

## Nuclear Regulatory Commission

## § 150.15

in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all kinds of special nuclear materials in combination shall not exceed unity. For example, the following quantities in combination would not exceed the limitation and are within the formula, as follows:

(175 (grams contained U-235/350)+(50 grams U-233/200)+(50 grams Pu/200)=1

(b) To determine whether the exemption granted in §150.10 applies to the receipt, possession or use of special nuclear material at any particular plant or other authorized location of use, a person shall include in the quantity computed according to paragraph (a) of this section the total quantity of special nuclear material which he is authorized to receive, possess or use at the plant or other location of use at any one time.

[27 FR 1352, Feb. 14, 1962, as amended at 30 FR 12069, Sept. 22, 1965]

### CONTINUED COMMISSION REGULATORY AUTHORITY IN AGREEMENT STATES

#### § 150.14 Commission regulatory authority for physical protection.

Persons in Agreement States possessing, using or transporting special nuclear material of low strategic significance in quantities greater than 15 grams of plutonium or uranium-233 or uranium-235 (enriched to 20 percent or more in the U-235 isotope) or any combination greater than 15 grams when computed by the equation  
$$\frac{\text{grams plutonium} + \text{grams uranium-233}}{\text{grams uranium-235} + \text{grams plutonium} + \text{grams uranium-233}}$$
shall meet the physical protection requirements of § 73.67 of 10 CFR part 73.

[44 FR 43285, July 24, 1979, as amended at 44 FR 68199, Nov. 28, 1979]

#### § 150.15 Persons not exempt.

(a) Persons in agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the following activities:

(1) The construction and operation of any production or utilization facility.

As used in this subparagraph, *operation* of a facility includes, but is not limited to (i) the storage and handling of radioactive wastes at the facility site by the person licensed to operate the facility, and (ii) the discharge of radioactive effluents from the facility site.

(2) The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility.

(3) The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials, as defined in regulations or orders of the Commission. For purposes of this part, ocean or sea means any part of the territorial waters of the United States and any part of the international waters.

(4) The transfer, storage or disposal of radioactive waste material resulting from the separation in a production facility of special nuclear material from irradiated nuclear reactor fuel. This subparagraph does not apply to the transfer, storage or disposal of contaminated equipment.

(5) The disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

(6) The transfer of possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from licensing and regulatory requirements of the Commission under Parts 30 and 40 of this chapter.

(7) The storage of:

(i) Spent fuel in an independent spent fuel storage installation (ISFSI) licensed under part 72 of this chapter,

(ii) Spent fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS) licensed under part 72 of this chapter, or

(iii) Greater than Class C waste, as defined in part 72 of this chapter, in an ISFSI or an MRS licensed under part 72 of this chapter; the GTCC waste must originate in, or be used by, a facility licensed under part 50 of this chapter.

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(8) Greater than Class C waste, as defined in part 72 of this chapter, that originates in, or is used by, a facility licensed under part 50 of this chapter and is licensed under part 30 and/or part 70 of this chapter.

(9) The requirements for the protection of Safeguards Information in § 73.21 and the requirements in § 73.22 or § 73.23 of this chapter, as applicable.

(b) Notwithstanding any exemptions provided in this part, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

[27 FR 1352, Feb. 14, 1962, as amended at 34 FR 7369, May 7, 1969; 53 FR 31683, Aug. 19, 1988; 66 FR 51843, Oct. 11, 2001; 73 FR 63582, Oct. 24, 2008]

**§ 150.15a Continued Commission authority pertaining to byproduct material.**

(a) Prior to the termination of any Agreement State license for byproduct material as defined in § 150.3(c)(2) of this part, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

(b) After November 8, 1981, the Commission reserves the authority to establish minimum standards regarding reclamation, long term surveillance (*i.e.*, continued site observation, monitoring and, where necessary, maintenance), and ownership of byproduct material as defined in § 150.3(c)(2) of this part and of land used as a disposal site for such material. Such reserved authority includes:

(1) Authority to establish such terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for byproduct material as defined in § 150.3(c)(2) of this part, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

(2) The authority to require that prior to termination of any license for byproduct material as defined in § 150.3(c)(2) of this part, or for any activity that results in the production of such material, that title to such byproduct material and its disposal site be transferred to the United States or the State in which such material and land is located, at the option of the State (provided such option is exercised prior to termination of the license);

(3) The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph (b)(2) of this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger the public health, safety, welfare, or the environment;

(4) The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981) transfer of land and material pursuant to paragraph (b)(2), of this section, taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such property and materials, to undertake such monitoring, maintenance and emergency measures as are necessary to protect the public health and safety and other actions at the Commission deems necessary to comply with the standards promulgated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; and

(6) The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance (*i.e.*, continued site observation, monitoring, and where necessary, maintenance) of such disposal sites on land