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for a certificate of compliance, the existing certificate of compliance or approved compliance plan does not expire until the application for a certificate of compliance has been finally determined by the NRC. For purposes of this rule, a sufficient application is one that addresses all elements of § 76.36.

[62 FR 6670, Feb. 12, 1997]

§ 76.60 Regulatory requirements which apply.

The Nuclear Regulatory Commission will use the following requirements for certification of the Corporation for operation of the gaseous diffusion plants:

(a) The Corporation shall provide for adequate protection of the public health and safety and common defense and security.

(b) The Corporation shall comply with the provisions of this part.

(c) The Corporation shall comply with the applicable provisions of 10 CFR part 19, "Notices, Instructions and Reports To Workers: Inspection and Investigations," with the following modifications:

(1) [Reserved]

(2) The Corporation shall post NRC Form 3 during the term of the certificate and for 30 days following certificate termination.

(d) The Corporation shall comply with the applicable provisions of 10 CFR part 20, "Standards For Protection Against Radiation," with the following modifications:

(1) [Reserved]

(2) The Corporation shall comply with the requirements in this part or as specified in an approved plan for achieving compliance.

(e) The Corporation shall comply with the applicable provisions of 10 CFR part 21, "Reporting of Defects and Noncompliance," with the following modifications:

(1) The Corporation shall comply with the requirements in §§ 21.6 and 21.21.

(2) Under § 21.31, procurement documents issued by the Corporation must specify that the provisions of 10 CFR Part 21 apply.

(f) The Corporation shall comply with the applicable provisions of 10 CFR part 26, "Fitness-for-Duty Programs." The requirements of this sec-

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tion apply only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in § 26.2(a) (1) through (5).

(g) The Corporation shall comply with the applicable provisions of 10 CFR part 71, "Packaging and Transportation of Radioactive Material."

(h) The Corporation shall comply with the applicable provisions for physical security and material control and accounting as specified in subpart E to this part and contained in 10 CFR part 70, "Domestic Licensing of Special Nuclear Material," part 73, "Physical Protection of Plants and Materials," and part 74, "Material Control and Accounting of Special Nuclear Material." The requirements in these parts address safeguards for three different kinds of nuclear material: Special nuclear material of low strategic significance (Category III), special nuclear material of moderate strategic significance (Category II), and formula quantities of strategic special nuclear material (Category I). The requirements for Category III material apply to the production of low enriched uranium. The requirements for Category II and Category I material apply only if the Corporation elects to engage in activities that involve these kinds of material and then only to the situations and locations that involve these kinds of material.

(i) The Corporation shall comply with the applicable provisions of 10 CFR part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data," as specified in subpart E to this part.

[59 FR 48960, Sept. 23, 1994, as amended at 62 FR 6670, Feb. 12, 1997; 64 FR 44650, Aug. 17, 1999]

§ 76.62 Issuance of certificate and/or approval of compliance plan.

(a) Upon a finding of compliance with the Commission's regulations for issuance of a certificate and/or approval of a compliance plan, the Director shall issue a written decision explaining the decision. The Director

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may issue a certificate of compliance covering those areas where the Corporation is in compliance with applicable Commission requirements and approve a compliance plan for the remaining areas, if any, of noncompliance. The Director may impose any appropriate terms and conditions.

(b) The Director shall publish notice of the decision in the FEDERAL REGISTER.

(c) The Corporation, or any person whose interest may be affected, may file a petition, not to exceed 30 pages, requesting review of the Director's decision. This petition must be filed with the Commission not later than 30 days after publication of the FEDERAL REGISTER notice. Any person described in this paragraph may file a response to any petition for review, not to exceed 30 pages, within 15 days after the filing of the petition. If the Commission does not issue a decision or take other appropriate action within 90 days after the publication of the FEDERAL REGISTER notice, the Director's decision remains in effect. The Commission may adopt, by order, further procedures that, in its judgment, would serve the purpose of review of the Director's decision.

(d) The Commission may adopt, modify, or set aside the findings, conclusions, conditions, or terms in the Director's decision and will state the basis of its action in writing.

[59 FR 48960, Sept. 23, 1994, as amended at 64 FR 44650, Aug. 17, 1999]

§ 76.64 Denial of certificate or compliance plan.

(a) The Director may deny an application for a certificate of compliance or not approve a compliance plan upon a written finding that the application is in noncompliance with one or more of the Commission's requirements for the plant, or that the compliance plan is inadequate to protect the public health and safety or the common defense and security.

(b) The Director shall publish notice of the decision in the FEDERAL REGISTER.

(c) Before a denial of an application for a certificate of compliance, the Director shall advise the Corporation and the Department in writing of any areas

of noncompliance with the Commission's regulations and offer the Department or the Corporation an opportunity to submit a proposed compliance plan prepared by the Department regarding the identified areas of noncompliance. The Director shall take this action even if the Department or the Corporation has previously submitted a proposed compliance plan addressing in whole or in part the identified areas of noncompliance.

(d) The Corporation, or any person whose interest may be affected, may file a petition for review, not to exceed 30 pages, requesting review of the Director's decision. This petition for review must be filed with the Commission not later than 30 days after publication of the FEDERAL REGISTER notice. Any person described in this paragraph may file a response to any petition for review, not to exceed 30 pages, within 15 days after the filing of the petition for review. If the Commission does not issue a decision or take other appropriate action within 90 days after the publication of the FEDERAL REGISTER notice, the Director's decision remains in effect. The Commission may adopt, by order, further procedures that, in its judgment, would serve the purpose of review of the Director's decision.

(e) The Commission may adopt, modify, or set aside the findings, conclusions, conditions, or terms in the Director's decision and will state the basis of its action in writing.

[59 FR 48960, Sept. 23, 1994, as amended at 64 FR 44650, Aug. 17, 1999]

§ 76.65 Inalienability of certificates.

The certificate granted under the regulations in this part may not be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any certificate to any person unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the Act, and consents in writing.

§ 76.66 Expiration and termination of certificates.

(a) Except as provided in § 76.55, each certificate or approval issued pursuant