



State of Utah

SPENCER J. COX  
Governor

DEIDRE HENDERSON  
Lieutenant Governor

Department of  
Environmental Quality

Kimberly D. Shelley  
Executive Director

DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

Douglas J. Hansen  
Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for July 13, 2023, at 1:30 pm at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

Join via the Internet: [meet.google.com/gad-sxsd-uvs](https://meet.google.com/gad-sxsd-uvs)

Join via the Phone: (US) +1 978-593-3748 PIN: 902 672 356#

AGENDA

- I. Call to Order and Roll Call.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the meeting minutes for the June 8, 2023, Board meeting ..... Tab 1  
**(Board Action Item).**
- V. Petroleum Storage Tanks Update..... Tab 2
- VI. Administrative Rules ..... Tab 3
  - A. Approval to proceed with formal rulemaking and public comment on proposed changes to Radiation Control Rules UAC R313-12-3 and UAC R313-32-2, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2020 (85 FR 33527, 44685, and 65656) **(Board Action Item).**
- VII. Low-Level Radioactive Waste..... Tab 4
  - A. EnergySolutions request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to dispose of waste containing D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes **(Information Item).**

(Over)

VIII. Director's Report.

IX. Other Business.

A. Miscellaneous Information Items.

B. Scheduling of next Board Meeting (September 14, 2023).

X. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human Resources at (801) 536-4284, Telecommunications Relay Service 711, or by email at "lwyss@utah.gov".



Waste Management and Radiation Control Board Meeting Minutes  
Utah Department of Environmental Quality  
Multi-Agency State Office Building (Conf. Room #1015)  
195 North 1950 West, SLC  
June 8, 2023  
1:30 p.m.

**Board Members Participating at Anchor Location:** Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Mark Franc, Jeremy Hawk, Nathan Rich, Vern Rogers, Shane Whitney

**Board Members Participating Virtually:** Dr. Richard Codell

**Board Members Excused:** Danielle Endres, Dr. Steve McIff, Kim Shelley, Scott Wardle

**UDEQ Staff Members Participating at Anchor Location:** Brent Everett, Dr. Stevie Norcross, Tom Ball, Nicole Chavez, Tyler Hegburg, Avery Holyoak, Jalynn Knudsen, Arlene Lovato, Mike Pecorelli, Elisa Smith, Otis Willoughby

**Others Attending at Anchor Location:** Steve Gurr and Tim Orton

**Other UDEQ employees and interested members of the public also participated either electronically or telephonically.**

**I. Call to Order and Roll Call.**

Chairman Mickelson called the meeting to order at 1:30 pm. Roll call of Board members was conducted, see above.

**II. Public Comments on Agenda Items. -None-**

**III. Declaration of Conflict of Interest.**

Vern Rogers recused himself from discussion and voting on Board action agenda items (VIII. A. & B.) regarding EnergySolutions.

**IV. Introduction of new Board member Jeremy Hawk.**

Dr. Norcross, Assistant Division Director in the Division of Waste Management and Radiation Control, welcomed and introduced Mr. Jeremy Hawk.

Mr. Hawk fills the last vacant Board seat as a representative who is a professional employed in the field of radiation safety. Mr. Hawk has previously served on this Board and was first appointed in 2015, but his term was shortened as he left for a military assignment. Mr. Hawk has been reappointed by the Governor and confirmed by the Senate and has completed his Board member training with the Division of Environmental Response and Remediation, the Division of Waste Management and Radiation Control, and the Office of the Attorney General. Training topics included conflicts of interest and ethics. Mr. Hawk's new term will expire in 2027.

Mr. Hawk informed the Board that he is a certified health physicist and has been a hospital Radiation Safety Officer for the last 20 years and is happy to be reappointed to serve on the Board.

V. **Approval of meeting minutes for the May 11, 2023, Board meeting (Board Action Item).**

**It was moved by Mark Franc and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the May 11, 2023 Board meeting minutes.**

VI. **Petroleum Storage Tanks Update.**

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the preliminary estimate of the cash balance of the Petroleum Storage Tank Fund for the end of May 2023, is \$30,105,505.00. Mr. Everett also reported that June 30, 2023, is the deadline for aboveground petroleum storage tanks (APSTs) to meet the financial assurance requirement and obtain a certificate of compliance. The DERR has been conducting outreach and education to owners and operators of the regulated APSTs. The DERR is extending enforcement discretion to facilities who are working in good faith to obtain the required testing necessary for compliance. There were no comments or questions.

VII. **X-Ray Program.**

A. **Approval of an exemption from Utah Administrative Code R313-28-31(5) requiring portable or mobile X-ray equipment to be used only if it is impractical to transfer the patient to a stationary radiographic installation (Board Action Item).**

Tom Ball, Planning and Technical Support Section Manager in the Division of Waste Management and Radiation Control (Division), reviewed the request for the Board's approval of an exemption from Radiation Control Rules Utah Administrative Code (UAC) R313-28-31(5), which restricts the use of portable or mobile equipment only for examinations if it is impractical to transfer a patient to a stationary radiographic installation. This rule exists because a normal patient room in a hospital or clinic is typically not shielded, like an X-ray room would be where a fixed unit would be located. This rule is in place to ensure that the mobile units are only used in uncommon cases where there is no way to move a patient and take other precautions to ensure others that are not subject to the X-ray are not exposed.

This exemption request comes from Main Street Family Medicine. This is a small practice located in the rural town of Enterprise, Utah. The facility has one general purpose mobile X-ray unit.

The reasons for the exemption are as follows: 1) The nearest hospitals with stationary installations are 45 miles away in Cedar City or 50 miles away in St. George. 2) This facility frequently triages and treats patients for which it is not practical or necessary for them to travel the long distance to the nearest facility with a fixed/stationary installation. 3) Because the facility is in a rural part of the state, it is cost prohibitive to install fixed equipment; and essentially, the cost of fixed equipment would have been the same as the cost of their building, thus doubling the cost to build their facility. 4) However, unlike the typical situation in a normal hospital or clinic, the room where they use their mobile X-ray unit has been shielded. The shielding design was performed by a registered Utah Qualified Expert and has been reviewed by Division staff.

This is a Board Action. In accordance with UAC R313-12-55, the Board may grant exemptions or exceptions from the requirements of the Radiation Control Rules if the exemption will not result in undue hazards to public health and safety or the environment.

Based on the Division's review of this request, the Director of the Division of Waste Management and Radiation Control believes that the use of a mobile X-ray unit by Main Street Family Medicine will not result in undue hazards to public health and safety or the environment and recommends that the Board issue an exemption from UAC R313-28-31(5) to Main Street Family Medicine.

Mark Franc stated that his question is related to the need for an exemption. As the rules allow for the use of the mobile equipment if it is impractical to transfer the patient, and it sounds like just the facilities location and conditions make it somewhat impractical, he is wondering why this situation would require an exception to the rule.

Mr. Ball stated that he felt it was appropriate to request the exemption to cover all the bases if in the future there is any concern regarding why this facility was allowed to use a mobile unit, where they do not have a fixed unit. Specifically, this request is more of a formality to ensure transparency of this matter.

Shane Whitney requested clarification as information provided indicated this is a portable unit, but the room it is utilized in has all the shielding protection a fixed unit would require and asked if that was correct.

Mr. Ball stated that Mr. Whitney's assessment is correct, as the room where the facility uses their mobile X-ray unit has been shielded.

Dr. Codell stated he had the same opinions that Mr. Franc had that it ought to be clear in the rule because the reason for this exemption is that the closest installations are 45 miles away and it seems like just to reduce the burden on the user, the rule itself makes that clear/justifies it.

Nathan Rich stated that it seems like the issue is less about it being regulated as a mobile unit but it is in a fully shielded room and asked if there is something in the exemption that it is a requirement that the unit is only to be used in a shielded room? Mr. Rich asked if the unit could be removed and utilized elsewhere appropriately as a mobile unit if required and thinks more about the regulation as any machine either mobile or fixed should be allowed to operate without exemption in a shielded room.

Mr. Ball stated that the facility can move the equipment, but the Board could impose the restriction on the facility that the equipment would have to be utilized only in that shielded room. That restriction could be incorporated into the approval of the exemption.

Mr. Rich stated that he would not make that recommendation because there may be times when the facility may opt to use it as mobile unit and is comfortable with the exemption without further restrictions.

**It was moved by Mark Franc and seconded by Nathan Rich and UNANIMOUSLY CARRIED to approve Main Street Family Medicine's request for an exemption from Utah Administrative Code R313-28-31(5) requiring portable or mobile X-ray equipment to be used only if it is impractical to transfer the patient to a stationary radiographic installation.**

## **VIII. Low-Level Radioactive Waste.**

### **A. EnergySolutions request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive uranium extraction process residuals encased in cement for macroencapsulation (Board Action Item).**

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, Division of Waste Management and Radiation Control, reviewed EnergySolutions' request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive uranium extraction process residuals encased in cement for macroencapsulation.

Mr. Hegburg reminded the Board that during the May 11, 2023 Board meeting, *EnergySolutions* presented to the Board, as an informational item, a request for an exemption from the treatment standards in Utah Administrative Code (UAC) R315-268-40(a)(2) for macroencapsulation of approximately 2,100 cubic feet of cemented uranium extraction process residuals that contain several hazardous waste codes including arsenic, barium, cadmium, chromium, lead, selenium, silver, and others including spent solvents for F001, F002, and F005. All other required treatment standards associated with the waste will be met prior to disposal. The exemption is requested for the purposes of safety, security, and transportation of the radioactive waste.

Mr. Hegburg informed the Board that the generator has three different points of generation for this waste and the generators facility this processes include: 1) an enriched uranium contaminated ash that has been thermally processed and then recovered through an organic solvent extraction process; 2) oxide powders and dried sludges associated with highly enriched uranium-thorium fuels; and 3) residue (sludge) from the bottom of salt baths used in the processing of uranium.

The residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility. The process residuals within the cans have been characterized through a random sampling and analysis process. This is an ongoing process where approximately 2,100 cans of process residues were collected and stored by the generator. The process is ongoing and additional 2 ½-gallon cans are being generated every year.

The F-listed solvent codes within this waste are derived from rags that are burned in a furnace in order to recover the uranium present within them. None of the F-listed constituents were present above their respective treatment standard concentrations within the random characterization samples of the process residues. The random characterization samples were also analyzed for metals using the Toxicity Characteristic Leaching Procedure (TCLP). These samples detected elevated concentrations of barium, cadmium, chromium and lead. Based on these elevated metal concentrations, the appropriate characteristic waste codes were applied to the process residues. Slightly elevated concentrations of arsenic, selenium, silver, 2,4-dinitrotoluene, hexachlorobenzene and hexachlorobutadiene were also detected in separate analyses.

The uranium content within the process residues is enriched in nature. From a health and safety standpoint, the enrichment makes the waste more hazardous to employees managing the waste. Further, enriched material has increased security concerns and must be managed appropriately. To ensure the enriched uranium concentration limits required for worker safety, security, and transportation of this waste are met, appropriate packaging will be utilized.

These packaging procedures include repackaging the cans into 16-gallon drums and filling the void spaces with cement; formal treatment for the elevated metals concentrations is not performed during this process. The generator had assessed other options, which included treatment for the hazardous constituents; however, additional processing introduced unacceptable hazards from a health and safety and security standpoint. In addition, the waste within the cans is inherently safe from a criticality aspect and the generator concluded that it is unwise to conduct extra processing that could potentially change this aspect. The waste material packaged within the 16-gallon monolithic forms is inherently safe and is the form that the material will be shipped and received at the *EnergySolutions* Clive facility.

The characteristic hazardous waste codes associated with the process residues has numerical concentration-based treatment standards based upon the leachability of the contaminants. Treatment of the monolithic form for these concentration-based treatment standards would entail a process that includes shredding of the monolith followed by mixing with a stabilizing reagent in a permitted mixer. Both of these steps could mobilize the enriched uranium and possibly cause airborne

contamination, increasing the potential for releases to the environment as well as the potential for personnel exposure.

Furthermore, the shredding process of the solidified uranium ash results in a more accessible form of enriched uranium with potential security risks and ramifications.

EnergySolutions proposes to macroencapsulate the waste, which is a permitted process that would significantly decrease the leaching of the waste that requires less handling and keeps the uranium in monolith form encased in additional material, further restricting access to the enriched uranium, and creates a waste form that is protective of human health and the environment.

Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.

A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News*, and the *Tooele Transcript Bulletin* on April 26, 2023. The comment period began April 27, 2023 and ended May 26, 2023. No comments were received.

This is an action item before the Board. The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe to human health and the environment as the required method.

**It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve EnergySolutions, LLC request for a site-specific treatment variance from the Hazardous Waste Management Rules to receive uranium extraction process residuals encased in cement for macroencapsulation. Vern Rogers abstained from voting.**

**B. EnergySolutions request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive lithium and lithium-ion batteries for direct macroencapsulation treatment (Board Action Item).**

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, Division of Waste Management and Radiation Control, reviewed EnergySolutions request for a site-specific treatment variance from the Hazardous Waste Management Rules. EnergySolutions seeks authorization to receive lithium and lithium-ion batteries for direct macroencapsulation.

Mr. Hegburg reminded the Board that during the May 11, 2023, Board meeting, EnergySolutions presented to the Board as an informational item a variance request to treat for disposal by direct macroencapsulation approximately 1200 lbs. of lithium and lithium-ion batteries.

Lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability (D001) and reactivity (D003). Regulations in UAC R315-268-40 require that these characteristic hazards be deactivated to remove the characteristic prior to land disposal. As an alternative, UAC R315-268-45 allows hazardous debris to be treated using an immobilization technology (e.g., macroencapsulation). However, the Environmental Protection Agency (EPA) has ruled that intact batteries are containers and not considered debris. Furthermore, the definition of macroencapsulation in UAC R315-268-42 states that "Macroencapsulation specifically does not include any material that would be classified as a tank or container."

For EnergySolutions to meet the regulatory standards described above, lithium and lithium-ion batteries would need to be shredded and mixed with chemicals to deactivate them; or punctured (and then considered debris) to macroencapsulate them. Both activities (shredding and puncturing)

severely agitate the waste and would expose the reactive portion of the waste to open air which could cause an adverse reaction or explosion. Although this type of waste management is possible, from a safety and health standpoint, it is inappropriate.

EnergySolutions proposes to manage this waste by directly macroencapsulating the intact batteries. Macroencapsulation is a permitted treatment technology that isolates hazardous waste from the environment, eliminating the potential for harmful reactions from exposure to the environment. Macroencapsulation requires less handling of the waste and creates a waste form for disposal that is protective of human health and the environment.

EnergySolutions has received approximately 900 lbs. of this waste since the variance was approved in 2022. This variance request is for the ongoing processing and disposal of additional lithium and lithium-ion batteries. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the EnergySolutions Mixed Waste Facility.

A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News* and the *Tooele Transcript Bulletin* on April 26, 2023. The comment period began April 27, 2023 and ended May 26, 2023. No comments were received.

This is an action item before the Board. The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe to human health and the environment as the required method.

Mark Franc stated that his inquiry is in regard to how the facility operates, as he can picture these containers coming into a nice concrete cell, forklift puts the containers in a cell, and concrete is poured over then into a well-maintained cell, but he realizes that is not normally the case at most landfills as most waste is just dumped and asked how the process is completed. Mr. Steve Gurr, EnergySolutions representative explained EnergySolutions process of macroencapsulation.

**It was moved by Dennis Riding and seconded by Dr. Codell and UNANIMOUSLY CARRIED to approve EnergySolutions, LLC request for a site-specific treatment variance from the Hazardous Waste Management Rules to receive lithium and lithium-ion batteries for direct Macroencapsulation treatment. Vern Rogers abstained from voting.**

## IX. Other Business.

### A. Miscellaneous Information Items

Mr. Hegburg stated that during the last variance presentation, Dr. Codell asked if there had been any research done in the potential reaction between the uranium and cement. Mr. Hegburg has reached out to EnergySolutions, and they have discovered that there have been some past studies done on depleted uranium chips encased in cement that were not coming to the Clive facility and came to the conclusion that routing the uranium waste in the cement was the safest way to manage it. Mr. Hegburg asked Dr. Codell if that was sufficient information or if he needed additional information on this matter.

Dr. Codell questioned if there were documents available for review that would confirm that it is a stable mixture and has low leachability, etc.

Mr. Hegburg stated that through EnergySolutions contacts with government facilities on the topic of uranium cement reactive, they have come to the conclusion that additional research into this topic is not necessary, even if the cans deteriorate to the point where the waste can contact the soil.

Dr. Codell stated because he has not seen the findings, it does not satisfy his request and asked if there was any documentation on the findings that could be reviewed by the Board members or DEQ staff.

Mr. Hegburg stated he can request the studies found by *EnergySolutions* and provide additional information as needed.

Dr. Codell stated he would like to actually see it in print and have a chance to examine it – even a cursory examination would be better than nothing.

Mr. Hegburg stated that he will see what he can do to provide additional physical reading material and provide it at the next Board meeting.

Dr. Codell thanked Mr. Hegburg for all his efforts regarding this matter.

Dr. Norcross stated that several board members terms will expire in September of this year. Those Board members include Chairman Mickelson, Dr. Richard Codell, Daniel Endres, Nathan Rich, Vern Rogers, and Shane Whitney. Dr. Norcross asked those who are interested in continuing on with the Board to please coordinate with Arlene Lovato and she will assist them through the reappointment process. Ms. Lovato has put together an instruction sheet on how to reapply and will reach out to these interested Board members in the next couple weeks.

Dr. Codell stated that he is interested in reapplying and requested the necessary paperwork; Arlene Lovato will provide him the necessary paperwork to reapply.

Dr. Norcross notified the Board that it is anticipated that there will not be any agenda items for the August Board meeting and anticipates it to be cancelled, pending any pressing agenda items.

Dr. Norcross announced that the Division of Waste Management and Radiation Control's, Corrective Action Section, is very close to completing a companion guide for the Risk Based Closure Rule under Utah Administrative Code (UAC) R315-101. This guide is titled "The Technical Guide for Risk Assessments" or "TGRA". This guide is intended to assist facilities in navigation of UAC R315-101 and how to perform risk assessments. This guide will be available within the next several weeks on the Division's website. Dr. Norcross stated that this is a large, detailed document and a significant amount of effort has been put into creating it and thinks it will be helpful for the public and primarily for the facilities that are performing these risk assessments to understand how that rule works.

Chairman Mickelson congratulated the Division for the completion of this guide.

**B. Scheduling of next Board meeting (July 13, 2023).**

The next meeting is scheduled for July 13, 2023, at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

Interested parties can join via the Internet: [meet.google.com/gad-sxsd-uvv](https://meet.google.com/gad-sxsd-uvv)

Or by phone: (US) +1 978-593-3748 PIN: 902 672 356#

**X. Adjourn.**

The meeting adjourned at 2:05 pm.

**PST STATISTICAL SUMMARY**

**June 1, 2022 -- May 31, 2023**

PROGRAM													
	June	July	August	September	October	November	December	January	February	March	April	May	(+/-) OR Total
<b>Regulated Tanks</b>	4,182	4,178	4,188	4,184	4,191	4,190	4,196	4,188	4,200	4,203	4,198	4,210	<b>28</b>
<b>Tanks with Certificate of Compliance</b>	4,071	4,061	4,065	4,072	4,073	4,085	4,083	4,089	4,088	4,093	4,103	4,105	<b>34</b>
<b>Tanks without COC</b>	111	117	123	112	118	105	113	99	112	110	95	105	<b>(6)</b>
<b>Cumulative Facilities with Registered A Operators</b>	1,286	1,288	1,285	1,279	1,278	1,276	1,282	1,280	1,279	1,276	1,279	1,279	<b>97.93%</b>
<b>Cumulative Facilities with Registered B Operators</b>	1,287	1,289	1,287	1,280	1,279	1,277	1,282	1,281	1,281	1,279	1,280	1,279	<b>97.93%</b>
<b>New LUST Sites</b>	7	9	11	5	10	8	9	9	9	4	2	9	<b>92</b>
<b>Closed LUST Sites</b>	9	2	12	7	3	14	3	7	8	17	6	11	<b>99</b>
<b>Cumulative Closed LUST Sites</b>	5455	5463	5474	5474	5491	5494	5501	5509	5524	5531	5539	5542	<b>87</b>
FINANCIAL													
	June	July	August	September	October	November	December	January	February	March	April	May	(+/-)
<b>Tanks on PST Fund</b>	2,613	2,651	2,655	2,645	2,636	2,635	2,628	2,623	2,621	2,617	2,619	2,617	<b>4</b>
<b>PST Claims (Cumulative)</b>	710	710	711	711	711	711	711	711	711	710	711	713	<b>3</b>
<b>Equity Balance</b>	-\$639,953	-\$646,753	-\$295,722	-\$127,174	-\$281,835	\$80,750	\$274,341	\$739,913	\$1,273,567	\$1,223,767	\$1,689,965	\$1,933,855	<b>\$2,573,808</b>
<b>Cash Balance</b>	\$26,757,575	\$26,750,775	\$27,693,250	\$27,524,702	\$27,889,815	\$28,252,400	\$28,445,991	\$28,911,563	\$29,445,217	\$29,395,417	\$29,861,615	\$30,105,505	<b>\$3,347,930</b>
<b>Loans</b>	0	0	1	5	0	0	0	0	0	0	0	0	<b>0</b>
<b>Cumulative Loans</b>	122	122	123	128	128	128	128	128	128	128	128	128	<b>6</b>
<b>Cumulative Amount</b>	\$4,740,989	\$4,740,989	\$5,040,989	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	<b>\$1,273,431</b>
<b>Defaults/Amount</b>	0	0	1	0	0	0	0	0	0	0	0	0	<b>0</b>
	June	July	August	September	October	November	December	January	February	March	April	May	TOTAL
<b>Speed Memos</b>	65	32	47	77	105	60	31	42	44	79	40	61	<b>683</b>
<b>Compliance Letters</b>	6	8	8	7	7	9	9	5	3	7	27	5	<b>101</b>
<b>Notice of Intent to Revoke</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Orders</b>	0	0	0	0	0	0	3	0	0	1	1	0	<b>5</b>



**WASTE MANAGEMENT AND RADIATION CONTROL BOARD**  
**Executive Summary**  
**Public Comment -- Proposed Rule Changes**  
**UAC R313-12-3 and UAC R313-32-2**  
**July 13, 2023**

<p><b>What is the issue before the Board?</b></p>	<p>Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R313-12-3 and UAC R313-32-2, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2020 (85 FR 33527, 44685, and 65656). The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC.</p>
<p><b>What is the historical background or context for this issue?</b></p>	<p>The NRC has amended its regulations to implement the Social Security Number Fraud Prevention Act of 2017 and to make miscellaneous corrections. These changes include amending regulations to prohibit the inclusion of an individual’s Social Security Number on any document sent through the mail, redesignating footnotes, correcting references, typographical errors, nomenclature, titles, e-mail addresses, and contact information.</p> <p>As an Agreement State with the NRC for the radioactive materials program, Utah is required to maintain regulatory compatibility with the corresponding NRC radioactive materials regulations. The NRC designated the changes as necessary for an Agreement State to adopt to maintain regulatory compatibility with the NRC.</p> <p>In addition to the proposed changes detailed above, the Division at the request of the Governor's Office, is correcting typographical and formatting errors found in the rules.</p> <p>Copies of 85 FR 33527, 85 FR 44685, and 85 FR 65656 and the proposed changes to UAC R313-12-3 and UAC R313-32-2 follow this Executive Summary.</p>
<p><b>What is the governing statutory or regulatory citation?</b></p>	<p>The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>

<b>Is Board action required?</b>	Yes. Board approval is necessary to begin the formal rulemaking process by filing the appropriate documents with the Office of Administrative Rules for publishing the proposed rule changes in the <i>Utah State Bulletin</i> and conducting a 30-day public comment period.
<b>What is the Division Director's recommendation?</b>	The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the August 1, 2023, <i>Utah State Bulletin</i> the proposed changes to UAC R313-12-3 and UAC R313-32-2 and conducting a public comment period from August 1, 2023 to August 31, 2023.
<b>Where can more information be obtained?</b>	Please contact Tom Ball by email at <a href="mailto:tball@utah.gov">tball@utah.gov</a> or by phone at 385-454-5574.

# Rules and Regulations

Federal Register

Vol. 85, No. 106

Tuesday, June 2, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 9 and 35

[NRC–2018–0303]

RIN 3150–AK27

### Social Security Number Fraud Prevention

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to implement the Social Security Number Fraud Prevention Act of 2017. This statute directed agencies to issue regulations that prohibit the inclusion of an individual’s Social Security account number (Social Security number or SSN) on any document sent through the mail unless the head of the agency deems it necessary and the appropriate precautions are taken to protect the SSN. Applicants, licensees, and members of the public who are required to submit a form containing a SSN may be affected.

**DATES:** This direct final rule is effective August 17, 2020, unless significant adverse comments are received by July 2, 2020. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0303. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Email comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Alexa Sieracki, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7509, email: [Alexa.Sieracki@nrc.gov](mailto:Alexa.Sieracki@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Obtaining Information and Submitting Comments
- II. Procedural Background
- III. Discussion
- IV. Section-by-Section Analysis
- V. Regulatory Flexibility Certification
- VI. Regulatory Analysis
- VII. Backfitting and Issue Finality
- VIII. Plain Writing
- IX. Environmental Assessment and Final Finding of No Significant Environmental Impact
- X. Paperwork Reduction Act Statement
- XI. Congressional Review Act

**I. Obtaining Information and Submitting Comments**

*A. Obtaining Information*

Please refer to Docket ID NRC–2018–0303 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0303.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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 email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **Attention:** The Public Document Room (PDR), where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

*B. Submitting Comments*

Please include Docket ID NRC–2018–0303 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

**II. Procedural Background**

Because the NRC anticipates that this action will be non-controversial, the NRC is using the “direct final rule procedure” for this rule. The amendments to the rule will become effective on August 17, 2020. However, if the NRC receives significant adverse comments on this direct final rule by July 2, 2020, then the NRC will publish a document that withdraws this action and will subsequently address the

comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if it meets the following criteria:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required in the following circumstances:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule. For detailed instructions on filing comments, please see the **ADDRESSES** section of this document.

### III. Discussion

The President signed into law the Social Security Number Fraud Prevention Act of 2017 (the Act) on September 15, 2017, to reduce the risk of identity theft by directing agencies to “issue regulations specifying the circumstances under which inclusion of a social security account number on a document sent by mail is necessary.”<sup>1</sup> The Act restricts the inclusion of an SSN on any document sent by mail “unless the head of the agency determines that the inclusion of the [SSN] on the document is necessary.”<sup>2</sup> The Act directs agencies to issue regulations that specify when inclusion of an SSN is necessary, include instructions for the partial redaction of SSNs where feasible, and provide a requirement that SSNs not be visible on

the outside of any package sent by mail.<sup>3</sup> These regulations must be issued no later than 5 years after the date of enactment of the Act.

The NRC determined that rulemaking was necessary because the Act requires the NRC to amend its regulations. This effort could not be achieved through issuing guidance, as guidance documents are not legally binding and cannot be used to amend regulations. The NRC's rulemaking is narrowly tailored to address the requirements specifically set forth in the Act; therefore, the NRC determined that a direct final rule was appropriate, because the amendments are required by statute, expected to be non-controversial, and unlikely to yield public comment resulting in a significant change to the NRC's proposal. A direct final rule is preferable to a final rule because it allows for the opportunity for public comment, should there be any additional regulations that the public identifies as needing amendment or any additional considerations the NRC needs to evaluate to implement the Act.

To comply with the Act, the NRC examined whether SSNs are necessary in any of the written communications to the NRC required by regulation. The Act only applies to written communications sent or received via mail by the NRC that include SSNs. The Act does not apply to a licensee's validation of an individual's SSN because the SSN would not be included in written communications with the NRC in those cases. If inclusion of SSNs is not necessary, then each associated regulation would need to be amended to remove the inclusion of the SSN in the required documents. If inclusion of SSNs is necessary, the NRC must consider whether partial redaction of the SSN is feasible and amend the regulations accordingly to meet the “requirement that [SSNs] not be visible on the outside of any package sent by mail.”<sup>4</sup>

Based on its review, the agency has concluded that, in all instances where it requires full or partial SSNs to be included in written communications, this information is necessary for identity confirmation. Reasons for this include instances when individuals have similar or same names and cases where outside factors require the NRC to collect either a full or partial SSN. For example, the collection may be required by law or by another agency. The NRC already requests SSNs to be partially redacted in documents sent by mail whenever

feasible. Therefore, the NRC concluded that minimal changes to its regulations are needed to reduce the inclusion of full or partial SSNs. However, the agency determined that the following amendments are needed to fully implement the Act:

- In § 9.1, a new Subpart E needs to be added concerning the use of SSNs in documents sent by mail.
- In §§ 35.3045 and 35.3047, language should be revised to prioritize the use of identification numbers that are not SSNs when identifying patients.

In anticipation of the above revisions, all applicable NRC forms have been proactively modified to include language that SSNs must not be visible on the outside of any package sent by mail.

### IV. Section-by-Section Analysis

The following paragraphs describe the specific changes in this direct final rule.

#### *Section 9.1 Scope and Purpose*

This direct final rule adds new paragraph (e).

#### *Subpart E—Social Security Number Fraud Prevention Act Requirements*

This direct final rule adds new subpart E—Social Security Number Fraud Prevention Act Requirements.

#### *Section 35.3045 Report and Notification of a Medical Event*

This direct final rule revises paragraph (g)(1)(ii) to replace “social security number or identification number” with “identification number or if no other identification number is available, the social security number.”

#### *Section 35.3047 Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child*

This direct final rule revises paragraph (f)(1)(ii) to replace “social security number or identification number” with “identification number or if no other identification number is available, the social security number.”

### V. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects a number of “small entities” as defined by the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810). However, as indicated in the regulatory analysis contained in this document, these amendments do not have a significant economic impact on the affected small entities.

<sup>1</sup> Public Law 115–59, Section 2(b).

<sup>2</sup> Public Law 115–59, Section 2(a).

<sup>3</sup> Public Law 115–59, Section 2(b)(1)–(2).

<sup>4</sup> Public Law 115–59, Section 2(b)(2).

## VI. Regulatory Analysis

The NRC has prepared a final regulatory analysis for this direct final rule. The analysis examines the costs and benefits of the alternatives considered by the NRC. The key findings are as follows:

- **Benefits.** This final rule ensures that the NRC is in compliance with the Act by doing the following:

- (1) Revising regulations in 10 CFR part 9, § 35.3045(g)(1)(ii), and § 35.3047(f)(1)(ii) to address the intent of the Act; and

- (2) Ensuring that NRC forms comply with the intent of the Act.

In accordance with the Act, the NRC requests that a SSN be included in documents sent by mail only when necessary and partially redacted whenever feasible. The redacted SSN should list only the number of digits necessary and must not be visible from the outside of packages sent to and from the NRC.

- **Cost to the Industry.** This direct final rule results in no incremental costs to material or reactor licensees.

- **Cost to the Public.** This direct final rule results in no incremental costs to the public.

- **Cost to the NRC.** This direct final rule results in no incremental costs to the NRC beyond those necessary to prepare and issue this direct final rule and make conforming changes to NRC forms, which are considered costs that have already been incurred.

## VII. Backfitting and Issue Finality

This direct final rule modifies the NRC regulations to implement the requirements of the Act to use SSNs only where necessary and to partially redact SSNs to the extent practicable. These regulations relate solely to information collection and reporting requirements. The NRC has long taken the position that information collection and reporting requirements are not subject to the NRC's backfitting and issue finality regulations in 10 CFR 50.109, 10 CFR 70.76, 10 CFR 72.62, 10 CFR 76.76, and 10 CFR part 52. Therefore, the NRC has determined that the various backfitting and issue finality provisions do not apply to this final rule and has not prepared a backfit analysis.

## VIII. 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).

## IX. Environmental Assessment and Final Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

This direct final rule amends NRC's regulations in 10 CFR parts 9 and 35. These amendments are necessary to comply with the Social Security Number Fraud Prevention Act of 2017, which directed agencies to issue regulations that prohibit the inclusion of an individual's SSN on any document sent through the mail unless the head of the agency deems it necessary and the appropriate precautions are taken to protect the SSN. These amendments do not increase any effect on the environment.

The determination of this environmental assessment is that there will be no significant environmental impacts from this action.

## X. Paperwork Reduction Act

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget (OMB), approval numbers 3150–0043, 3150–0014, 3150–0046, and 3150–0010.

### 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.

## XI. Congressional Review Act

This direct 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 9

Administrative practice and procedure, Courts, Freedom of information, Government employees, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

#### 10 CFR Part 35

Biologics, Drugs, Health facilities, Health professions, Labeling, Medical devices, Nuclear energy, Occupational

safety and health, Penalties, Radiation protection, 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 parts 9 and 35:

## PART 9—PUBLIC RECORDS

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

**Authority:** Atomic Energy Act of 1954, sec. 161 (42 U.S.C. 2201); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

Subpart A also issued under 31 U.S.C. 9701.

Subpart B also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

■ 2. In § 9.1, add paragraph (e) to read as follows:

### § 9.1 Scope and purpose.

\* \* \* \* \*

(e) Subpart E implements the provisions of the Social Security Number Fraud Prevention Act of 2017, Public Law 115–59, concerning the use of Social Security account numbers in documents sent by mail.

■ 3. Add subpart E, consisting of §§ 9.300 and 9.301, to read as follows:

### Subpart E—Social Security Number Fraud Prevention Act Requirements

#### § 9.300 Scope of subpart.

This subpart implements the Social Security Number Fraud Prevention Act of 2017, Public Law 115–59, with respect to the use of Social Security account numbers in documents sent by mail and requirements applicable to NRC personnel for redacting Social Security account numbers in documents sent by mail.

#### § 9.301 Social Security account numbers in documents sent by mail.

(a) Social Security account numbers shall not be visible on the outside of any package sent by mail.

(b) A document sent by mail may only include the Social Security account number of an individual if it is determined by the head of the agency that the inclusion of a Social Security account number is necessary.

(c) The inclusion of a Social Security account number of an individual on a document sent by mail is necessary when—

(1) Required by law; or

(2) Necessary to identify a specific individual and no adequate substitute is available.

(d) Social Security account numbers must be partially redacted in documents sent by mail whenever feasible.

**PART 35—MEDICAL USE OF BYPRODUCT MATERIAL**

■ 4. The authority citation for part 35 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.

■ 5. In § 35.3045, revise paragraph (g)(1)(ii) to read as follows:

**§ 35.3045 Report and notification of a medical event.**

\* \* \* \* \*

(g) \* \* \*  
(1) \* \* \*

(ii) Identification number or if no other identification number is available, the social security number of the individual who is the subject of the event; and

\* \* \* \* \*

■ 10. In § 35.3047, revise paragraph (f)(1)(ii) to read as follows:

**§ 35.3047 Report and notification of a dose to an embryo/fetus or a nursing child.**

\* \* \* \* \*

(f) \* \* \*  
(1) \* \* \*

(ii) Identification number or if no other identification number is available, the social security number of the individual who is the subject of the event; and

\* \* \* \* \*

Dated: May 28, 2020.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2020-11899 Filed 6-1-20; 8:45 am]

**BILLING CODE 7590-01-P**

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Parts 7 and 160**

[Docket ID OCC-2019-0027]

RIN 1557-AE73

**Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred**

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** Federal law establishes that national banks and savings associations (banks) may charge interest on loans at the maximum rate permitted to any state-chartered or licensed lending institution in the state where the bank is located. In addition, banks are generally authorized to sell, assign, or otherwise transfer (transfer) loans and to enter into and assign loan contracts. Despite these authorities, recent developments have created legal uncertainty about the ongoing permissibility of the interest term after a bank transfers a loan. This rule clarifies that when a bank transfers a loan, the interest permissible before the transfer continues to be permissible after the transfer.

**DATES:** The final rule is effective on August 3, 2020.

**FOR FURTHER INFORMATION CONTACT:** Andra Shuster, Senior Counsel, Karen McSweeney, Special Counsel, or Priscilla Benner, Senior Attorney, Chief Counsel’s Office, (202) 649-5490, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 21, 2019, the OCC published a notice of proposed rulemaking (proposal or NPR) to codify its conclusion that when a national bank or savings association (bank) sells, assigns, or otherwise transfers (transfers) a loan, interest permissible before the transfer continues to be permissible after the transfer.<sup>1</sup>

As the proposal explained, a bank may charge interest on a loan at the maximum rate permitted to any state-chartered or licensed lending institution in the state where the bank is located. In addition, banks are generally authorized to transfer their loans and to enter into and assign loan contracts. Despite these authorities, recent developments have created legal uncertainty about the ongoing permissibility of the interest term after a bank transfers a loan.

Consistent with the proposal, this regulation addresses that legal uncertainty by clarifying and reaffirming the longstanding understanding that a bank may transfer a loan without affecting the permissible interest term. Based on its supervisory experience, the OCC believes that unresolved legal uncertainty about this issue may disrupt banks’ ability to serve

consumers, businesses, and the broader economy efficiently and effectively, particularly in times of economic stress. The OCC also believes that enhanced legal certainty may facilitate responsible lending by banks, including in circumstances when access to credit is especially critical.

**II. Overview of Comments**

The OCC received over sixty comments on its NPR, including comments from industry trade associations, nonbank lenders, community groups, academics, state government representatives, and members of the public. Many commenters expressed support for the rule. Some stated that the legal uncertainty discussed in the proposal has had negative effects on the primary and secondary markets for bank loans. They argued that legal certainty regarding a bank’s ability to transfer non-usurious loans without affecting the interest term would benefit banks and markets, including for liquidity and diversification purposes. Many supporting commenters also agreed that the OCC has the authority to address this issue by regulation and that the proposal reflected a permissible interpretation of relevant Federal banking law.

The OCC also received comments opposed to the rule, which raised both legal and policy concerns. Many commenters argued that the OCC does not have the authority to issue this regulation. Several also argued that the OCC’s proposal was subject to, but did not comply with, the substantive and procedural provisions in 12 U.S.C. 25b. Opposing commenters also questioned the need for the rule, stating there is no evidence that legal uncertainty has had negative effects on banks or markets. Relying on these and other arguments, some commenters also argued that the OCC’s proposal did not comply with the Administrative Procedure Act (APA).<sup>2</sup> Finally, certain commenters stated that the NPR would facilitate predatory lending by promoting rent-a-charter relationships and allowing nonbanks to evade otherwise applicable state law.

Two commenters provided empirical studies analyzing the effects of the *Madden v. Midland Funding, LLC*<sup>3</sup> decision (*Madden*), including evidence that *Madden* restricted access to credit for higher-risk borrowers in states

<sup>2</sup> 5 U.S.C. 551 *et seq.*

<sup>3</sup> 786 F.3d 246 (2d Cir. 2015). In this case, the U.S. Court of Appeals for the Second Circuit held that a purchaser of a loan originated by a national bank could not charge interest at the rate permissible for the bank if that rate would be impermissible under the lower usury cap applicable to the purchaser.

<sup>1</sup> Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred, 84 FR 64229 (Nov. 21, 2019).



# Rules and Regulations

Federal Register

Vol. 85, No. 143

Friday, July 24, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 9 and 35

[NRC-2018-0303]

RIN 3150-AK27

### Social Security Number Fraud Prevention

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of August 17, 2020, for the direct final rule that was published in the **Federal Register** on June 2, 2020. This direct final rule amends the NRC's regulations to comply with the Social Security Number Fraud Prevention Act, signed on September 15, 2017.

**DATES:** The effective date of August 17, 2020, for the direct final rule published June 2, 2020 (85 FR 33527), is confirmed.

**ADDRESSES:** Please refer to Docket ID NRC-2018-0303 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 Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2018-0303. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical 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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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 email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Alexa Sieracki, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-7509, email: [Alexa.Sieracki@nrc.gov](mailto:Alexa.Sieracki@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On June 2, 2020 (85 FR 33527), the NRC published a direct final rule amending its regulations in parts 9 and 35 of title 10 of the *Code of Federal Regulations* to specify when inclusion of an individual's Social Security account number (SSN) is necessary, include instructions for the partial redaction of SSNs, where feasible, and provide a requirement that SSNs not be visible on the outside of any package sent through the mail.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on August 17, 2020. The NRC received two comments from the public that supported the proposed changes to the regulations. Because no significant adverse comments were received, the direct final rule will become effective as scheduled.

Dated July 17, 2020.

For the Nuclear Regulatory Commission.

**Cindy K. Bladey,**

*Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2020-15916 Filed 7-23-20; 8:45 am]

**BILLING CODE 7590-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Chapter III

RIN 3064-ZA17

### Notice of Rescission of the Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of rescission of statement of policy.

**SUMMARY:** The FDIC has rescinded the Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products.

**DATES:** July 24, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Ardie Hollifield, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202) 898-6638; Karen Currie, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898-3981; Benjamin K. Gibbs, Counsel, Legal Division, (202) 898-6726, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, TDD users may contact (202) 925-4618.

**SUPPLEMENTARY INFORMATION:** On November 26, 2013, the FDIC issued final supervisory guidance entitled “Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products” (2013 Deposit Advance Guidance), which addressed safe and sound banking practices and consumer protection in connection with deposit advance products.<sup>1</sup> On May 20, 2020, the FDIC, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and the National Credit Union Administration issued *Interagency Lending Principles for Offering Responsible Small-Dollar Loans (Interagency Lending Principles)* to encourage supervised banks, savings associations, and credit unions (collectively, “financial institutions”) to offer responsible small-dollar loans to customers for both consumer and small business purposes. As discussed in its Financial Institution Letter transmitting the *Interagency Lending Principles (FIL-58-2020)*, the FDIC has rescinded the

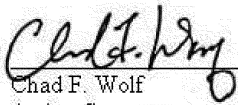
<sup>1</sup> 78 FR 70552-01 (November 26, 2013).

Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for Policy Joseph Edlow

Page 3 of 3

1. Asylum Eligibility. Interim Final Rule. 84 Fed. Reg. 33,829 (July 16, 2019) issued by Former Acting Secretary McAleenan.
2. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements. Notice of Proposed Rulemaking. 84 Fed. Reg. 62,280 (November 14, 2019) issued by Former Acting Secretary McAleenan.
3. Designating Aliens for Expedited Removal. Federal Register Notice. 84 Fed. Reg. 35,409 (July 23, 2019) issued by Former Acting Secretary McAleenan.
4. Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications. Notice of Proposed Rulemaking. 84 Fed. Reg. 47,148 (Sept. 9, 2019) issued by Former Acting Secretary McAleenan.
5. Asylum Application, Interview, and Employment Authorization for Applicants. Notice of Proposed Rulemaking. 84 Fed. Reg. 62,374 (Nov. 14, 2019) issued by Former Acting Secretary McAleenan.
6. Inadmissibility on Public Charge Grounds. Final Rule. 84 Fed. Reg. 41,292 (Aug. 14, 2019) issued by Former Acting Secretary McAleenan. Final rule correction. 84 Fed. Reg. 52,357 (Oct. 2, 2019) issued by Former Acting Secretary McAleenan.
7. Guatemala Refugee Protection. Former Acting Secretary McAleenan's October 16, 2019 determination issued by Former Acting Secretary McAleenan.
8. USCIS Deputy Director for Policy, Joseph Edlow's memorandum "Implementing Acting Secretary Chad Wolf's July 28, 2020 Memorandum" (August 21, 2020) issued by USCIS Deputy Director for Policy, Joseph Edlow.
9. Acting Secretary Kevin McAleenan's memorandum, "Information Regarding First Amendment Protected Activities" (May 17, 2019) issued by Former Acting Secretary McAleenan.

To avoid any possible uncertainty and out of an abundance of caution, pursuant to the Secretary of Homeland Security's authorities under, *inter alia*, the Homeland Security Act of 2002, Pub. L. No 207-296, as amended, and 5 U.S.C. §§ 301-302, I hereby make a detached and considered affirmation and ratification of the above noted actions originally taken and approved by former Acting Secretary McAleenan and USCIS Deputy Director for Policy Edlow.



Chad F. Wolf  
Acting Secretary

10/7/2020  
Date

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Chapter I**

**[NRC-2020-0125]**

**RIN 3150-AK48**

**Miscellaneous Corrections**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include redesignating footnotes, correcting references, typographical errors, nomenclature, titles, email addresses, and contact information. 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 November 16, 2020.



**ADDRESSES:** Please refer to Docket ID NRC-2020-0125 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 Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0125. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents Collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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 email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jill Shepherd, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1230, email: [Jill.Shepherd@nrc.gov](mailto:Jill.Shepherd@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The NRC is amending its regulations in parts 1, 2, 19, 20, 21, 30, 34, 35, 40, 50, 51, 52, 60, 61, 62, 63, 70, 71, 72, 73, 74, 75, 76, 110, and 140 of title 10 of the *Code of Federal Regulations* (10 CFR) to redesignate footnotes, correct references, typographical errors, nomenclature, titles, email addresses, redesignate footnotes, and contact information.

##### II. Summary of Changes

###### 10 CFR part 1

*Correct Nomenclature.* This final rule amends § 1.15 to clarify that Atomic Safety and Licensing Boards are designated by either the Commission or the Chief Administrative Judge.

###### 10 CFR part 2

*Correct Email Address.* This final rule corrects the email address for the E-Filing system in § 2.305(e)(4)(i).

*Correct Title and Email Address.* This final rule corrects the title for the

Associate General Counsel for Hearings and the email address for service on the NRC staff in § 2.305(g)(1).

###### 10 CFR parts 19, 34, 40, 62, 63, 74, 75, 110, and 140

*Correct Reference.* This final rule amends §§ 19.8(b), 34.8(b), 40.8(b), 62.8(b), 63.8(b), 74.8(b), 75.9(b), 110.7(b), and 140.9a(b) to add to the OMB information collections sections in each of these parts.

###### 10 CFR parts 20, 21, 30, 40, 50, 70, 72, 73, and 76

*Correct Division Title and Email Address.* This final rule corrects the division title and email address in the first table entry in appendix D to 10 CFR part 20.

*Correct Cross Reference and Title.* This final rule revises §§ 20.1906(d), 20.2201(a)(2)(ii), 20.2202(d)(2), 21.2(d), 30.50(c)(1), 40.60(c)(1), 40.67(c) and (d), 50.72(a)(2), 70.50(c)(1), 70.52(a), 72.74(a), 72.75(e)(1), 73.67(e)(3)(vii) and (g)(3)(iii), 73.71(a)(1) and (b)(1), 75.6(c) and (e), and 76.120(a) to correct the title to read "NRC Headquarters Operations Center" (the HOC) and to refer all licensees to the HOC's contact information in appendix A to 10 CFR part 73.

###### 10 CFR part 35

*Correct Nomenclature.* This final rule revises §§ 35.390(a)(1), 35.490(a)(1) and (b)(2), and 35.690(a)(1) and (b)(2) to correct the name from "Committee" to "Council" and "Post-Graduate" to "Postdoctoral."

###### 10 CFR part 40, 50, 60, 61, 63, 70, 72, 75, and 76

*Correct Reference.* This final rule amends §§ 40.8(c)(3), 40.31(g)(1), 50.8(c)(2), 50.78(a), 60.8(c), 60.47(a), 61.8(c), 61.32(a), 63.8(c), 63.47(a), 70.8(c)(1), 70.21(g)(1), 72.9(c), 72.79(a), 75.6(c), 75.9(c)(1), 75.10(d), and 76.35(l)(1) to revise all references to the International Atomic Energy Agency's Questionnaire Form N-71 wherever it appears from "Form N-71 and associated forms" to "IAEA Design Information Questionnaire forms."

###### 10 CFR part 50

*Correct Reference.* This final rule amends § 50.55a(b)(2)(ix) to correct the references to paragraph (b)(2)(ix)(A)(2) by italicizing the second "2".

*Correct Typographical Errors.* This final rule amends § 50.55a(b)(1)(x)(B), (b)(2)(xxxviii) introductory text, and (b)(2)(xxxviii)(A) and (B) to italicize the paragraph headings.

This final rule also amends § 50.55a(b)(2)(ix)(K) to correct "Table

IWE 2411-1" to read "Table IWE-2411-1" and "IWE 2430" to read "IWE-2430", and § 50.55a(b)(2)(xxxix)(A) to correct "IWA 4421(c)(1)" to read "IWA-4421(c)(1)".

Finally, this final rule amends § 50.55a(b)(3)(iv) introductory text to correct an inadvertent error that resulted from the removal of text.

This final rule revises paragraph III.L.1 of appendix R to 10 CFR part 50 to correct a typographical error.

###### 10 CFR Parts 50, 72, 73, and 76

*Redesignate footnotes.* This final rule redesignates footnotes 4 and 5 as footnotes 3 and 4 in § 50.72(a)(2); footnotes 10 and 11 as footnotes 1 and 2 in § 72.32; footnote 4 as footnote 1 in § 73.72; footnote 2 as footnote 1 in § 76.111; and footnote 4 as footnote 1 in § 76.120(b).

###### 10 CFR Part 51

*Correct Typographical Error.* This final rule revises § 51.22(c)(14)(xvi) to remove a reference.

###### 10 CFR Part 52

*Correct Cross Reference.* This final rule corrects the cross reference in §§ 52.29(c), 52.39(a)(1), and 52.303(b) to reference § 52.26 instead of § 52.27.

###### 10 CFR Part 71

*Correct Outdated Reference.* This final rule removes and reserves § 71.97(c)(3)(i) because the information on governors' designees is now out of date and paragraph (c)(3)(ii) provides the reference to the correct and current contact information.

*Correct Typographical Error.* This final rule revises the specific activity (TBq/g) entry for Sm-147 in Table A-1-A<sub>1</sub> and A<sub>2</sub> Values for Radionuclides in appendix A to 10 CFR part 71 to read "8.5 x 10<sup>10</sup>."

###### 10 CFR Part 73

*Correct Reference.* This final rule corrects the reference in § 73.57(b)(2)(iii) to read "Executive Order 13767, as amended by Executive Order 13764," which replaced Executive Order 10450.

*Correct Division Title and Mail Stop.* This final rule corrects the division title and mail stop in § 73.57(d)(1) to read "Division of Physical and Cyber Security Policy" and "T-8B20."

###### 10 CFR Part 110

*Correct Contact Information.* This final rule revises § 110.50(c)(2) to correct the phone number for the Office of International Programs to 301-287-9096 and to refer all licensees to the HOC's contact information in appendix A to 10 CFR part 73.

### III. Rulemaking Procedure

Under section 553(b) of 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 management, organization, procedure, and practice. Specifically, the revisions correct references, typographical errors, nomenclature, titles, email addresses, footnote designation, and contact information. The Commission is exercising its authority under 5 U.S.C.553(b) to publish these amendments as a final rule. The amendments are effective November 16, 2020. 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, including correcting references, correcting an address, and correcting a misspelling. 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 that 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 correction 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).

### IX. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), NRC program elements (including regulations) are placed into compatibility categories A, B, C, D, NRC, or adequacy category Health and Safety (H&S). Compatibility Category A

program elements are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B program elements are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C program elements are those program elements that do not meet the criteria of Category A or B, but contain the essential objectives that an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D program elements are those program elements that do not meet any of the criteria of Category A, B, or C and, therefore, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC program elements are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of 10 CFR. These program elements should not be adopted by the Agreement States. Adequacy category H&S program elements are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program.

The portions of this final rule that amend 10 CFR parts 19, 20, 30, 34, 35, 40, 61, 70, and 71 are a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. The compatibility categories are designated in the following table.

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
<b>Part 19</b>				
§ 19.8(b) .....	Amend .....	Information collection requirements: OMB approval .....	D	D
<b>Part 20</b>				
§ 20.1906(d) .....	Amend .....	Access authorization program requirements .....	H&S	H&S
§ 20.2201(a)(2)(ii) ...	Amend .....	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.	C	C
§ 20.2202(d)(2) .....	Amend .....	Notification of incidents .....	C	C
<b>Part 30</b>				
§ 30.50(c)(1) .....	Amend .....	Reporting requirements .....	C	C
<b>Part 34</b>				
§ 34.8(b) .....	Amend .....	Information collection requirements: OMB approval .....	D	D
<b>Part 35</b>				
§ 35.390(a)(1) .....	Amend .....	Training for use of unsealed byproduct material for which a written directive is required.	B	B
§ 35.490(a)(1) .....	Amend .....	Training for use of manual brachytherapy sources .....	B	B
§ 35.690(a)(1) .....	Amend .....	Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.	B	B
<b>Part 40</b>				
§ 40.8(b) .....	Amend .....	Information collection requirements: OMB approval .....	D	D
§ 40.31(g)(1) .....	Amend .....	Application for specific licenses .....	D	D
<b>Part 61</b>				
§ 61.8(a) .....	Amend .....	Information collection requirements: OMB approval .....	D	D
<b>Part 70</b>				
§ 70.8(c)(1) .....	Amend .....	Information collection requirements: OMB approval .....	D	D
§ 70.21(g)(1) .....	Amend .....	Filing .....	NRC	NRC
§ 70.50(c)(1) .....	Amend .....	Reporting requirements .....	C	C
§ 70.52(a) .....	Amend .....	Reports of accidental criticality .....	NRC	NRC
<b>Part 71</b>				
§ 71.97(c)(3)(i) .....	Amend .....	Advance notification of shipment of irradiated reactor fuel and nuclear waste.	B	B

**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 19*

Criminal penalties, Environmental protection, Nuclear Energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

*10 CFR Part 20*

Byproduct material, Criminal penalties, Hazardous waste, Licensed material, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 21*

Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 30*

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear energy, Nuclear materials, Penalties, Radiation protection, Reporting and recordkeeping requirements, Whistleblowing.

*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 35*

Biologics, Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Labeling, Medical devices, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 40*

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

*10 CFR Part 50*

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, 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 51*

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

*10 CFR Part 52*

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning,

Fees, Incorporation by reference, Inspection, Issue finality, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

*10 CFR Part 60*

Criminal penalties, Hazardous waste, Indians, High-level waste, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Whistleblowing.

*10 CFR Part 61*

Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Low-level waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Waste treatment and disposal, Whistleblowing.

*10 CFR Part 62*

Administrative practice and procedure, Denial of access, Emergency access to low-level waste disposal, Hazardous waste, Intergovernmental relations, Low-level radioactive waste, Low-level radioactive waste treatment and disposal, Nuclear energy, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 63*

Criminal penalties, Hazardous waste, High-level waste, Indians, Intergovernmental relations, Nuclear energy, Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements, Waste treatment and disposal.

*10 CFR Part 70*

Classified information, Criminal penalties, Emergency medical services, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material, 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 72*

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

*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 74*

Accounting, Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

*10 CFR Part 75*

Criminal penalties, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures, Treaties.

*10 CFR Part 76*

Certification, Criminal penalties, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Special nuclear material, Uranium, Uranium enrichment by gaseous diffusion.

*10 CFR Part 110*

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Incorporation by reference, Imports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

*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 amending 10 CFR chapter I to read as follows:

**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).

**§ 1.15 [Amended]**

■ 2. In § 1.15, remove the word “appointed” and add in its place the word “designated”.

**PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE**

■ 3. 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.

Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

**§ 2.305 [Amended]**

■ 4. In § 2.305, in paragraph (e)(4)(i), remove the Web address “<http://www.nrc.gov>” and add in its place “<https://www.nrc.gov/site-help/e-submittals.html>” and in paragraph (g)(1), wherever it appears, remove “the Associate General Counsel for Hearings, Enforcement & Administration” and add in its place “Deputy General Counsel” and remove “[OgcMailCenter.Resource@nrc.gov](mailto:OgcMailCenter.Resource@nrc.gov)” and add in its place “[RidsOgcMailCenter.Resource@nrc.gov](mailto:RidsOgcMailCenter.Resource@nrc.gov)”.

**PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS**

■ 5. The authority citation for part 19 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 63, 81, 103, 104, 161, 223, 234, 1701

(42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 211, 401 (42 U.S.C. 5841, 5851, 5891); 44 U.S.C. 3504 note.

■ 6. In § 19.8, revise paragraph (b) to read as follows:

**§ 19.8 Information collection requirements: OMB approval.**

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in §§ 19.12, 19.13, 19.16, and 19.31.

**PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION**

■ 7. The authority citation for part 20 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 53, 63, 65, 81, 103, 104, 161, 170H, 182, 186, 223, 234, 274, 1701 (42 U.S.C. 2014, 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2210h, 2232, 2236, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

■ 8. In § 20.1906, revise paragraph (d) to read as follows:

**§ 20.1906 Procedures for receiving and opening packages.**

\* \* \* \* \*

(d) The licensee shall immediately notify the final delivery carrier and the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to part 73 of this chapter, when—

\* \* \* \* \*

■ 9. In § 20.2201, revise paragraph (a)(2)(ii) to read as follows:

**§ 20.2201 Reports of theft or loss of licensed material.**

(a) \* \* \*

(2) \* \* \*

(ii) All other licensees shall make reports by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter.

\* \* \* \* \*

■ 10. In § 20.2202, revise paragraph (d)(2) to read as follows:

**§ 20.2202 Notification of incidents.**

\* \* \* \* \*

(d) \* \* \*

(2) All other licensees shall make the reports required by paragraphs (a) and (b) of this section by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter.

\* \* \* \* \*

**Appendix D to Part 20 [Amended]**

■ 11. In the first row of the table in appendix D to part 20, remove the title “Division of Incident Response Operations” and add in its place “Division of Preparedness and Response” and remove the email “[H001@nrc.gov](mailto:H001@nrc.gov)” and add in its place “[Hoo.Hoc@nrc.gov](mailto:Hoo.Hoc@nrc.gov)”.

**PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE**

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

**Authority:** Atomic Energy Act of 1954, secs. 53, 63, 81, 103, 104, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

■ 13. In § 21.2, revise the last sentence of paragraph (d) to read as follows:

**§ 21.2 Scope.**

\* \* \* \* \*

(d) \* \* \* The telephone numbers of the NRC Headquarters Operations Center (answered 24 hours a day—including holidays) are listed in appendix A to part 73 of this chapter.

\* \* \* \* \*

**PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL**

■ 14. The authority citation for part 30 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 81, 161, 181, 182, 183, 184, 186, 187, 223, 234, 274 (42 U.S.C. 2014, 2111, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

■ 15. In § 30.50, revise the first sentence of paragraph (c)(1) introductory text to read as follows:

**§ 30.50 Reporting requirements.**

\* \* \* \* \*

(c) \* \* \*

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter. \* \* \*

\* \* \* \* \*

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

■ 16. 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.

**§ 34.8 [Amended]**

■ 17. In § 34.8(b), add “34.111,” in numerical order.

**PART 35—MEDICAL USE OF BYPRODUCT MATERIAL**

■ 18. The authority citation for part 35 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.

**§ 35.390 [Amended]**

■ 19. In § 35.390(a)(1), remove “Committee on Post-Graduate Training” and add in its place “Council on Postdoctoral Training”.

**§ 35.490 [Amended]**

■ 20. In § 35.490, in paragraph (a)(1), remove “Committee on Post-Graduate Training” and add in its place “Council on Postdoctoral Training” and in paragraph (b)(2), remove “Committee on Postdoctoral” and add in its place “Council on Postdoctoral”.

**§ 35.690 [Amended]**

■ 21. In § 35.690, in paragraph (a)(1), remove “Committee on Post-Graduate Training” and add in its place “Council on Postdoctoral Training” and in paragraph (b)(2), remove “Committee on Postdoctoral” and add in its place “Council on Postdoctoral”.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

■ 22. The authority citation for part 40 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

**§ 40.8 [Amended]**

■ 23. In § 40.8, in paragraph (b) add “40.14,” in numerical order, and in paragraph (c)(3) remove “Forms N-71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

**§ 40.31 [Amended]**

■ 24. In § 40.31(g)(1), remove “Form N-71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

■ 25. In § 40.60, revise the first sentence of paragraph (c)(1) introductory text to read as follows:

**§ 40.60 Reporting requirements.**

\* \* \* \* \*

(c) \* \* \*

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter. \* \* \*

\* \* \* \* \*

■ 26. In § 40.67, revise paragraphs (c) and (d) to read as follows:

**§ 40.67 Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.**

\* \* \* \* \*

(c) The licensee shall notify the Director, Office of Nuclear Security and Incident Response, by telephone at the numbers for the NRC Headquarters Operations Center specified in appendix A to part 73 of this chapter when the shipment is received in the receiving facility.

(d) A licensee who needs to amend a notification shall notify the Director, Office of Nuclear Security and Incident Response, by telephone at the numbers specified for the NRC Headquarters Operations Center in appendix A to part 73 of this chapter.

**PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES**

■ 27. 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.

**§ 50.8 [Amended]**

■ 28. In § 50.8(c)(2), remove “Form N-71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

■ 29. In § 50.55a:

■ a. In paragraph (b)(1)(x)(B), revise the paragraph heading;

■ b. In paragraph (b)(2)(ix) introductory text, remove the reference “(b)(2)(ix)(A)(2)” wherever it appears and add in its place the reference “(b)(2)(ix)(A)(2)”;

■ c. In paragraph (b)(2)(ix)(K), remove “Table IWE 2411-1” and add in its place “Table IWE-2411-1” and remove “IWE 2430” and add in its place “IWE-2430”;

■ d. In paragraph (b)(2)(xxxviii) introductory text and paragraphs (b)(2)(xxxviii)(A) and (B), revise the paragraph headings;

■ e. In paragraph (b)(2)(xxxix)(A), remove “IWA 4421(c)(1)” and add in its place “IWA-4421(c)(1)”;

■ f. In paragraph (b)(3)(iv) introductory text, revise the first sentence.

The revisions read as follows:

**§ 50.55a Codes and standards.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(x) \* \* \*

(B) *Visual examination of bolts, studs, and nuts: Second provision.* \* \* \*

\* \* \* \* \*

(2) \* \* \*

(xxxviii) *Section XI condition: ASME Code Section XI Appendix III Supplement 2.*

\* \* \* \* \*

(A) *ASME Code Section XI Appendix III Supplement 2: First provision.*

\* \* \* \* \*

(B) *ASME Code Section XI Appendix III Supplement 2: Second provision.*

\* \* \* \* \*

\* \* \* \* \*

(3) \* \* \*

(iv) \* \* \* Appendix II of the ASME OM Code, 2003 Addenda through the 2015 Edition, is acceptable for use with the following requirements. \* \* \*

\* \* \* \* \*

■ 30. In § 50.72, revise paragraph (a)(2) and redesignate footnotes 4 and 5 as footnotes 3 and 4.

The revision to read as follows:

**§ 50.72 Immediate notification requirements for operating nuclear power reactors.**

(a) \* \* \*

(2) If the Emergency Notification System is inoperative, the licensee shall

make the required notifications via commercial telephone service, other dedicated telephone system, or any other method which will ensure that a report is made as soon as practical to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter.

\* \* \* \* \*

#### § 50.78 [Amended]

- 31. In § 50.78(a), remove “Form N–71, and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

#### Appendix R to Part 50 [Amended]

- 32. In paragraph III.L.1 of appendix R to part 50, remove “of rupture of the containment boundary” and add in its place “or rupture of the containment boundary”.

### PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

- 33. The authority citation for part 51 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

#### § 51.22 [Amended]

- 34. In § 51.22(c)(14)(xvi), remove the parenthetical “(Category 14)”.

### PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

- 35. The authority citation for part 52 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

#### § 52.29 [Amended]

- 36. In § 52.29(c), remove the reference to “§ 52.27(b)” and add in its place “§ 52.26(b)”.

#### § 52.39 [Amended]

- 37. In § 52.39(a)(1), remove the reference to “§§ 52.27” and add in its place “§§ 52.26”.

#### § 52.303 [Amended]

- 38. In § 52.303(b), remove the reference to “52.27” and add in its place “52.26”.

### PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

- 39. The authority citation for part 60 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 223, 234 (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 42 U.S.C. 2021a; National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 114, 117, 121 (42 U.S.C. 10134, 10137, 10141), 44 U.S.C. 3504 note.

#### § 60.8 [Amended]

- 40. In § 60.8(c), remove “Forms N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

#### § 60.47 [Amended]

- 41. In § 60.47(a), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

### PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

- 42. The authority citation for part 61 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 65, 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 206, 211 (42 U.S.C. 5841, 5846, 5851); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note.

#### § 61.8 [Amended]

- 43. In § 61.8(c), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

#### § 61.32 [Amended]

- 44. In § 61.32(a), remove “Form N–71 and associated forms” and add in its

place “IAEA Design Information Questionnaire forms”.

### PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

- 45. The authority citation for part 62 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, sec. 161 (42 U.S.C. 2201); Energy Reorganization Act of 1974, secs. 201 (42 U.S.C. 5841); Low-Level Radioactive Waste Policy Amendments Act of 1985, secs. 2, 6 (42 U.S.C. 2021b, 2021f); 44 U.S.C. 3504 note.

#### § 62.8 [Amended]

- 46. In § 62.8(b), add “62.5,” in numerical order.

### PART 63—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

- 47. The authority citation for part 63 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 223, 234 (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 42 U.S.C. 2021a; National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 114, 117, 121 (42 U.S.C. 10134, 10137, 10141); 44 U.S.C. 3504 note.

#### § 63.8 [Amended]

- 48. In § 63.8, in paragraph (b) add “63.6,” in numerical order, and in paragraph (c) remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

#### § 63.47 [Amended]

- 49. In § 63.47(a), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

### PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

- 50. The authority citation for part 70 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 51, 53, 57(d), 108, 122, 161, 182, 183, 184, 186, 187, 193, 223, 234, 274, 1701 (42 U.S.C. 2071, 2073, 2077(d), 2138, 2152, 2201, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 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, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

§ 70.8 [Amended]

■ 51. In § 70.8(c)(1), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

§ 70.21 [Amended]

■ 52. In § 70.21(g)(1), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

■ 53. In § 70.50, revise the first sentence of paragraph (c)(1) introductory text to read as follows:

§ 70.50 Reporting requirements.

\* \* \* \* \*

(c) \* \* \*

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section, and by § 70.74 and appendix A of this part, if applicable, by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter. \* \* \*

\* \* \* \* \*

■ 54. In § 70.52, revise paragraph (a) to read as follows:

§ 70.52 Reports of accidental criticality.

(a) Each licensee shall notify the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to part 73 of this chapter within 1 hour after discovery of any case of accidental criticality.

\* \* \* \* \*

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

■ 55. 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.

Section 71.97 also issued under Sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 71.97 [Amended]

■ 56. In § 71.97, remove and reserve paragraph (c)(3)(i).

Appendix A to Part 71 [Amended]

■ 57. In Appendix A to part 71, in Table A–1, amend the entry radionuclide Sm-147, by removing “8.5 × 10<sup>-11</sup>” and adding in its place “8.5 × 10<sup>-10</sup>”.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 58. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

§ 72.9 [Amended]

■ 59. In § 72.9(c), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

§ 72.32 [Amended]

■ 60. In § 72.32, redesignate footnotes 10 and 11 as footnotes 1 and 2.

■ 61. In § 72.74, revise paragraph (a) to read as follows:

§ 72.74 Reports of accidental criticality or loss of special nuclear material.

(a) Each licensee shall notify the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to part 73 of this chapter within 1 hour of discovery of accidental criticality or any loss of special nuclear material.

\* \* \* \* \*

■ 62. In § 72.75, revise paragraph (e)(1) to read as follows:

§ 72.75 Reporting requirements for specific events and conditions.

\* \* \* \* \*

(e) \* \* \*

(1) Licensees shall make reports required by paragraphs (a), (b), (c), or (d) of this section by telephone to the NRC Headquarters Operations Center at the numbers specified in appendix A to part 73 of this chapter.<sup>1</sup>

<sup>1</sup> Those licensees with an available Emergency Notification System (ENS) shall use the ENS to notify the NRC Headquarters Operations Center.

\* \* \* \* \*

§ 72.79 [Amended]

■ 63. In § 72.79(a), remove “Form N–71 and associated forms” and add in its

place “IAEA Design Information Questionnaire forms”.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 64. 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 73.1 also issued under Nuclear Waste Policy Act secs. 135, 141 (42 U.S.C. 10155, 10161).

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

Section 73.37(f) also issued under Sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 73.57 [Amended]

■ 65. Amend 73.57:

■ a. In paragraph (b)(2)(iii), remove “Executive Order 10450” and add in its place “Executive Order 13767, as amended by Executive Order 13764,”.

■ b. In paragraph (d)(1), wherever it appears, remove “Division of Facilities and Security” and add in its place “Division of Physical and Cyber Security Policy” and remove “TWB 05B32M” and add in its place “T–8B20”.

■ 66. In § 73.67, revise paragraphs (e)(3)(vii) and (g)(3)(iii) to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

\* \* \* \* \*

(e) \* \* \*  
(3) \* \* \*

(vii) Notify the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to this part within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accounting for such lost shipment in accordance with the provisions of § 73.71 of this part.

\* \* \* \* \*

(g) \* \* \*  
(3) \* \* \*

(iii) Conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and notify the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to this part within 1 hour after the discovery of the loss of the



shipment and within 1 hour after recovery of or accounting for such lost shipment in accordance with the provisions of § 73.71 of this part.

\* \* \* \* \*

■ 67. In § 73.71, revise paragraphs (a)(1) and (b)(1) to read as follows:

**§ 73.71 Reporting of safeguards events.**

(a)(1) Each licensee subject to the provisions of § 73.25, § 73.26, § 73.27(c), § 73.37, § 73.67(e), or § 73.67(g) shall notify the NRC Headquarters Operations Center by telephone within 1 hour after discovery of the loss of any shipment of SNM or spent fuel, and within 1 hour after recovery of or accounting for such lost shipment. Contact numbers for the NRC Headquarters Operations Center are found in appendix A to this part.

\* \* \* \* \*

(b)(1) Each licensee subject to the provisions of § 73.20, § 73.37, § 73.50, § 73.51, § 73.55, § 73.60, or § 73.67 shall notify the NRC Headquarters Operations Center by telephone within 1 hour of discovery of the safeguards events described in paragraph I (a)(1) of appendix G to this part. Licensees subject to the provisions of § 73.20, § 73.37, § 73.50, § 73.51, § 73.55, § 73.60, or each licensee possessing strategic special nuclear material and subject to § 73.67(d) shall notify the NRC Headquarters Operations Center within 1 hour after discovery of the safeguards events described in paragraphs I (a)(2), (a)(3), (b), and (c) of appendix G to this part. Licensees subject to the provisions of § 73.20, § 73.37, § 73.50, § 73.51, § 73.55, or § 73.60 shall notify the NRC Headquarters Operations Center within 1 hour after discovery of the safeguards events described in paragraph I (d) of appendix G to this part. Contact numbers for the NRC Headquarters Operations Center are found in appendix A to this part.

\* \* \* \* \*

**§ 73.72 [Amended]**

■ 68. In § 73.72, redesignate footnote 4 as footnote 1.

**PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL**

■ 69. The authority citation for part 74 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 57, 161, 182, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2201, 2232, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

**§ 74.8 [Amended]**

■ 70. In § 74.8(b), add “74.7,” in numerical order.

**PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF SAFEGUARDS AGREEMENTS BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY**

■ 71. The authority citation for part 75 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 53, 63, 103, 104, 122, 161, 223, 234, 1701 (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201, 2273, 2282, 2297f); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

**§ 75.6 [Amended]**

■ 72. In § 75.6, in paragraph (c), in the table, remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms” and in paragraphs (c) and (e), in the tables, remove “(commercial telephone number 301–816–5100)” and add in its place “by telephone at the numbers specified in appendix A to part 73 of this chapter”.

**§ 75.9 [Amended]**

■ 73. In § 75.9, in paragraph (b), add in numerical order “75.3,” and in paragraph (c)(1), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

■ 74. In § 75.10, revise the introductory text of paragraph (d) to read as follows:

**§ 75.10 Facilities.**

\* \* \* \* \*

(d) The information specified in paragraphs (b) and (c) of this section, except for the information specified in paragraph (b)(5) of this section, must be prepared on IAEA Design Information Questionnaire forms or other forms supplied by the NRC. The information must be sufficiently detailed to enable knowledgeable determinations to be made in the development of Facility Attachments or amendments thereto, including:

\* \* \* \* \*

**PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS**

■ 75. The authority citation for part 76 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 122, 161, 193(f), 223, 234, 1701 (42 U.S.C. 2152, 2201, 2243(f), 2273, 2282, 2297f); Energy Reorganization Act of 1974,

secs. 201, 206, 211 (42 U.S.C. 5841, 5846, 5851); 44 U.S.C. 3504 note.

**§ 76.35 [Amended]**

■ 76. In § 76.35(l)(1), remove “Form N–71 and associated forms” and add in its place “IAEA Design Information Questionnaire forms”.

**§ 76.111 [Amended]**

■ 77. In § 76.111, redesignate footnote 2 as footnote 1.

■ 78. In § 76.120, revise paragraph (a) introductory text and in paragraph (b), redesignate footnote 4 as footnote 1 to read as follows:

**§ 76.120 Reporting requirements.**

(a) *Immediate report.* The Corporation shall notify the NRC Headquarters Operations Center by telephone at the numbers specified in appendix A to part 73 of this chapter within 1 hour after discovery of:

\* \* \* \* \*

**PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL**

■ 79. The authority citation for part 110 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170H, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504 note.

**§ 110.7 [Amended]**

■ 80. In § 110.7(b), add “110.10,” in numerical order.

■ 81. In § 110.50 revise paragraph (c)(2) to read as follows:

**§ 110.50 Terms.**

\* \* \* \* \*

(c) \* \* \*

(2) The NRC’s office responsible for receiving advance notifications for all export and import shipments is the NRC Headquarters Operations Center. Notifications to the NRC Headquarters Operations Center are to be submitted by email (preferred method) or faxed using the contact information specified in appendix A to 10 CFR part 73 of this chapter. In the subject line of the email or on the fax cover page include “10 CFR 110.50(c) Notification.” To contact the NRC Operations Center, use the

same email address or call the telephone number in appendix A to 10 CFR part 73. For questions or concerns on submitting these advance notifications to the NRC, please contact the Office of International Programs at 301-287-9056.

\* \* \* \* \*

## PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 82. 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.

### § 140.9a [Amended]

■ 83. In § 140.9a(b), add “140.8,” in numerical order.

Dated: September 21, 2020.

For the Nuclear Regulatory Commission.

**Cindy K. Bladey,**

*Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2020-21148 Filed 10-15-20; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Part 34

[Docket No. OCC-2020-0014]

RIN 1557-AE86

## FEDERAL RESERVE SYSTEM

#### 12 CFR Part 225

[Docket No. R-1713]

RIN 7100-AF87

## FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 323

RIN 3064-AF48

### Real Estate Appraisals

**AGENCY:** The Office of the Comptroller of the Currency, Treasury (OCC); the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The OCC, Board, and FDIC (collectively, the agencies) are adopting

as final the interim final rule published by the agencies on April 17, 2020, making temporary amendments to the agencies' regulations requiring appraisals for certain real estate-related transactions. The final rule adopts the deferral of the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. The agencies' final rule allows regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID event). The final rule adopts the interim final rule with one revision in response to comments received by the agencies on the interim final rule.

**DATES:** The final rule is effective October 16, 2020 through December 31, 2020.

#### FOR FURTHER INFORMATION CONTACT:

OCC: G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649-6670; Mitchell Plave, Special Counsel, (202) 649-5490; or Joanne Phillips, Counsel, Chief Counsel's Office (202) 649-5500; Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. For persons who are deaf or hearing impaired, TTY users may contact (202) 649-5597.

Board: Anna Lee Hewko, Associate Director, (202) 530-6260; Teresa A. Scott, Manager, Policy Development Section, (202) 973-6114; Carmen Holly, Lead Financial Institution Policy Analyst, (202) 973-6122; Devyn Jeffereis, Senior Financial Institution Policy Analyst, (202) 365-2467, Division of Supervision and Regulation; Laurie Schaffer, Deputy General Counsel, (202) 452-2272; Derald Seid, Senior Counsel, (202) 452-2246; Trevor Feigleson, Counsel, (202) 452-3274; David Imhoff, Attorney, (202) 452-2249, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Division of Risk

Management and Supervision, (202) 898-3640, [BGardner@FDIC.gov](mailto:BGardner@FDIC.gov); Mark Mellon, Counsel, Legal Division, (202) 898-3884; or, Lauren Whitaker, Senior Attorney, Legal Division, (202) 898-3872, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, TDD users may contact (202) 925-4618.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

I. Introduction
II. Background
III. Overview of the Interim Final Rule and Comments
A. Overview of the Interim Final Rule
B. Public Comments
IV. Summary of the Final Rule
V. Administrative Law Matters
A. Administrative Procedure Act
B. Congressional Review Act
C. Paperwork Reduction Act
D. Regulatory Flexibility Act
E. Riegle Community Development and Regulatory Improvement Act of 1994
F. Use of Plain Language
G. OCC Unfunded Mandates Reform Act of 1995 Determination

## I. Introduction

*Impact of the COVID event on appraisals and evaluations.* Due to the impact of the COVID event<sup>1</sup> and the need for businesses and individuals to quickly access additional liquidity, the agencies published an interim final rule in the **Federal Register** on April 17, 2020 (interim final rule),<sup>2</sup> that deferred the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. The interim final rule allows businesses and individuals to quickly access liquidity from real estate equity during the COVID event.

The agencies are adopting the interim final rule as final, with one revision in response to comments. The amendments to the agencies' appraisal regulations allow for the deferral of appraisals and evaluations for qualifying transactions through December 31, 2020, as detailed further below.

## II. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI)<sup>3</sup> directs each Federal

<sup>1</sup> The coronavirus disease 2019 outbreak was declared a national emergency under Proclamation No. 9994, 85 FR 15337 (Mar. 18, 2020).

<sup>2</sup> 85 FR 21312.

<sup>3</sup> 12 U.S.C. 3331 *et seq.*; Public Law 101-73, 103 Stat. 183 (1989).

## **R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

### **R313-12. General Provisions.**

#### **R313-12-3. Definitions.**

As used in Rules R313-12, R313-14 through R313-19, R313-21, R313-22, R313-24 through R313-26, R313-28, R313-30, R313-32, R313-34 through R313-38 and R313-70, these terms shall have the definitions set forth in Section R313-12-3. Additional definitions used only in a certain rule will be found in that rule.

"A1" means the maximum activity of special form radioactive material permitted in a Type A package.

"A2" means the maximum activity of radioactive material, other than special form radioactive material, low specific activity, and surface contaminated object material permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, (2020) which is incorporated by reference in Section R313-19-100 or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, (2020) which is incorporated by reference in Section R313-19-100.

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator produced radioactive material" means material made radioactive by a particle accelerator.

"Act" means Utah Radiation Control Act, Title 19, Chapter 3.

"Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.

"Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.

"Advanced practice registered nurse" means an individual licensed by this state to engage in the practice of advanced practice registered nursing. See Sections 58-31b-101 through 58-31b-801, Nurse Practice Act.

"Agreement State" means a state with which the United States Nuclear Regulatory Commission or the Atomic Energy Commission has entered into an effective agreement under Section 274 b. of the Atomic Energy Act of 1954, as amended, [(73 Stat. 689)].

"Airborne radioactive material" means a radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

"Airborne radioactivity area" means[-] a room, enclosure, or area in which airborne radioactive material exists in concentrations:

(a) [H]in excess of the derived air concentrations (DACs), specified in Rule R313-15; or

(b) [F]to a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6% of the annual limit on intake (ALI), or 12 DAC-hours.

"As low as reasonably achievable" (ALARA) means making [every]each reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Area of use" means a portion of an address of use that has been set aside to receive, use, or store radioactive material.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. [u]Background radiation[u] does not include sources of radiation from radioactive materials regulated by the Division of Waste Management and Radiation Control under the Radiation Control Act or Rules R313-12, R313-14 through R313-19, R313-21, R313-22, R313-24 through R313-26, R313-28, R313-30, R313-32, R313-34 through R313-38 and R313-70.

"Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to one disintegration or transformation per second.

"Bioassay" means the determination of kinds, quantities or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

"Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

"Byproduct material" means:

(a) a radioactive material, with the exception of special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) 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 these solution extraction operations do not constitute [u]byproduct material[u] within this definition;

(c) (i) a discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) material that;

(A) has been made radioactive by use of a particle accelerator; and

(B) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(d) a discrete source of naturally occurring radioactive material, other than source material, that

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate [F]federal agency, has determined would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) [B]before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

"Calibration" means the determination of:

(a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

"Chelating agent" means a chemical ligand that can form coordination compounds in which the ligand occupies more than one coordination position. The agents include beta diketones, certain proteins, amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

"Chiropractor" means an individual licensed by this state to engage in the practice of chiropractic. See Sections 58-73-101 through 58-73-701, Chiropractic Physician Practice Act.

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Commencement of construction" means taking any action defined as ["]construction["] or any other activity at the site of a facility subject to these rules that have a reasonable nexus to radiological health and safety.

"Commission" means the U.S. Nuclear Regulatory Commission.

"Committed dose equivalent" (HT,50), means the dose equivalent to organs or tissues of reference (T), that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" (HE,50), is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

"Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium shall be located at an educational institution, a Federal facility, or a medical facility.

"Construction" means the installation of wells associated with radiological operations[;], for example, production, injection, or monitoring well networks associated with in situ recovery or other facilities[;], the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to these rules that are related to radiological safety or security. The term ["]construction["] does not include:

(a) changes for temporary use of the land for public recreational purposes;

(b) site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;

(e) excavation;

(f) erection of support buildings[;], for example, construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings[;], for use in connection with the construction of the facility;

(g) building of service facilities[;], for example, paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines;

(h) procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(i) taking any other action that has no reasonable nexus to radiological health and safety.

"Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

"Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

"Curie" means a unit of measurement of activity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  to the tenth power disintegrations or transformations per second (dps or tps).

"Cyclotron" means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of ~~[40]~~ten megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

"Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

- (a) release of property for unrestricted use and termination of the license; or
- (b) release of the property under restricted conditions and termination of the license.

"Deep dose equivalent" ( $H_d$ ), which applies to external whole body exposure, means the dose equivalent at a tissue depth of one centimeter (1000 mg/cm<sup>2</sup>).

"Dentist" means an individual licensed by this state to engage in the practice of dentistry. See Sections 58-69-101 through 58-69-806, Dentist and Dental Hygienist Practice Act.

"Department" means the Utah Department of Environmental Quality.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Diffuse source" means a radionuclide that has been unintentionally produced or concentrated during the processing of materials for use for commercial, medical, or research activities.

"Director" means the ~~[D]~~director of the Division of Waste Management and Radiation Control.

"Discrete source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

"Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

"Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

"Dose equivalent" ( $H_T$ ), means the product of the absorbed dose in tissue, quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

"Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purpose of these rules, "limits" is an equivalent term.

"Effective dose equivalent" ( $H_E$ ), means the sum of the products of the dose equivalent to each organ or tissue ( $H_T$ ), and the weighting factor ( $w_T$ ), applicable to each of the body organs or tissues that are irradiated.

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means an opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Explosive material" means a chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

"EXPOSURE" [~~when~~]if capitalized, means the quotient of  $dQ$  by  $dm$  where  $[^A]dQ[^A]$  is the absolute value of the total charge of the ions of one sign produced in air when ~~[all]~~the electrons, both negatrons and positrons, liberated by photons in a volume element of air having a mass of  $[^A]dm[^A]$  are completely stopped in air. The special unit of EXPOSURE is the roentgen (R). See Section R313-12-20 Units of exposure and dose for the SI equivalent. For purposes of these rules, this term is used as a noun.

"Exposure" [~~when~~]if not capitalized, means being exposed to ionizing radiation or to radioactive material. For purposes of these rules, this term is used as a verb.

"EXPOSURE rate" means the EXPOSURE per unit of time, such as roentgen per minute and milliroentgen per hour.

"External dose" means that portion of the dose equivalent received from a source of radiation outside the body.

"Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

"Facility" means the location within one building, vehicle, or under one roof and under the same administrative control

(a) at which the use, processing or storage of radioactive material is or was authorized; or

(b) at which one or more radiation-producing machines or radioactivity-inducing machines are installed or located.

"Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram.

"Hazardous waste" means those wastes designated as hazardous by the U.S. Environmental Protection Agency [~~rules~~]regulations in 40 CFR Part 261.

"Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, and podiatry.

"High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates. For purposes of these rules, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

"Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

"Individual" means a human being.

"Individual monitoring" means the assessment of:

(a) dose equivalent, by the use of individual monitoring devices or, by the use of survey data; or

(b) committed effective dose equivalent by bioassay or by determination of the time weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

"Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, individual monitoring equipment and personnel monitoring equipment are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLD's), pocket ionization chambers, and personal air sampling devices.

"Inspection" means an official examination or observation including tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions applicable to radiation sources.

"Interlock" means a device arranged or connected requiring the occurrence of an event or condition before a second condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm<sup>2</sup>).

"License" means a license issued by the [D]director in accordance with the rules adopted by the [B]board.

"Licensee" means a person who is licensed by the [D]department in accordance with these rules and the Act.

"Licensed or registered material" means radioactive material, received, possessed, used or transferred or disposed of under a general or specific license issued by the [D]director.

"Licensing state" means a state which, before November 30, 2007, was provisionally or finally designated as [such] a licensing state by the Conference of Radiation Control Program Directors, Inc., which reviewed state regulations to establish equivalency with the Suggested State Regulations and ascertained whether a [S]state has an effective program for control of natural occurring or accelerator produced radioactive material.

"Limits". See "Dose limits".

"Lost or missing source of radiation" means licensed or registered sources of radiation whose location is unknown. This definition includes radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

"Member of the public" means an individual except when that individual is receiving an occupational dose.

"Minor" means an individual less than 18 years of age.

"Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, radiation monitoring and radiation protection monitoring are equivalent terms.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

"Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, from voluntary participation in medical research programs, or as a member of the public.

"Package" means the packaging together with its radioactive contents as presented for transport.

"Particle accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one megaelectron volt. For purposes of these rules, "accelerator" is an equivalent term.

"Permit" means a permit issued by the [D]director in accordance with the rules adopted by the [B]board.

"Permitee" means a person who is permitted by the [D]director in accordance with these rules and the Act.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or another state or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

"Personnel monitoring equipment," see individual monitoring devices.

"Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy. See Sections 58-17b-101 through 58-17b-806, Pharmacy Practice Act.

"Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

"Physician assistant" means an individual licensed by this state to engage in practice as a physician assistant. See Sections 58-70a-101 through 58-70a-504, Physician Assistant Act.

"Podiatrist" means an individual licensed by this state to engage in the practice of podiatry. See Sections 58-5a-101 through 58-5a-501, Podiatric Physician Licensing Act.

"Practitioner" means an individual licensed by this state in the practice of a healing art. For these rules, only the following are considered to be a practitioner: physician, dentist, podiatrist, chiropractor, physician assistant, and advanced practice registered nurse.

"Protective apron" means an apron made of radiation-attenuating materials used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from exposure to radiation or to radioactive materials released by a licensee, or to any other source of radiation under the control of a licensee or registrant. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, or from voluntary participation in medical research programs.

"Pyrophoric material" means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit (54.4 degrees Celsius) or any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Quality factor" (Q) means the modifying factor, listed in Tables 1 and 2 of Section R313-12-20 that is used to derive dose equivalent from absorbed dose.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram

"Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include non-ionizing radiation, like radiowaves or microwaves, visible, infrared, or ultraviolet light.

"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates.

"Radiation machine" means a device capable of producing radiation except those devices with radioactive material as the only source of radiation.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection rules and has been assigned this responsibility by the licensee or registrant. For a licensee authorized to use radioactive materials in accordance with the requirements of Rule R313-32[7];

(1) the individual named as the [R]Radiation Safety Officer[R] shall meet the training requirements for a Radiation Safety Officer as stated in Rule R313-32; or

(2) the individual shall be identified as a [R]Radiation Safety Officer[R] on;

(a) a specific license issued by the [D]director, the U.S. Nuclear Regulatory Commission, or an Agreement State that authorizes the medical use of radioactive materials; or

(b) a medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee.

"Radiation source". See "Source of radiation."

"Radioactive material" means a solid, liquid, or gas which emits radiation spontaneously.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiobioassay". See "Bioassay".

"Registrant" means any person who is registered with respect to radioactive materials or radiation machines with the [D]director or is legally obligated to register with the [D]director pursuant to these rules and the Act.

"Registration" means registration with the [D]director in accordance with the rules adopted by the [B]board.

"Regulations of the U.S. Department of Transportation" means 49 CFR 100 through 189 and 49 CFR 390 through 397, as referenced in 49 CFR 177.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor. One rem equals 0.01 sievert (Sv).

"Research and development" means:

(a) theoretical analysis, exploration, or experimentation; or

(b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from any licensed and unlicensed sources used

by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with Rule R313-15.

"Restricted area" means an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A ["]Restricted area["] does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" (R) means the special unit of EXPOSURE. One roentgen equals  $2.58 \times 10^{-4}$  coulombs per kilogram of air. See EXPOSURE.

"Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

"Sealed source and device registry" means the national registry that contains [all]the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

"Shallow dose equivalent" (Hs) which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per square centimeter).

"SI" means an abbreviation of the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor. One Sv equals 100 rem.

"Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

"Source container" means a device in which sealed sources are transported or stored.

"Source material" means:

- (a) uranium or thorium, or any combination thereof, in any physical or chemical form, or
- (b) ores that contain by weight one-twentieth of one percent (0.05%), or more of, uranium, thorium, or any combination of uranium and thorium. Source material does not include special nuclear material.

"Source material milling" means any activity that results in the production of byproduct material as defined by (b) of "byproduct material".

"Source of radiation" means any radioactive material, or a device or equipment emitting or capable of producing ionizing radiation.

"Special form radioactive material" means radioactive material which satisfies the following conditions:

- (a) it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
- (b) the piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and
- (c) it satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements of 10 CFR 71.4 in effect on June 30, 1983, and constructed before July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996, see 10 CFR 71 revised January 1, 1996, and constructed before April 1, 1998, and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation shall meet the specifications of this definition.

"Special nuclear material" means:

- (a) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and other material that the U.S. Nuclear Regulatory Commission, pursuant to Section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

- (b) any material artificially enriched by any of the foregoing but does not include source material.

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams or a combination of them 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 previously in this definition for the same kind of special nuclear material. The sum of the ratios for [all]the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula.[-

—————]
$$\frac{(175(\text{Grams contained U-235})/350) + (50(\text{Grams U-233}/200) + (50(\text{Grams Pu}/200))}{1}$$
is equal to one.

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. [When]If appropriate, this evaluation includes tests, physical examinations and measurements of levels of radiation or concentrations of radioactive material present.

"Test" means the process of verifying compliance with an applicable rule.

"These rules" means ["]Utah Radiation Control Rules R313-12, R313-14 through R313-19, R313-21, R313-22, R313-24 through R313-26, R313-28, R313-30, R313-32, R313-34 through R313-38 and R313-70["].

"Total effective dose equivalent" (TEDE) means the sum of the effective dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.



"Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in Subsection R313-15-1107(1)(f).

"U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the [D]department 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 Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975 known as the Energy Reorganization Act of 1974, and retransferred to the Secretary of Energy pursuant to Section 301(a) of Public Law 95-91, August 14, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977 known as the Department of Energy Organization Act.

"Unrefined and unprocessed ore" means ore in its natural form prior to processing, like grinding, roasting or beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

"Unrestricted area" means an area, to which access is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (b), (c), and (d) of the definition of byproduct material found in Section R313-12-3.

"Week" means seven consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knees.

"Worker" means an individual engaged in work under a license or registration issued by the [D]director and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" (WL), means any combination of short-lived radon daughters in one liter of air that will result in the ultimate emission of  $1.3 \times 10^5$  MeV of potential alpha particle energy. The short-lived radon daughters are, for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214[§], and for radon 220: polonium-216, lead-212, bismuth-212, and polonium-212.

"Working level month" (WLM), means an exposure to one working level for 170 hours. 2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

"Year" means the period of time beginning in January used to determine compliance with these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant if the decision to make the change is made before December 31 of the previous year. If a licensee or registrant changes in a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

**KEY: definitions, units, inspections, exemptions**

**Date of Last Change: May 16, 2022**

**Notice of Continuation: April 8, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104**

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**R313-32. Medical Use of Radioactive Material.**

**R313-32-2. Clarifications or Exceptions.**

For the purposes of Rule R313-32, 10 CFR 35.2 through 35.7; 35.10(d) through 35.10(f); 35.11(a) through 35.11(b); 35.12; and 35.13(b) through 35.3204 [~~(2019)~~ (2020)] are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 35.2, exclude definitions for "Address of Use," "Agreement State," "Area of Use," "Dentist," "Pharmacist," "Physician," "Podiatrist," and "Sealed Source";

(b) In 10 CFR 35.19, exclude "or the common defense and security";

(c) In 10 CFR 35.3067, exclude ", with a copy to the Director, Office of Nuclear Material Safety and Safeguards"; and

(d) In 10 CFR 35.3045(d), 10 CFR 3047(d), 10 CFR 35.3067, and 10 CFR 35.3204(b), exclude "By an appropriate method listed in Sec. 30.6(a) of this chapter,".

(2) The substitution of the following date references:

(a) "May 13, 2005" for "October 24, 2002"; and

(b) "December 31, 2019" for "January 14, 2019"[+].

(3) The substitution of the following rule references:

(a) "Rules R313-32 and R313-15" for reference to "this part and 10 CFR Part 20" in 10 CFR 35.61(a);

(b) "Rule R313-15 for reference to "Part 20 of this chapter" in 10 CFR 35.70(a) and 10 CFR 35.80(a) (4);

(c) "Rules R313-19 and R313-22" for reference to "Part 30 of this chapter" in 10 CFR 35.18(a) (4);

(d) "Rules R313-19 and R313-22 or equivalent Nuclear Regulatory Commission or Agreement State requirements for reference to "10 CFR Part 30 or the equivalent requirements of an Agreement State" in 10 CFR 35.49(c);

(e) "10 CFR Part 30" for reference to "Part 30 of this chapter" as found in 10 CFR 35.65(a) (4);

(f) "Rules R313-15, R313-19, and R313-22" for reference to "parts 20 and 30 of this chapter" as found in 10 CFR 35.63(e) (1);

(g) "Section R313-12-110" for reference to "Sec. 30.6 of this chapter" as found in 10 CFR 35.14(c) [~~-~~];

(h) "Section R313-15-101" for reference to "Sec. 20.1101 of this chapter" as found in 10 CFR 35.24(a);

(i) "Subsection R313-15-301(1) (a)" for reference to "Sec. 20.1301(a) (1) of this chapter" as found in 10 CFR 35.310(a) (2) (i) and 10 CFR 35.410(a) (4) (i);

(j) "Subsection R313-15-301(1) (c)" for reference to "Sec. 20.1301(c) of this chapter" as found in 10 CFR 35.310(a) (2) (ii) and

10 CFR 35.410(a)(4)(ii);

(k) "Section R313-15-501" for reference to "Sec. 20.1501 of this chapter" as found in 10 CFR 35.652(a);

(l) "Section R313-18-12" for reference to "Sec. 19.12 of this chapter" as found in 10 CFR 35.27(a)(1), 10 CFR 35.27(b)(1), 10 CFR 35.310, and 10 CFR 35.410;

(m) "Rules R313-19, R313-22 and Subsection R313-22-75(10) or equivalent U.S. Nuclear Regulatory Commission or Agreement State requirements" for reference to "10 CFR Part 30 and Sec. 32.74 of this chapter or equivalent requirements of an Agreement State" as found in 10 CFR 35.49(a);

(n) "Subsection R313-22-75(10) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for references to "Sec. 32.74 of this chapter or equivalent Agreement State regulations" found in 10 CFR 35.65(a)(1) and 10 CFR 35.65(a)(2);

(o) "Rule R313-70" for reference to "Part 170 of this chapter";

(p) "Subsection R313-19-34(2)" for reference to "Sec. 30.34(b) of this chapter" as found in 10 CFR 35.14(b)(4);

(q) "Section R313-22-50" for reference to "Part 33 of this chapter" in 10 CFR 35.15;

(r) "Subsection R313-22-50(2)" for reference to "Sec. 33.13 of this chapter" in 10 CFR 35.12(e);

(s) "Subsection R313-22-75(9)(b)(iv)" for reference to "Sec. 32.72(b)(4)" in 10 CFR 35.2 for the definition of Authorized Nuclear Pharmacist;

(t) "Subsection R313-22-75(9) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for reference to "Sec. 32.72 of this chapter or equivalent Agreement State requirements" as found in 10 CFR 35.63(b)(2)(i), 10 CFR 35.63(c)(3)(i), 10 CFR 35.100(a)(1), 10 CFR 35.200(a)(1), and 10 CFR 35.300(a)(1); and

(u) "Subsection R313-22-32(9) or equivalent Nuclear Regulatory Commission or Agreement State requirements" for reference to "Sec. 30.32(j) of this chapter or equivalent Agreement State requirements" as found in 10 CFR 35.63(b)(2)(iii), 10 CFR 35.63(c)(3)(ii), 10 CFR 35.100(a)(2), 10 CFR 35.200(a)(2), or 10 CFR 35.300(a)(2).

(4) The substitution of the following terms:

(a) "radioactive material" for reference to "byproduct material";

(b) "a [D]director, a Nuclear Regulatory Commission, or Agreement State" for reference to "an NRC or Agreement State" in 10 CFR 35.63(b)(2)(ii), 10 CFR 35.100(c), 10 CFR 35.200(c), or 10 CFR 35.300(c);

(c) "[D]director is (801) 536-0200 or after hours, (801) 536-4123" for "NRC Operations Center is (301) 816-5100" as found in the footnote included for 10 CFR 35.3045(c);

(d) "Form DWMRC-01, 'Application for Radioactive Material

License'" for reference to "NRC Form 313, 'Application for Material License'" as found in 10 CFR 35.12(b) (1), 10 CFR 35.12(c) (1) (i) and 10 CFR 35.18(a) (1);

(e) "Form DWMRC-01" for reference to "NRC Form 313" as found in 10 CFR 35.12(c) (1) (ii);

(f) "medical use license issued by the [Ø]director" for reference to "NRC medical use license" in 10 CFR 35.6(c);

(g) "[Ø]director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for reference to "Commission or Agreement State" in 10 CFR 35.2 for the definitions of Authorized Medical Physicist (2) (i), Authorized Nuclear Pharmacist (2) (iii) and Radiation Safety Officer (2) (i), in 10 CFR 35.57(b) (1) (first instance), 10 CFR 35.57(b) (2) (first instance), 10 CFR 35.433(a) (2) (i); or for references to "Commission or an Agreement State" in 10 CFR 35.2 for the definitions of Associate Radiation Safety Officer (2) (i) and Ophthalmic Physicist (2) (i), 10 CFR 35.11(a), in 10 CFR 35.50(a), 10 CFR 35.50(a) (2) (ii) (A), 10 CFR 35.50(c) (1), 10 CFR 35.51(a), 10 CFR 35.51(a) (2) (i), 10 CFR 35.55(a), 10 CFR 35.190(a), 10 CFR 35.290(a), 10 CFR 35.390(a), 10 CFR 35.392(a), 10 CFR 35.394(a), 10 CFR 35.396(a) (3), 10 CFR 35.433(a) (2) (i), 10 CFR 35.490(a), 10 CFR 35.590(a), 10 CFR 35.605(a), 110 CFR 35.605(b), 10 CFR 35.605(c), 10 CFR 35.655(b) and 10 CFR 35.690(a);

(h) "[Ø]director, a U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or Agreement State" in 10 CFR 35.2 for the definitions of Authorized Medical Physicist (2) (iii), Authorized Nuclear Pharmacist (2) (i), Authorized User (2) (i), Authorized User (2) (iii) and Ophthalmic Physicist (2) (ii), in 10 CFR 13(b) (4) (ii), 10 CFR 35.14(a) (2) (second instance), 10 CFR 35.57(a) (1) (second instance), 10 CFR 35.57(b) (1) (second instance), 10 CFR 35.57(b) (2) (second instance), 10 CFR 35.433(a) (2) (ii) (second instance); or for references to "Commission or an Agreement State" in 10 CFR 35.50(c) (2) (second instance);

(i) "license issued by the [Ø]director, the Nuclear Regulatory Commission, or the Agreement State" for reference to "Commission or Agreement State license" in 10 CFR 35.14(a) (2) (first instance);

(j) "[Ø]director" for reference to "NRC Operations Center" in 10 CFR 35.3045(c), 10 CFR 35.3047(c), and 10 CFR 35.3204(a);

(k) "license issued by the [Ø]director, the Nuclear Regulatory Commission or an Agreement State" for reference to "Commission or Agreement State license" in 10 CFR 35.13(b) (4) (i), 10 CFR 35.14(a) (2) (first instance), 10 CFR 35.50(b) (1) (ii) or for reference to "Commission or an Agreement State license" in 10 CFR 35.50(b) (1) (ii), 10 CFR 35.50(c) (2), and 10 CFR 35.57(a) (2);

(l) "[Ø]director at the address specified in Section R313-12-110" for reference to "appropriate NRC Regional Office listed in Sec. 30.6 of this chapter" in 10 CFR 35.3045(d), 10 CFR 35.3047(d), 10 CFR 35.3067, and 10 CFR 35.3204(b);

(m) "[B]board" for reference to "Commission" in 10 CFR 35.18(a)(3)(second instance) and 10 CFR 35.19;

(n) "[D]director" for reference to "Commission" in 10 CFR 35.12(d)(4), 10 CFR 35.14(a), 10 CFR 35.14(b), 10 CFR 35.18(a), 10 CFR 35.18(a)(3)(first instance), 10 CFR 35.18(b), 10 CFR 35.24(a)(1), 10 CFR 35.24(c), 10 CFR 35.26(a), and 10 CFR 35.1000(b);

(o) "[D]director" for reference to "NRC" in 10 CFR 35.3045(g)(1), 10 CFR 35.3047(f)(1), and 10 CFR 35.3204(a)(second instance);

(p) "Nuclear Regulatory Commission" for reference to "Commission" in 10 CFR 35.67(b)(2);

(q) "[D]director" for reference to "NRC" in 10 CFR 35.3045(g)(1), 10 CFR 35.3047(f)(1), and 10 CFR 35.35.3204(a)(second instance); [~~and~~]

(r) "the [D]director" for reference to "NRC" in 10 CFR 35.13(b)(4)(i);

(s) "licenses issued by the [D]director" for reference to "NRC licenses" in 10 CFR 35.57(c);

(t) "[D]director, the Nuclear Regulatory Commission, or an Agreement State" for reference to "NRC" in 10 CFR 35.13(b)(5), 10 CFR 35.14(a)(2), 10 CFR 35.57(b)(3), and 10 CFR 35.57(a)(4); and

(u) "(c)" for reference to "(b)" in 10 CFR 35.92.

(5) The addition of the following to 10 CFR 35.92:

(b) The [D]director may approve a radioactive material with a physical half-life of greater than 120 days but less than 175 days for decay-in-storage before disposal without regard to its radioactivity on a case by case basis if the licensee:

(1) [R]requests an amendment to the licensee's radioactive materials license for the approval;

(2) [E]can demonstrate that the radioactive waste will be safely stored, and accounted for during the decay-in-storage period and that the additional radioactive waste will not exceed the licensee's radioactive waste storage capacity; and

(3) [E]commits to monitor the waste before disposal as stated in paragraphs (a)(1) and (a)(2) of this section before the waste is disposed."

**KEY: radioactive materials, radiopharmaceutical, brachytherapy, nuclear medicine**

**Date of Enactment or Last Substantive Amendment: August 9, 2019**

**Notice of Continuation: July 1, 2016**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107**

# WASTE MANAGEMENT AND RADIATION CONTROL BOARD

## Executive Summary

### REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE

**EnergySolutions, LLC**

**July 13, 2023**

<b>What is the issue before the Board?</b>	<p>On June 21, 2023, EnergySolutions, LLC submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time site-specific treatment variance from Utah Hazardous Waste Management Rule UAC R315-268-40(a)(3). EnergySolutions seeks approval to dispose, in EnergySolutions' Mixed Waste Landfill Cell, waste containing the D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes that have been treated using stabilization/amalgamation technologies to either the 0.2 mg/L TCLP standard for hazardous waste or the 0.25 mg/L TCLP standard for contaminated soil.</p>
<b>What is the historical background or context for this issue?</b>	<p>EnergySolutions requests approval to receive and dispose, in EnergySolutions' Mixed Waste Landfill Cell, waste containing the D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes that has been treated using stabilization/amalgamation technologies. Furthermore, EnergySolutions will perform the stabilization/amalgamation treatment on D009 and U151 High Mercury Subcategory waste streams that have not been treated prior to arrival at the EnergySolutions Clive facility. All actions will be performed in accordance with EnergySolutions' State-issued Part B Permit.</p> <p>The listed treatment technology in 40 CFR 268.40 for the D009 High Mercury-Organic Subcategory is either incineration (IMERC) or retorting/roasting for mercury recovery (RMERC). The listed treatment technology for the D009 High Mercury-Inorganic Subcategory and for U151 is RMERC.</p> <p>The need and justification for this action are as follows:</p> <p>The intent of the RMERC treatment process is to recover elemental mercury for recycling. However, radioactive mercury cannot be recycled and the RMERC process generates secondary waste (radioactive elemental mercury) which requires additional treatment by amalgamation (a stabilization technology) prior to disposal.</p> <p>The IMERC technology is also intended to be a mercury recovery technology where the waste is incinerated, and the mercury recovered in the ash or in a specific off-gas control system. For radioactive mercury, both the ash and the control equipment/media will require further treatment. Furthermore, IMERC involves an extra handling step for the radioactive residue.</p> <p>Successful chemical stabilization of High Mercury-Inorganic Subcategory wastes has been demonstrated to achieve a measure of performance equivalent to the required methods which require two treatment methods (RMERC and stabilization) with no detrimental effect</p>

	<p>to human health or the environment. The U.S. Environmental Protection Agency (US EPA) has issued a Determination of Equivalent Treatment (DET) for these High Mercury Subcategory wastes that were chemically stabilized. In the EPA’s determination, they concluded that for waste streams that are radioactive and contain mercury, the recovery portion of RMERC may not be appropriate and that alternative treatment processes should be pursued.</p> <p>The US EPA has reviewed the treatment of mercury-bearing waste in a Federal Register Notice (68 FR 4481). In this notice, the US EPA concluded that treatment of mercury waste is possible, and it is suggested that stakeholders should use the site-specific treatment variance process to achieve approval for the treatment of high subcategory mercury wastes. The notice specifically designates an example of when this would be appropriate as the case of a high mercury subcategory waste that is also radioactive.</p> <p>This variance request consists of waste that may be shipped to EnergySolutions over the next year. To date, EnergySolutions has disposed of approximately 16,800 cubic feet of treated High Mercury Subcategory waste. From knowledge of the current market of High Mercury Subcategory Waste requiring treatment or disposal, and from past experience receiving this type of waste, EnergySolutions anticipates less than 2000 cubic feet of additional High Mercury Subcategory waste for disposal in the next year under this treatment variance.</p> <p>A notice for public comment was published in the <i>Salt Lake Tribune</i>, the <i>Deseret News</i> and the <i>Tooele Transcript-Bulletin</i> on July 5, 2023. The comment period began July 6, 2023 and will end August 4, 2023.</p>
<p><b>What is the governing statutory or regulatory citation?</b></p>	<p>Variations are provided for in 19-6-111 of the Utah Solid and Hazardous Waste Act. This is a one-time site-specific variance from an applicable treatment standard as allowed by R315-268-44 of the Utah Administrative Code.</p>
<p><b>Is Board action required?</b></p>	<p>No. This is an informational item before the Board.</p>
<p><b>What is the Division/Director’s recommendation?</b></p>	<p>The Director will provide a recommendation following the public comment period at the next Board meeting.</p>
<p><b>Where can more information be obtained?</b></p>	<p>For technical questions, please contact Tyler Hegburg (385) 622-1875. For legal questions, please contact Bret Randall at (801) 536-0284.</p>

**DSHW-2023-205570**

June 20, 2023

CD-2023-124

Mr. Doug Hansen  
Director  
Division of Waste Management and Radiation Control  
195 North 1950 West  
Salt Lake City, UT 84114-4880

Subject: EPA ID Number UTD982598898 - Request for a Site-Specific Treatment  
Variance for Wastes Containing High-Subcategory Mercury

Dear Mr. Hansen,

EnergySolutions hereby requests a variance to receive an exemption from Utah Administrative Code (UAC) R315-268-40(a)(3) for wastes that are characterized with hazardous waste codes D009 or U151, High Mercury-Organic Subcategory or High Mercury-Inorganic Subcategory. This request is submitted in accordance with the requirements of UAC R315-260-19.

The regulatory requirement authorizing this request is found in UAC R315-268-44 which allows a site-specific variance from an applicable treatment standard provided that the following condition is met:

*UAC R315-268-44(h)(2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible.*

EnergySolutions requests approval to dispose, in EnergySolutions' Mixed Waste Landfill Cell, waste containing the D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes that have been treated using stabilization/amalgamation technologies. EnergySolutions will perform the stabilization/amalgamation treatment on D009 and U151 High Mercury Subcategory waste streams that have not been treated prior to arrival at the EnergySolutions Clive facility. At the time of disposal, the waste will be verified to have a mercury concentration less than 0.2 mg/L using the Toxicity Characteristic Leaching Procedure (TCLP) or less than 0.25 mg/L TCLP if the waste is a soil matrix. All actions will be performed in accordance with EnergySolutions' state-issued Part B Permit.



The D009 High Mercury-Organic Subcategory is described in the “Treatment Standards for Hazardous Waste” table in 40 CFR 268.40 (incorporated into UAC R315-268-40 by reference). The description is as follows:

*Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory)*

Likewise, the D009 High Mercury-Inorganic Subcategory’s description is as follows:

*Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory)*

The U151 hazardous waste code does not delineate between organic or inorganic; the description simply states the following:

*U151 (mercury) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.*

The listed treatment technology in 40 CFR 268.40 for the D009 High Mercury-Organic Subcategory is either incineration (IMERC) or retorting/roasting for mercury recovery (RMERC). The listed treatment technology for the D009 High Mercury-Inorganic Subcategory and for U151 is RMERC.

The need and justification for this action are as follows:

- The intent of the RMERC treatment technology is to recover elemental mercury for recycling. However, radioactive mercury cannot be recycled and the RMERC process generates secondary waste (radioactive elemental mercury) which requires additional treatment by amalgamation (a stabilization technology) prior to disposal.
- The IMERC technology is also intended to be a mercury recovery technology where the waste is incinerated and the mercury recovered in the ash or in a

specific off-gas control system. For radioactive mercury, both the ash and the control equipment/media will require further treatment. Furthermore, IMERC involves an extra handling step for the radioactive residue.

- Both IMERC and RMERC are described in Table 1 of UAC R315-268-42. Both descriptions state that

*[A]ll wastewater and nonwastewater residues derived from this process must then comply with the corresponding treatment standards per waste code with consideration of any applicable subcategories (e.g., High or Low Mercury Subcategories).*

For RMERC, this treatment standard is explained as an additional D009 subcategory:

*[N]onwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are residues from RMERC only.*

The Land Disposal Restriction (LDR) treatment standard for this subcategory is 0.2 mg/L TCLP (or 0.25 mg/L TCLP alternative treatment standard for contaminated soil described in UAC R315-268-49). For IMERC, the ash and/or control equipment media will be a newly generated hazardous waste and would therefore be required to meet the LDR treatment standard for mercury of 0.2 mg/L. The disposal standard proposed by EnergySolutions meets the LDR TCLP concentration in a single step.

- Successful chemical stabilization of High Mercury-Inorganic Subcategory wastes has been demonstrated to achieve a measure of performance equivalent to the required methods which require two treatment methods (RMERC and stabilization) with no detrimental effect to human health or the environment. The U.S. Environmental Protection Agency (US EPA) has issued a Determination of Equivalent Treatment (DET) for these High Mercury Subcategory wastes that were chemically stabilized. In the EPA's determination, they concluded that for waste streams that are radioactive and contain mercury, the recovery portion of RMERC may not be appropriate and that alternative treatment processes should be pursued. A copy of this letter is attached for reference.

- The US EPA has reviewed the treatment of mercury-bearing waste in Federal Register Notice 68 FR 4481. In this notice, the US EPA concluded that treatment of mercury waste is possible and it is suggested that stakeholders should use the site specific treatment variance process to achieve approval for the treatment of high subcategory mercury wastes. The notice specifically designates an example of when this would be appropriate as the case of a high mercury subcategory waste that is also radioactive.
- EnergySolutions has requested similar site-specific treatment variances for High Mercury Subcategory waste in letters dated November 21, 2001; October 21, 2003; April 28, 2004; November 8, 2004; November 29, 2005; December 20, 2006; January 25, 2008; January 20, 2009; January 27, 2010; February 15, 2011; March 21, 2012; March 7, 2013; March 4, 2014; April 21, 2016; September 27, 2017, March 25, 2019; August 25, 2020; and January 21, 2022. These variance requests were approved on January 8, 2002; December 11, 2003; June 10, 2004; January 13, 2005; January 12, 2006; February 8, 2007; March 13, 2008; March 12, 2009; April 8, 2010; May 12, 2011; May 10, 2012; April 11, 2013; April 10, 2014; June 9, 2016; September 27, 2017; May 9, 2019; November 19, 2020; and March 10<sup>th</sup>, 2022, respectively.
- Over the years that this variance has been granted, EnergySolutions and generators have consistently been successful at treating high subcategory mercury to LDR compliant levels.

This variance request consists of waste that is expected to be disposed by EnergySolutions over the next year. To date, EnergySolutions has disposed of approximately 16,800 cubic feet of treated High Mercury Subcategory waste. From knowledge of the current market of High Mercury Subcategory Waste requiring treatment or disposal, and from past experience receiving this type of waste, EnergySolutions anticipates less than 2,000 cubic feet of additional High Mercury Subcategory waste for disposal in the next year under this treatment variance.

EnergySolutions requests that a variance be granted to allow the disposal of High Mercury Subcategory waste that has been treated either to the 0.2 mg/L TCLP standard for hazardous waste or the 0.25 mg/L TCLP standard for contaminated soil.



Mr. Doug Hansen  
CD-2023-124  
June 20, 2023  
Page 5 of 5

The name, phone number, and address of the person who should be contacted to notify EnergySolutions of decisions by the Director is:

Mr. Vern Rogers  
Director, Regulatory Affairs  
EnergySolutions LLC  
299 South Main Street, Suite 1700  
Salt Lake City, UT 84111  
(801) 649-2000

Should there be any questions to this request, please contact me at (801) 649-2043.

Sincerely,

A handwritten signature in black ink that reads "Steve D. Gurr".

 Digitally signed by Steve D. Gurr  
Date: 2023.06.20 11:04:54 -06'00'

Steve D. Gurr  
Environmental Engineer

enclosure

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Generator: Brookhaven National Laboratory  
Generator # / Waste Stream #: ~~8000-22~~ 2016-1 JZH  
Waste Stream Name: BNL Treated Mercury Soil

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Mr. George J. Malosh  
U.S. Department of Energy  
Brookhaven Group Building 464  
Upton, NY 11973-5000

Dear Mr. Malosh:

EPA has reviewed your request for a determination of equivalent treatment as authorized by 40 CFR 268.40(b) for the mercury contaminated waste from your facility that will be the subject of treatability studies.

Based on the information provided in your application and conversations between your staff and mine, EPA is approving the request for a determination of equivalent treatment. EPA agrees that RMERC is not appropriate for this waste, due to the generation of elemental mercury that is contaminated with radioactive materials and that has no current use via recycling. Instead, the facility will need to meet a replacement concentration-based treatment standard for this waste, which is detailed in the enclosed determination. This standard does not replace any other applicable federal, state, or local requirements as specified in the facility's waste analysis plan. Additionally, all wastes subject to this determination must be disposed at a facility permitted to accept the radioactive elements present in the waste following treatment.

Enclosed you will find our determination on your request. If you need further assistance, please contact John Austin, Waste Treatment Branch (703/308-0436).

Sincerely yours,

Elizabeth A.  
Cotsworth, Acting  
Director  
Office of Solid  
Waste

Enclosure

cc: Jim Thompson, OWPE  
RCRA Hotline

Generator: Brookhaven National Laboratory  
Generator # / Waste Stream #: ~~8000-24-6646~~ 724  
Waste Stream Name: BNL Treated Mercury Soil  
**Determination of Equivalent Treatment**  
**40 CFR 268.42(b)**  
**Notification of Acceptance**

**Notification Number: OSW-DE016-0698**

**Requesting Facility:** Brookhaven National Laboratory

**Facility Address:** U. S. Department of Energy  
Brookhaven Group Building 464  
Upton, NY 11973-5000

**EPA Facility ID #:** NY7890008975

**Facility Representatives:** Gail Penny, Project Manager  
(516)344-3229; Email: gpenny@bnl.gov

Glen Todzia, Project Engineer  
(516)344-7488

**Date of Request:** July 1, 1998

**Waste Description for Which Replacement Standard is Sought:**

The subject wastes consist of (a) treatability samples totaling 4990 kg of RCRA characteristic mercury- and radioactive-contaminated soils and (b) an unspecified amount of residues and newly generated wastes resulting from multiple treatability studies on these samples. The treatability samples are soils that are mostly sand but contain some gravel. Approximately 5% of the treatability sample wastes consists of pieces of glass, metal, and plastic. A summary waste description is given in Table 1.

The subject waste soils were excavated in 1997 from a former land disposal area ("Chemical Holes Area") for miscellaneous laboratory wastes at Brookhaven National Laboratory, in Long Island, New York. The retrieval was performed as a CERCLA removal action. Segregation of the excavated waste into two waste streams was performed by sieving with a 2-inch sieve as the waste was excavated. Only materials that passed through the 2-inch sieve are the subject of the planned treatability studies.

**Basis of Request:**

The subject mercury-contaminated waste soils (above 260 ppm mercury) are also contaminated with low levels of radioactive materials. The LDR technology specific treatment standard for this waste is RMERC (retorting or roasting with recovery of the mercury for reuse). Retorting or

Generator: Brookhaven National Laboratory  
 Generator # / Waste Stream #: 8008-22 2246 01 704

Waste Stream Name: BNL Treated Mercury Soil

roasting of the waste is inappropriate because any mercury recovered would still be contaminated with radioactive materials, which would prohibit its recycle or reuse as elemental mercury. The

1

Table 1. Initial Waste Descriptions

Waste Container ID	Approximate Volume (yd <sup>3</sup> )	Approximate Weight (kg)	Total Mercury Concentration (mg/kg)	TCLP Mercury Concentration (mg/l)	Primary Mercury Species	Other RCRA Constituents that exceed TC Regulatory Levels or are Listed Wastes	Waste Description and Treatment/Regulatory Subcategory	Assigned EPA Waste Code	Applicable LDR Treatment Standard
Bin 1	2	2495	6750	3.56	Elemental*	None Identified	Nonwastewater, High Mercury Subcategory*	D009	RMERC
Bin 2	2	2495	15,000	0.263	Elemental*	None Identified	Nonwastewater, High Mercury Subcategory*	D009	RMERC 1. Determined by visual inspection.

2. Nonwaste waters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW 846 Method 1310; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including residues from RMERC.

2

elemental mercury would therefore require further treatment (amalgamation) prior to its ultimate disposal. The subject wastes are proposed to be treated by a variety of methods as part of a treatability study to evaluate treatment options for other legacy wastes within the U. S. Department of Energy (DOE) complex.

DOE has requested a Determination of Equivalent Treatment for the treated treatability study samples and any newly generated >260 ppm Hg wastes that may result from these treatability studies (i.e., treatment residues). The proposed waste disposal location for the treatability study wastes that meet the assigned substitute treatment standard (and any other applicable LDR waste treatment standards) is the Envirocare of Utah, Clive, Utah, low level radioactive waste landfill. Alternatively, the DOE Hanford Site, Richland, Washington low level radioactive waste landfill



Generator: Brookhaven National Laboratory  
 Generator # / Waste Stream #: 8006-000-0046-01 JLN  
 Waste Stream Name: BNL Treated Mercury Soil

may be used. Other landfills that become available in the future and that meet all EPA and other agency requirements (e.g., NRC, DOE, or State) for disposal of such waste may also be considered. In the absence of the requested DET replacement standard, all treatment residues would have to be re-treated by retorting or roasting. Any recovered mercury would have to be amalgamated prior to disposal as low level radioactive waste.

EPA is requested to assign a replacement mercury treatment standard of 0.2 mg/kg TCLP to these treated treatability samples and any resulting newly generated treatment residues. The treated samples and newly generated wastes from the treatability study would still be required to meet applicable existing LDR treatment standards for underlying hazardous constituents other than mercury.

**Previously Applicable Treatment Standard for Which Equivalency is Granted:**

Waste codes of concern		Nonwastewater
D009	Non wastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW846 Method 1310; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues from RMERC (High Mercury Inorganic Subcategory	Mercury RMERC

3

**Replacement Treatment Standards:**

Waste codes of concern		Nonwastewater
D009	Non wastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the extraction procedure (EP) in SW846 Method 1310; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including	Mercury 0.20 mg L TCLP



Generator: Brookhaven National Laboratory  
Generator # / Waste Stream #: 8408-22-6246-01  
Waste Stream Name: BNL Treated Mercury Soil

incinerator residues from RMERC (High  
Mercury Inorganic Subcategory

Compliance with these standards, as approved below, does not relieve the facility from compliance with any other applicable treatment standards associated with these wastes. This standard does not replace any other applicable federal, state, or local requirements as specified in the facility's waste analysis plan. Additionally, all wastes subject to this determination must be disposed at a facility permitted to accept the radioactive elements present in the waste.

#### Authorities and References:

A Determination of Equivalent Treatment is governed by 40 CFR 268.42(b), which states:  
"(b) Any person may submit an application to the Administrator demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in paragraphs (a), (c), and (d) of this section.... The applicant must submit information demonstrating that his treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis of such information and any other available information, the Administrator may approve the use of the alternative treatment method if he finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in paragraphs (a), (c), and (d) of this section. Any approval must be stated in writing and may contain such provisions and conditions as the Administrator deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination."

The above provision was further clarified in the preamble for the Land Disposal Restriction for Third Third Scheduled Wastes: Final Rule, 55 FR at 22536, (June 1, 1990) as follows:  
"when EPA requires the use of a technology (or technologies), a generator or treater may demonstrate that an alternative treatment method can achieve the equivalent level of

4

performance as that of the specified treatment method [40 CFR 268.42(b)]. This demonstration is typically both waste-specific and site-specific and may be based on: (1) the development of a concentration based standard that utilized a surrogate or indicator compound that guarantees effective treatment of the hazardous constituents; (2) the development of a new analytical method for quantifying the hazardous constituents, and (3) other demonstrations of equivalence for an alternative method of treatment based on a statistical comparison of technologies, including a comparison of specific design and operating parameters."

Justification for the Equivalent Treatment Standard:

In the context of this treatability study situation, roasting or retorting and recovery of mercury (RMERC) from High Mercury-Inorganic nonwastewater wastes does not appear to be an appropriate treatment method if the wastes are also radioactive. This is because the recovered mercury is expected to be still classified as radioactive material and as such will not be recyclable but will require further treatment prior to its ultimate disposal. Therefore, the earlier recovery step appears not to serve a useful purpose in this particular mixed waste context, and would involve additional waste handling with the attendant concerns about potential exposure to radionuclides. The requested replacement standard for the limited quantity of waste to be subject to the treatability studies is the current LDR concentration-based treatment standard for Low Mercury-Inorganic nonwastewaters that have undergone RMERC, 0.20 mg/L TCLP. Therefore, the wastes will be subject to treatment standards equivalent to those for the residues of the RMERC process, but without having to first undergo a non-useful RMERC step. This is an appropriate measure of equivalent performance and is sufficiently protective of human health and the environment in this particular situation.

Based upon the information submitted, the factors identified above, and the conditions for treatment and disposal set out above, I have determined that the petition for Determination of Equivalent Treatment submitted by DCE on May 20, 1998 is hereby granted, effective upon my signature.

Dated:

Elizabeth A. Cotsworth, Acting Director  
 Office & Solid Waste

5

Attachment I - Analytical Data for Wastes to be Subjected to the Treatability Studies

B-25 Container #1

Parameter	Concentration
Mercury (total)	6750 mg/kg
Mercury (TCLP)	3.56 mg/L
Gross Alpha	4560 pCi/g
Gross Beta	525 pCi/g
Plutonium - 238	72.6 pCi/g
Plutonium - 239/240	19.7 pCi/g

Generator: Brookhaven National Laboratory J-A  
 Generator # / Waste Stream #: ~~8008-22~~ *Cell 01*  
 Waste Stream Name: BNL Treated Mercury Soil

Americium - 241	7140 pCi/g
Strontium - 90	2.15 pCi/g

**B-25 Container #2**

Parameter	Concentration
Mercury (total)	18,000 mg/kg
Mercury (TCLP)	0.263 mg/L
Gross Alpha	24.9 pCi/g
Gross Beta	35.9 pCi/g
Plutonium - 238	7.06 pCi/g
Plutonium - 239/240	5.87 pCi/g
Americium - 241	28.67 pCi/g
Strontium - 90	35.5 pCi/g

6

**Attachment 2- DOE Description of Treatment Technologies to be Included in Treatability Studies**

The DOE Mixed Waste Focus Area (MWFA) Mercury Contamination Product Line Mercury Working Group (HgWG) is sponsoring demonstrations of alternative advanced technologies for treating toxicity characteristic mixed waste containing more than 260 ppm total mercury concentrations to determine which technologies can produce stable products for disposal that are acceptably protective of human health and the environment. The initial wastes and the final waste forms are to be tested using TCLP to determine if the final waste forms are no longer toxicity characteristic hazardous waste, meet the applicable replacement LDR treatment standard for mercury, and meet any other LDR waste treatment standards determined to be applicable for this waste. Informational testing to provide additional data for use by EPA will also be conducted, including measurement of mercury vapor pressure over the final waste forms, and selected additional leaching tests to be determined in coordination with EPA Office of Solid Waste. EPA's contractor Professor David Kosson (Rutgers University), Brookhaven National Laboratory (BNL), and the MWFA/HgWG.

### Mercury Stabilization

A BNL sulfur polymer cement process will be one of the mercury stabilization processes demonstrated.

Commercial vendors will also be contracted to perform stabilization demonstrations. These vendors will be selected by the HgWG through an open bidding process. Each stabilization process will have been previously demonstrated on wastes or surrogates with less than 260 ppm total mercury concentration.

### Mercury Separation

A mercury separation technology may be included in the demonstration tests. A candidate process uses a potassium iodide/iodine leaching solution to solubilize and remove mercury. The mercury is recovered as elemental mercury and amalgamated for disposal. The extractants are recovered and recycled. This process has already been demonstrated for mercury levels below 260 ppm.

### Mercury Retort and Amalgamation

For comparison with the results of the advanced separation and stabilization technologies, an additional feasibility study will be performed using a mobile commercial vacuum retort unit to thermally desorb mercury. The recovered mercury will be amalgamated for disposal. This will be the baseline technology to satisfy the existing LDR treatment standard (RMERC) for High Mercury Inorganic Subcategory waste and the amalgamation (AMALG) treatment standard for radioactive elemental mercury waste. Amalgamation will be by commercially available processes or by an advanced sulfur-polymer-cement process developed and used at BNL.