



[7590-01-P]

NUCLEAR REGULATORY COMMISSION
10 CFR Parts 1, 2, 34, 37, 50, 71, 73, and 140
[NRC-2018-0086]
RIN 3150-AK13
Miscellaneous Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous administrative updates and corrections. The amendments update descriptions of agency organization and functions, correct cross-reference, typographical, and grammatical errors, and add a certification recipient and clarifying language. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Please refer to Docket ID NRC-2018-0086 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0086. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. There are no NRC documents referenced in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jill Shepherd-Vladimir, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1230, e-mail: Jill.Shepherd-Vladimir@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is amending its regulations in parts 1, 2, 34, 37, 50, 71, 73, and 140 of title 10 of the *Code of Federal Regulations* (10 CFR) to make miscellaneous updates and corrections. The amendments update branch, division, and office titles; update agency organization and functions; correct cross-reference, typographical, and grammatical errors; and add a certification recipient and clarifying language. This document is necessary to ensure orderly codification of the NRC's requirements and to inform the public of these non-substantive amendments to the NRC's regulations.

II. Summary of Changes

10 CFR Part 1

Update Organization and Functions. In § 1.34(d), this final rule removes the rulemaking function from the Office of Administration (ADM).

Update Organization and Functions. In §1.42(a) and (b), this final rule adds the responsibility for leading, managing, and facilitating rulemaking for the agency to the Office of Nuclear Material Safety and Safeguards (NMSS).

10 CFR Part 2

Correct Reference. In § 2.101(a)(2), this final rule removes the incorrect reference to § 2.101(g) and replaces it with the correct reference to § 2.101(f) in the last sentence.

Update Branch and Office Designation. In § 2.802(b), this final rule updates the branch and office designation from the Office of Administration to the Office of Nuclear Material Safety and Safeguards.

10 CFR Part 34

Correct Reference. In § 34.101(c), this final rule removes the incorrect reference to § 30.6(a)(2) for locations of regional offices and replaces it with the correct reference to § 30.6(b)(2).

10 CFR Part 37

Include Certification Recipient. In § 37.23(b)(2), after the second sentence, this final rule adds the sentence “Provide oath or affirmation certifications to the ATTN: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards.”

Insert Clarifying Language. In § 37.43 paragraphs (d)(2) and (3), and paragraphs (d)(5) through (8), this final rule adds the phrase “the list of individuals that have been approved for unescorted access” from paragraph (d)(1) to provide the full list of information required to be protected.

Correct Reference. In § 37.45(b), this final rule removes the incorrect reference to § 30.6(a)(2) and replaces it with the correct reference to § 30.6(b)(2).

10 CFR Parts 37, 71, and 73

Update Division Title. In §§ 37.77(a)(1), 71.97(c)(3)(iii), and 73.37(b)(2) this final rule updates the Office of Nuclear Material Safety and Safeguards’ division title from “Division of Material Safety, State, Tribal, and Rulemaking Programs” to “Division of Materials Safety, Security, State, and Tribal Programs.”

10 CFR Part 50

Correct Typographical Error. In § 50.75(e)(1)(v), this final rule removes the word "entity(ies)" and replaces it with the words "entity or entities.”

10 CFR Part 73

Correct Spelling. In § 73.70(g), this final rule corrects the spelling of “vertification” to “verification.”

10 CFR Part 140

Correct Grammatical Error. In § 140.2(b)(2), this final rule adds the indefinite article “a” before the last word in the paragraph.

Correct Reference. In § 140.3, this final rule presents the definitions in alphabetical order, and removes the paragraph designations.

Clarifying Language. In § 140.13a(a), this final rule adds the word “specified” before “in §140.15” in the last sentence.

Correct Typographical Error. In § 140.22, this final rule corrects the title from “Committee” to “Commission” in the last sentence.

III. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the *Federal Register* of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to agency management, organization, procedure, and practice. Specifically, the revisions update branch, division, and office titles; update descriptions of agency organization and functions; correct cross-reference, typographical, and grammatical errors; and add a

certification recipient and clarifying language. The Commission is exercising its authority under 5 U.S.C. 553(b)(3)(B) to publish these amendments as a final rule. The amendments are effective **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. These amendments do not require action by any person or entity regulated by the NRC, and do not change the substantive responsibilities of any person or entity regulated by the NRC.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

V. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883).

VII. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule do not constitute backfitting and are not inconsistent with any of the issue finality provisions in 10 CFR part 52. The amendments are non-substantive in nature; they update branch, division, and office titles; update descriptions of agency organization and functions; correct cross-reference, typographical, and grammatical errors; and add a certification recipient and clarifying language. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of the rule in final form would not constitute backfitting or represent a violation of any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this administrative rulemaking addressing backfitting or issue finality.

VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801-808).

List of Subjects

10 CFR Part 1

Flags, Organization and functions (Government Agencies), Seals and insignia.

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information; Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 34

Criminal penalties, Incorporation by reference, Manpower training programs, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures, X-rays.

10 CFR Part 37

Byproduct material, Criminal penalties, Exports, Hazardous materials transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Classified information, Criminal penalties, Education, Fire prevention, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Incorporation by reference, Intergovernmental relations, Nuclear materials, Packaging and containers, Penalties, Radioactive materials, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Incorporation by reference, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 1, 2, 34, 37, 50, 71, 73, and 140:

PART 1 – STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for part 1 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 23, 25, 29, 161, 191 (42 U.S.C. 2033, 2035, 2039, 2201, 2241); Energy Reorganization Act of 1974, secs. 201, 203, 204, 205, 209 (42 U.S.C. 5841, 5843, 5844, 5845, 5849); Administrative Procedure Act (5 U.S.C. 552, 553); Reorganization Plan No. 1 of 1980, 5 U.S.C. Appendix (Reorganization Plans).

2. In § 1.34, revise paragraph (d) to read as follows:

§ 1.34 Office of Administration.

* * * * *

(d) Manages the NRC Management Directives Program and provides translation services.

3. In § 1.42, revise paragraph (a), redesignate paragraphs (b)(26) through (31) as paragraphs (b)(27) through (32), and add new paragraph (b)(26) to read as follows:

§ 1.42 Office of Nuclear Material Safety and Safeguards.

(a) The Office of Nuclear Material Safety and Safeguards (NMSS) is responsible for regulating activities that provide for the safe and secure production of nuclear fuel used in commercial nuclear reactors; the safe storage, transportation, and disposal of low-level and high-level radioactive waste and spent nuclear fuel; the transportation of radioactive materials regulated under the Atomic Energy Act of 1954, as amended (the Act); and all other medical, industrial, academic, and commercial uses of radioactive isotopes. The NMSS ensures safety and security by implementing a regulatory program involving activities including licensing, inspection, assessment of environmental impacts

for all nuclear material facilities and activities, assessment of licensee performance, events analysis, enforcement, and identification and resolution of generic issues. The NMSS leads, manages, and facilitates rulemaking activities for new, advanced, and operating power reactors, as well as non-power utilization facilities; nuclear materials, including production of nuclear fuel used in commercial nuclear reactors, as well as storage, transportation, and disposal of high-level radioactive waste and spent nuclear fuel, and the transportation of radioactive materials regulated by the NRC.

(b) * * *

(26) Leads, manages, and facilitates the following rulemaking activities:

(i) Develops and implements policies and procedures for the review and publication of NRC rulemakings, and ensures compliance with the Regulatory Flexibility Act and the Congressional Review Act;

(ii) Supports all technical, financial, legal, and administrative rules, including the development of regulatory analyses and the orderly codification of the NRC's regulations in chapter I of this title; and

(iii) Manages all aspects of the 10 CFR 2.802 Petition for Rulemaking process.

* * * * *

PART 2 – AGENCY RULES OF PRACTICE AND PROCEDURE

4. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under 28 U.S.C. 2461 note.

§ 2.101 [Amended]

5. In § 2.101(a)(2), in the last sentence remove the reference “paragraph (g)” and add in its place the reference “paragraph (f)”.

6. In § 2.802, revise paragraph (b) introductory text to read as follows:

§ 2.802 Petition for rulemaking-requirements for filing.

* * * * *

(b) *Consultation with the NRC.* A petitioner may consult with the NRC staff before and after filing a petition for rulemaking by contacting the Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 1-800-368-5642.

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**PART 34 – LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY
REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS**

7. The authority citation for part 34 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 81, 161, 181, 182, 183, 223, 234, 274 (42 U.S.C. 2111, 2201, 2231, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); 44 U.S.C. 3504 note.

§ 34.101 [Amended]

8. In § 34.101(c), remove the reference “§ 30.6(a)(2)” and add in its place the reference “§ 30.6(b)(2)”.

**PART 37 – PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL**

9. The authority citation for part 37 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

10. In § 37.23, revise paragraph (b)(2) to read as follows:

§ 37.23 Access authorization program requirements.

* * * * *

(b) * * *

(2) Each licensee shall name one or more individuals to be reviewing officials.

After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. Provide oath or affirmation certifications to the ATTN: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards. The fingerprints of the named reviewing official must be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with § 37.25(c).

* * * * *

11. In § 37.43, revise paragraphs (d)(2), (d)(3) introductory text, (d)(3)(i), (d)(5) through (7), and (d)(8)(ii) to read as follows:

§ 37.43 General security program requirements.

* * * * *

(d) * * *

(2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

(3) Before granting an individual access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access, licensees shall:

(i) Evaluate an individual's need to know the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access; and

* * * * *

(5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access.

(6) Licensees shall maintain a list of persons currently approved for access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access. When a licensee determines that a person no longer needs access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan,

implementing procedures, or the list of individuals that have been approved for unescorted access.

(7) When not in use, the licensee shall store its security plan, implementing procedures, and the list of individuals that have been approved for unescorted access in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.

(8) * * *

(ii) The list of individuals approved for access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access.

§ 37.45 [Amended]

12. In § 37.45(b) introductory text, remove the reference “§ 30.6(a)(2)” and add in its place the reference “§ 30.6(b)(2)”.

§ 37.77 [Amended]

13. In § 37.77(a)(1), remove the title “Division of Material Safety, State, Tribal, and Rulemaking Programs” and add in its place the title “Division of Materials Safety, Security, State, and Tribal Programs”.

PART 50 – DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

14. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201,

202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96-295, 94 Stat. 783.

§ 50.75 [Amended]

15. In § 50.75(e)(1)(v), in the last sentence, remove the word “entity(ies)” and add in its place the words “entity or entities”.

PART 71 – PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

16. The authority citation for part 71 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 81, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 180 (42 U.S.C. 10175); 44 U.S.C. 3504 note.

§ 71.97 [Amended]

17. In § 71.97(c)(3)(iii), remove the title “Division of Material Safety, State, Tribal, and Rulemaking Programs” and add in its place the title “Division of Materials Safety, Security, State, and Tribal Programs”.

PART 73 – PHYSICAL PROTECTION OF PLANTS AND MATERIALS

18. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under Sec. 301, Public Law 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 73.37 [Amended]

19. In § 73.37(b)(2), remove the title “Division of Material Safety, State, Tribal, and Rulemaking Programs” and add in its place the title “Division of Materials Safety, Security, State, and Tribal Programs”.

§ 73.70 [Amended]

20. In § 73.70(g), in the first sentence, remove the word “verification” and add in its place the word “verification”.

PART 140 – FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY

AGREEMENTS

21. The authority citation for part 140 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§ 140.2 [Amended]

22. In § 140.2(b)(2), in the last sentence, add the article “a” before the last word “license”.

23. Revise § 140.3 to read as follows:

§ 140.3 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

Commission means the Nuclear Regulatory Commission or its duly authorized representatives.

Department means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 et seq.), to the extent that the Department, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Pub. L. 93-438, 88 Stat. 1233 at 1237, 42 U.S.C. 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565 at 577-578, 42 U.S.C. 7151).

Federal agency means a Government agency such that any liability in tort based on the activities of such agency would be satisfied by funds appropriated by the Congress and paid out of the United States Treasury.

Financial protection means the ability to respond in damages for public liability and to meet the cost of investigating and defending claims and settling suits for such damages.

Government agency means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

Nuclear reactor means any apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

Person means:

(1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the Department, except that the Department shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

(2) Any legal successor, representative, agent, or agency of the foregoing.

Plutonium processing and fuel fabrication plant means a plant in which the following operations or activities are conducted:

(1) Operations for manufacture of reactor fuel containing plutonium, where the license or licenses authorize the possession of either five or more kilograms of plutonium, excluding that contained in sealed sources and welded or otherwise sealed unirradiated or irradiated fuel rods, at the site of the plant or authorize the processing of one or more kilograms of plutonium, excluding that contained in sealed sources and welded or otherwise sealed unirradiated or irradiated fuel rods, at the plant, including any of the following processes:

(i) Preparation of fuel material;

- (ii) Formation of fuel material into desired shapes;
- (iii) Application of protective cladding;
- (iv) Recovery of scrap material; and
- (v) Storage associated with such operations; or

(2) Research and development activities involving any of the operations described in paragraph (1) of this definition, except for research and development activities where the operator is licensed to possess or use plutonium in amounts less than those specified in paragraph (1).

Source material means source material as defined in the regulations contained in part 40 of this chapter.

Special nuclear material means:

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material; or

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

Testing reactor means a nuclear reactor which is of a type described in § 50.21(c) of this chapter and for which an application has been filed for a license authorizing operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

§ 140.13a [Amended]

24. In § 140.13a(a), in the last sentence, add the word “specified” before “in §140.15”.

§ 140.22 [Amended]

25. In § 140.22, remove the word “Committee” and add in its place the word “Commission”.

Dated at Rockville, Maryland, this 22nd day of June, 2018.

For the Nuclear Regulatory Commission.

Pamela J. Shepherd-Vladimir,
Acting Chief, Regulatory Analysis and Rulemaking
Support Branch,
Office of Nuclear Material Safety and Safeguards.

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