

Nuclear Regulatory Commission

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APPENDIX A TO PART 40—CRITERIA RELATING TO THE OPERATION OF URANIUM MILLS AND THE DISPOSITION OF TAILINGS OR WASTES PRODUCED BY THE EXTRACTION OR CONCENTRATION OF SOURCE MATERIAL FROM ORES PROCESSED PRIMARILY FROM THEIR SOURCE MATERIAL CONTENT

AUTHORITY: Atomic Energy Act secs. 11(e)(2), 62, 63, 64, 65, 81, 161, 181, 182, 183, 186, 193, 223, 234, 274, 275 (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2231, 2232, 2233, 2236, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109-59, 119 Stat. 594 (2005).

Section 40.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95-601, sec. 10, as amended by Pub. L. 102-486, sec. 2902 (42 U.S.C. 5851). Section 40.31(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 40.46 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 40.71 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

SOURCE: 26 FR 284, Jan. 14, 1961, unless otherwise noted.

GENERAL PROVISIONS

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct materials, as defined in this part, and establish and provide for the terms and conditions upon which the Commission will issue such licenses. (Additional requirements applicable to natural and depleted uranium at enrichment facilities are set forth in § 70.22 of this chapter.) These regulations also provide for the disposal of byproduct material and for the long-term care and custody of byproduct material and residual radioactive material. The regulations in this part also establish certain requirements for the physical protection of import, export, and transient shipments of natural uranium. (Additional requirements applicable to the import and export of natural uranium are set forth in part 110 of this chapter.)

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(b) The regulations contained in this part are issued under the Atomic Energy Act of 1954, as amended (68 Stat. 919), title II of the Energy Reorganization Act of 1974, as amended (88 Stat. 1242), and titles I and II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended (42 U.S.C. 7901).

[55 FR 45597, Oct. 30, 1990, as amended at 56 FR 55997, Oct. 31, 1991]

§ 40.2 Scope.

Except as provided in §§ 40.11 to 40.14, inclusive, the regulations in this part apply to all persons in the United States. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 40.10.

[63 FR 1896, Jan. 13, 1998]

§ 40.2a Coverage of inactive tailings sites.

(a) Prior to the completion of the remedial action, the Commission will not require a license pursuant to 10 CFR chapter I for possession of residual radioactive materials as defined in this part that are located at a site where milling operations are no longer active, if the site is covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. The Commission will exert its regulatory role in remedial actions primarily through concurrence and consultation in the execution of the remedial action pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. After remedial actions are completed, the Commission will license the long-term care of sites, where residual radioactive materials are disposed, under the requirements set out in § 40.27.

(b) The Commission will regulate byproduct material as defined in this part that is located at a site where milling operations are no longer active, if such site is not covered by the remedial action program of title I of the Uranium

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Mill Tailings Radiation Control Act of 1978. The criteria in appendix A of this part will be applied to such sites.

[45 FR 65531, Oct. 3, 1980, as amended at 55 FR 45598, Oct. 30, 1990]

§ 40.3 License requirements.

A person subject to the regulations in this part may not receive title to, own, receive, possess, use, transfer, provide for long-term care, deliver or dispose of byproduct material or residual radioactive material as defined in this part or any source material after removal from its place of deposit in nature, unless authorized in a specific or general license issued by the Commission under the regulations in this part.

[55 FR 45598, Oct. 30, 1990]

§ 40.4 Definitions.

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

Agreement State means any State with which the Atomic Energy Commission or the Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended.

Alert means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

Byproduct Material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

With the exception of "byproduct material" as defined in section 11e. of the Act, other terms defined in section 11 of the Act shall have the same meaning when used in the regulations in this part.

Commencement of construction means taking any action defined as "construction" or any other activity at the