydrology, and natural hazards. For radioactive waste processing facilities, area meteorology also shall be addressed;

(3) site and project alternatives including alternative siting analysis;

(4) socioeconomic effects on surrounding communities of operation of the licensed activity and of associated transportation of radioactive material; and

(5) environmental effects of postulated accidents.

(i) Issuance of license.

(1) A license for a radioactive waste processing or storage facility will be issued if the agency finds reasonable assurance that:

(A) the proposed radioactive waste facility will be sited, designed, operated, decommissioned, and closed in accordance with this section;

(B) the issuance of the license will not be inimical to the health and safety of the public or the environment; and

(C) there is no reason to deny the license as specified in subsection (f)(11) of this section.

(2) The agency may incorporate in any license at the time of issuance, or thereafter by amendment, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to this section as it deems appropriate or necessary in order to:

(A) minimize danger to occupational and public health and safety and the environment;

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(B) require reports and the keeping of records, and to provide for inspections of activities in accordance with the license as may be appropriate or necessary; and

(C) prevent loss or theft of radioactive material subject to this chapter.

(3) ~~[(2)]~~The agency may **[also]** request and the licensee shall provide additional information after the license has been issued to enable the agency to determine whether the license should be modified in accordance with subsection (s) of this section.

(j) Commencement of major construction. Commencement of major construction is prohibited until 30 days after the agency has given notice that a license is proposed to be granted **[or renewed]**, and the environmental analysis is available. If a hearing is requested, the commencement of major construction is prohibited until notice of the contested case hearing is noticed in accordance with the Act. Commencement of major construction subsequent to issuance of the notices is at the economic risk of the applicant.

(k) Commencement of operations. No licensee issued a license under this section may commence operations until the licensee has obtained licenses or permits from other agencies as required by law.

(l) Specific terms and conditions to license.

(1) Each license issued in accordance with this section shall be subject to all the provisions of the Act and applicable rules in this chapter, now or hereafter in effect, and orders of the agency.

(2) No license issued or granted under this section and no right to possess or utilize radioactive material granted by any license issued in accordance with this section 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 agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and to applicable rules in this chapter, now and hereafter in effect, and orders of the agency, and shall give its consent in writing.

(3) Each person licensed by the agency in accordance with this section shall confine **[his]** use and possession of the radioactive material to the locations and purposes authorized in the license.

(4) A license issued under this section shall include license conditions derived from the evaluations of the application and analyses performed by the agency, including amendments and changes made before a license is issued. License conditions may include, but are not limited to, items in the following categories:

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(A) restrictions as to the total radioactive inventory of radioactive waste to be received;

(B) restrictions as to size, shape, and materials and methods of construction of radioactive waste packaging and maximum number of package units stored, at any one time;

(C) restrictions as to the physical and chemical form and radioisotopic content and concentration of radioactive waste;

(D) controls to be applied to restrict access to the site;

(E) controls to be applied to maintain and protect the health and safety of the public and site employees and the environment;

(F) administrative controls, which are the provisions relating to organization, management, and operating procedures; record-keeping, review and audit; and reporting necessary to assure that activities at the facility are conducted in a safe manner and in conformity with agency rules and license conditions; and

(G) maximum retention time for radioactive waste received at the facility.

(5) Each licensee shall notify the agency, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy by the licensee or its parent company.

(6) The notification in paragraph (5) of this subsection shall include:

(A) the bankruptcy court in which the petition for bankruptcy was filed;
and

(B) the date of the filing of the petition.

(7) A copy of the petition for bankruptcy shall be submitted to the agency along with the written notification.

(m) Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(1) Except as provided in subsection (p)(2) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(2) All license provisions continue in effect beyond the expiration date, with respect to possession of radioactive material until the agency notifies the former licensee in writing

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that the provisions of the license are no longer binding. During this time, the former licensee shall:

(A) be limited to actions involving radioactive material that are related to decommissioning; and

(B) continue to control entry to restricted areas until the location(s) is suitable for release for unrestricted use in accordance with the requirements in §289.202(ddd) of this title.

(3) Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the agency in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building and/or outdoor area is suitable for release in accordance with §289.202(ddd) [§289.202(eee)] of this title, or submit within 12 months of notification a decommissioning plan, if required by paragraph (6) of this subsection, and begin decommissioning upon approval of that plan:

(A) the license has expired in accordance with this subsection or subsection (s)(3) of this section;

(B) the licensee has decided to permanently cease principal activities, as defined in §289.201(b) of this title, at the entire site or in any separate building or outdoor area;

(C) no principal activities under the license have been conducted for a period of 24 months; or

(D) 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 §289.202(ddd) [§289.202(eee)] of this title.

(4) Coincident with the notification required by paragraph (3) of this subsection, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee in accordance with subsection (n) of this section in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance shall be increased, or may be decreased, as appropriate, with agency approval, to cover the detailed cost estimate for decommissioning established in accordance with paragraph (9)(E) of this subsection.

(A) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so by March 1, 1998.

(B) 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 agency.

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(5) The agency may grant a request to delay or postpone initiation of the decommissioning process if the agency determines that such relief is not detrimental to the occupational and public health and safety and is otherwise in the public interest. The request shall be submitted no later than 30 days before notification in accordance with paragraph (3) of this subsection. The schedule for decommissioning set forth in paragraph (3) of this subsection may not commence until the agency has made a determination on the request.

(6) A decommissioning plan shall 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 agency and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) procedures could result in significantly greater airborne concentrations of radioactive materials than are present during routine operation; or

(D) procedures could result in significantly greater releases of radioactive material to the environment than those associated with routine operation.

(7) The agency may approve an alternate schedule for submittal of a decommissioning plan required in accordance with paragraph (3) of this subsection if the agency determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the occupational and public health and safety and is otherwise in the public interest.

(8) The procedures listed in paragraph (6) of this subsection may not be carried out prior to approval of the decommissioning plan.

(9) The proposed decommissioning plan for the site or separate building or outdoor area shall include the following:

(A) a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) a description of planned decommissioning activities;

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(C) a description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(D) a description of the planned final radiation survey;

(E) 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; and

(F) for decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, a justification for the delay based on the criteria in paragraph (13) of this subsection.

(10) The proposed decommissioning plan will be approved by the agency if the information in the plan 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.

(11) Except as provided in paragraph (13) of this subsection, licensees shall complete decommissioning of the site or separate building or outdoor areas as soon as practicable but no later than 24 months following the initiation of decommissioning.

(12) Except as provided in paragraph (13) of this subsection, 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.

(13) The agency may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the agency determines that the alternative is warranted by consideration of the following:

(A) whether it is technically feasible to complete decommissioning within the allotted 24 month period;

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

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

(D) whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(E) other site-specific factors that the agency may consider appropriate on

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a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(14) As the final step in decommissioning, the licensee shall do the following:

(A) certify the disposition of all licensed material, including accumulated wastes; and

(B) 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 that the premises are suitable for release in accordance with the radiological requirements for license termination specified in §289.202(ddd) of this title. The licensee shall do the following, as appropriate:

(i) report the following levels:

(I) gamma radiation in units of microrentgen per hour (μ R/hr) (millisieverts per hour (mSv/hr)) at 1 meter (m) from surfaces;

(II) radioactivity, including alpha and beta, in units of disintegrations per minute (dpm) or microcuries (μ Ci) (megabecquerels (MBq)) per 100 square centimeters (cm^2) for surfaces;

(III) μ Ci (MBq) per milliliter for water; and

(IV) picocuries (pCi) (becquerels (Bq)) per gram (g) for solids such as soils or concrete; and

(ii) specify the manufacturer's name and model and serial number of survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(15) The agency will provide written notification to specific licenses, including former licenses with provisions continued in effect beyond the expiration date in accordance with paragraph (2) of this subsection, that the provisions of the license are no longer binding. The agency will provide such notification when the agency determines that:

(A) radioactive material has been properly disposed;

(B) reasonable effort has been made to eliminate residual radioactive contamination, if present;

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(C) a radiation survey has been performed that demonstrates that the premises are suitable for release in accordance with the radiological requirements for license termination specified in §289.202(ddd) of this title or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the radiological requirements for license termination specified in §289.202(ddd) of this title; and

(D) any outstanding fees in accordance with §289.204 of this title are paid and any outstanding notices of violations of this chapter or of license conditions are resolved.

(16) Each licensee shall submit to the agency all records required by §289.202(nn)(2) of this title before the license is terminated.

(n) Financial assurance and record keeping for decommissioning.

(1) The applicant for a specific license, or renewal of a specific license, or holder of a specific license authorizing the receipt, possession, transport, storage, and processing of radioactive waste from other persons shall submit and receive written authorization for a decommissioning funding plan as described in paragraph (4) of this subsection in an amount sufficient to allow the agency to engage a third party to decommission the site(s) specified on the license for the following situations:

(A) when unsealed radioactive material requested or authorized on the license, with a half-life greater than 120 days, is in quantities exceeding 10^5 times the applicable quantities set forth in §289.252(ii)(2) of this chapter; or

(B) when a combination of the unsealed radionuclides requested or authorized on the license, with a half-life greater than 120 days, results in the R of the radionuclides divided by 10^5 being greater than 1 (unity rule), where R is defined as the sum of the ratios of the quantity of each radionuclide to the applicable value in §289.252(ii)(2) of this chapter.

[(1) The applicant for or holder of each specific license authorizing the receipt, possession, transport, storage, and processing of radioactive waste from other persons with a half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in §289.252(ii)(2) of this title shall submit a decommissioning funding plan as described in paragraph (4) of this subsection in an amount sufficient to allow the agency to engage a third party to decommission the site(s) specified on the license. The decommissioning funding plan shall 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 as the sum of the ratios of the quantity of each isotope to the applicable value in §289.252(ii)(2) of this title.]

(2) The applicant for a specific license or renewal of a specific license or holder of a [each] specific license authorizing receipt, possession, transport, storage, and processing of radioactive waste from other persons [with a half-life greater than 120 days and in quantities] as

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specified in paragraph (3) of this subsection shall:

(A) submit a decommissioning funding plan as described in paragraph (4) of this subsection in an amount sufficient to allow the agency to engage a third party to decommission the site(s) specified on the license; or

(B) submit financial assurance for decommissioning in the amount in accordance with paragraph (3) of this subsection using one of the methods described in paragraph ~~(6)~~ **[(5)]** of this subsection in an amount sufficient to allow the agency to engage a third party to decommission the site(s) specified on the license. **[Upon renewal, the holder of a specific license shall certify that the current financial assurance is adequate to meet the requirements of this subparagraph or submit financial assurance that meets the requirements of this subparagraph. For an applicant, the financial assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of radioactive waste. 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 (5) of this subsection shall be submitted to the agency before receipt of radioactive waste. If the applicant does not defer execution of the financial instrument, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (5) of this subsection is to be submitted to the agency.]**

(3) Required amounts of financial assurance. The required amount of financial assurance for decommissioning is determined by quantity of material authorized on the license and is determined as follows:

(A) \$850,000 for quantities of material greater than 10^4 but less than or equal to 10^5 times the applicable quantities in §289.252(ii)(2) of this title in unsealed form. (For a combination of radionuclides, if R, as defined in paragraph (1) of this subsection, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.);

(B) \$170,000 for quantities of material greater than 10^3 but less than or equal to 10^4 times the applicable quantities in §289.252(ii)(2) of this title in unsealed form. (For a combination of radionuclides, if R, as defined in paragraph (1) of this subsection, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.); or

(C) \$85,000 for quantities of material greater than 10^{10} times the applicable quantities in §289.252(ii)(2) of this title in sealed sources or plated foils. (For a combination of radionuclides, if R, as defined in paragraph (1) of this subsection, divided by 10^{10} is greater than 1 **[one].**)

(4) Each decommissioning funding plan shall contain a cost estimate for decommissioning in an amount sufficient to allow the agency to engage a third party to decommission the site(s) specified on the license and a description of the method of assuring funds

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for decommissioning from paragraph ~~(6)~~~~(5)~~ of this subsection, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. The required amount of financial assurance for decommissioning is determined by the quantity of material authorized by the license. **[The applicant for or holder of the specific license shall submit with the decommissioning funding plan a signed original of the financial instrument obtained to satisfy the requirements of paragraph (5) of this subsection.]** Upon approval of the decommissioning funding plan by the agency, the amount of financial assurance shall be adjusted and submitted [posted] in conformance with the agency approval.

(5) Financial assurance in conjunction with a decommissioning funding plan shall be submitted as follows:

(A) for an applicant for a specific license, financial assurance as described in paragraph (6) of this subsection, may be obtained after the application has been approved and the license issued by the agency, but shall be submitted to the agency prior to receipt of licensed material; or

(B) for an applicant for renewal of a specific license, or a holder of a specific license, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (6) of this subsection shall be submitted with the decommissioning funding plan.

(6) [(5)] Financial assurance for decommissioning shall be provided by one or more of the following methods, [and shall be reviewed and approved by the agency.] The financial instrument obtained shall be continuous for the term of the license [.] in a form prescribed by the agency. The applicant or licensee shall obtain written approval of the financial instrument or any amendment to it from the agency.

(A) Prepayment. Prepayment is the deposit [prior to issuance of the license] 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.

(B) 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 §289.252(ii)(3) of this title. 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 §289.252(ii)(4) of this title. 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

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contained in §289.252(ii)(5) of this title. 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 §289.252(ii)(6) of this title. A guarantee by the applicant or licensee may not be used in combination with any other financial methods 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 shall contain the following conditions.

(i) The surety method or insurance shall be open-ended or, if written for a specified term, such as five years, shall be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the agency, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall 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 agency within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance shall be payable in the state of Texas to the Radiation and Perpetual Care Fund.

(iii) The surety method or insurance shall remain in effect until the agency has terminated the license.

(C) External sinking fund. 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, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions shall be in accordance with subparagraph (B) of this paragraph.

(D) Statement of intent. In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount in accordance with paragraph (3) of this subsection, and indicating that funds for decommissioning will be obtained when necessary.

(E) When a governmental entity is assuming custody and ownership of a site, there shall be an arrangement that is deemed acceptable by such governmental entity.

~~(7)~~**(6)** Each person licensed under this section shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the

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license is terminated by the agency. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning consists of the following:

(A) 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 shall include any known information on identification of involved nuclides, quantities, forms, and concentrations;

(B) as-built drawings and modifications of structures and equipment in restricted areas where radioactive waste is processed and/or stored, and of locations of possible inaccessible contamination such as buried pipes that 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;

(C) 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 two years, of the following:

(i) all areas designated and formerly designated as restricted areas as defined in §289.201(b) of this title;

(ii) all areas outside of restricted areas that require documentation under subparagraph (A) of this paragraph; and

(iii) all areas outside of restricted areas where current and previous wastes have been buried as documented under §289.202(tt) of this title; and

(D) 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.]**

(8)[(7)] Any licensee who has submitted an application before January 1, 1995, for renewal of license in accordance with this section shall provide financial assurance for decommissioning in accordance with paragraphs (1) and (2) of this subsection. **[This assurance shall be submitted when this section becomes effective March 1, 1998.]**

(o) Emergency plan for responding to a release.

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(1) A new or renewal application for each specific license authorizing the receipt, possession, transport, storage, and processing of radioactive waste from other persons in excess of the quantities in §289.252(ii)(7) of this title shall contain either:

(A) 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

(B) an emergency plan for responding to a release of radioactive waste.

(2) One or more of the following factors may be used to support an evaluation submitted in accordance with paragraph (1)(A) of this subsection:

(A) the radioactive waste is physically separated so that only a portion could be involved in an accident;

(B) all or part of the radioactive waste is not subject to release during an accident because of the way it is stored or packaged;

(C) the release fraction in the respirable size range would be lower than the release fraction shown in §289.252(ii)(7) of this title due to the chemical or physical form of the waste;

(D) the solubility of the radioactive waste would reduce the dose received;

(E) facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in §289.252(ii)(7) of this title;

(F) operating restrictions or procedures would prevent a release fraction as large as that shown in §289.252(ii)(7) of this title; or

(G) other factors appropriate for the specific facility.

(3) An emergency plan for responding to a release of radioactive waste submitted in accordance with paragraph (1)(B) of this subsection shall include the following information:

(A) a brief description of the licensee's facility and area near the site;

(B) an identification of each type of radioactive waste accident for which protective actions may be needed;

(C) a classification system for classifying accidents as alerts or site area emergencies;

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(D) identification of the means of detecting each type of accident in a timely manner;

(E) 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;

(F) a brief description of the methods and equipment to assess releases of radioactive waste;

(G) 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 agency; also, responsibilities for developing, maintaining, and updating the plan;

(H) a commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point shall 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 agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency. These reporting requirements do not supersede or release licensees from [of] complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Publication L. 99-499 or other state or federal reporting requirements;

(I) 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 agency;

(J) 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;

(K) a brief description of the means of restoring the facility to a safe condition after an accident;

(L) provisions for conducting quarterly communications checks with

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offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations shall include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises, although recommended, is not required. Exercises shall 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 shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected; and

(M) a certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Publication L. 99-499, if applicable to the applicant's activities at the proposed place of processing and/or storage of radioactive waste.

(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 the agency. The licensee shall provide any comments received within the 60 days to the agency with the emergency plan.

(p) Renewal of license.

(1) Application for renewal of specific licenses shall be filed in accordance with subsection (f) of this section. In any application for renewal, the applicant may incorporate drawings by clear and specific reference (for example, title, date and unique number of drawing), if no modifications have been made since previously submitted.

(2) In any case in which a licensee, not less than 30 days prior to expiration of the existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until the agency has made a final determination on the application.

(3) The licensee is responsible for decommissioning the facility and continued safe storage of any radioactive waste whether an application for continued receipt of wastes is filed or not.

(q) Amendment of license at request of licensee. Applications for amendment of a license shall be filed in accordance with subsection (f) of this section, except that the requirements of subsection (f)(5) of this section may be waived at the discretion of the agency. Such applications shall also specify how the licensee desires his license to be amended and the basis for such amendment.

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(r) Agency action on application to renew or amend. In considering a request by a licensee to renew or amend a license, the agency will apply the criteria in subsection (i) of this section.

(s) Modification and revocation of licenses.

(1) The terms and conditions of all licenses shall be subject to amendment, revision, or modification. A license may be suspended or revoked by reason of amendments to the Act, by reason of rules in this chapter, or orders issued by the agency.

(2) Any license may be revoked, suspended, or modified, in whole or in part, for any of the following:

(A) any material false statement in the application or any statement of fact required under provisions of the Act;

(B) conditions revealed by such application or statement of fact or any report, record, or inspection, or other means that would warrant the agency to refuse to grant a license on an original application; or

(C) violation of, or failure to observe any of the terms and conditions of the Act, this chapter, the license, or order of the agency.

(3) Each specific license revoked by the agency ends at the end of the day on the date of the agency's final determination to revoke the license, or on the revocation date stated in the determination, or as otherwise provided by the agency order.

(4) Except in cases in which occupational and public health and safety or the environment require otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefore, facts or conduct that may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been afforded an opportunity to demonstrate compliance with all lawful requirements.

(t) Waste processing and packaging requirements. All processed radioactive waste offered for transport or disposal shall meet:

(1) all applicable transportation requirements of the agency, the United States Nuclear Regulatory Commission, and of the DOT; and

(2) all applicable disposal facility license conditions.

(u) Environmental assessment. A written analysis of the impact on the human environment will be prepared or secured by the agency for any license for a class III processing or

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storage facility and shall be available to the public for written comment at least 30 days prior to the beginning of a hearing, if any, on the issuance or renewal of the license.

(v) Waste processing and storage categories of radionuclides.

(1) The following table contains waste processing and storage categories of radionuclides.

Figure: 25 TAC §289.254(v)(1)

(2) Any radionuclide not specifically listed in paragraph (1) of this section shall be assigned to one of the categories in accordance with the following table.

Figure: 25 TAC §289.254(v)(2)

(3) For mixtures of radionuclides, the following shall apply.

(A) If the identity and respective activity of each radionuclide are known, the permissible activity of each radionuclide shall be such that the sum, for all categories present, of the ratio between the total activity for each category to the permissible activity for each category will not be greater than unity.

(B) If the categories of the radionuclides are known but the amount in each category cannot be reasonably determined, the mixture shall be assigned to the most restrictive category present.

(C) If the identity of all or some of the radionuclides cannot be reasonably determined, each of those unidentified radionuclides shall be considered as belonging to the most restrictive category that cannot be positively excluded.

(D) Mixtures consisting of a single radioactive decay chain where the radionuclides are in the naturally occurring proportions shall be considered as consisting of a single radionuclide. The category and activity shall be that of the first member present in the chain, except that if radionuclide "X" has a half-life longer than that of that first member and an activity greater than that of any other member, including the first, at any time during processing, the waste processing and storage category shall be that of nuclide "X" and the activity of the mixture shall be the maximum activity of nuclide "X" during processing.