

## Nuclear Regulatory Commission

## § 170.3

(l) Applying for or already has applied for review of a standardized spent fuel facility design; or

(m) Applying for or has applied for since March 23, 1978, review of an item under the category of special projects in this chapter that the Commission completes or makes whether or not in conjunction with a license application on file or that may be filed.

(n) An applicant for or holder of a license, approval, determination, or other authorization issued by the Commission pursuant to 10 CFR part 61.

(o) Requesting preapplication/licensing review assistance by consulting with the NRC and/or by filing preliminary analyses, documents, or reports.

(p) An applicant for or a holder of a specific import or export license issued pursuant to 10 CFR part 110.

(q) An Agreement State licensee who files for or is holder of a general license under the reciprocity provisions of 10 CFR 150.20.

(r) An applicant for or a holder of a certificate of compliance issued under 10 CFR Part 76.

[49 FR 21301, May 21, 1984, as amended at 52 FR 8242, Mar. 17, 1987; 54 FR 15399, Apr. 18, 1989; 56 FR 31499, July 10, 1991; 58 FR 7737, Feb. 9, 1993; 64 FR 31469, June 10, 1999]

### § 170.3 Definitions.

As used in this part:

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

*Advanced reactor* means any nuclear reactor concept other than light water reactors and high temperature gas cooled reactors.

*Agreement State* means any State with which the Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Act. "Nonagreement State" means any other State.

*Application* means any request filed with the Commission for a permit, license, approval, exemption, certificate, other permission, or for any other service.

*Balance of plant* consists of the remaining systems, components, and structures that comprise a complete nuclear power plant and are not included in the nuclear steam supply system.

*Byproduct material* means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

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

*High Enriched Uranium* means uranium enriched to 20 percent or greater in the isotope uranium-235.

*Human use* means the internal or external administration of byproduct, source, or special nuclear material, or the radiation therefrom, to human beings.

*Indian organization* means any commercial group, association, partnership, or corporation wholly owned or controlled by an Indian tribe.

*Indian tribe* means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided by the Secretary of the Interior because of their status as Indians.

*Inspections* means:

(1) Routine inspections designed to evaluate the licensee's activities within the context of the licensee having primary responsibility for protection of the public and environment;

(2) Non-routine inspections in response or reaction to an incident, allegation, follow up to inspection deficiencies or inspections to determine implementation of safety issues. A non-routine or reactive inspection has the same purpose as the routine inspection;

(3) Reviews and assessments of licensee performance;

(4) Evaluations, such as those performed by Diagnostic Evaluation Teams; or

(5) Incident investigations.

*Low Enriched Uranium* means uranium enriched below 20 percent in the isotope uranium-235.

*Manufacturing license* means a license pursuant to Appendix M of part 52 of

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this chapter to manufacture a nuclear power reactor(s) to be operated at sites not identified in the license application.

*Materials license* means a license, certificate, approval, registration, or other form of permission issued by the NRC under the regulations in 10 CFR parts 30, 32 through 36, 39, 40, 61, 70, 71, 72 and 76.

*Nonprofit educational institution* means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

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

*Nuclear Steam Supply System* consists of the reactor core, reactor coolant system, and related auxiliary systems including the emergency core cooling system; decay heat removal system; and chemical volume and control system.

*Other production or utilization facility* means a facility other than a nuclear reactor licensed by the Commission under the authority of section 103 or 104 of the Atomic Energy Act of 1954, as amended (the Act), and pursuant to the provisions of part 50 of this chapter.

*Part 55 Reviews* as used in this part means those services provided by the Commission to administer requalification and replacement examinations and tests for reactor operators licensed pursuant to 10 CFR part 55 of the Commission's regulations and employed by part 50 licensees. These services also include related items such as the preparation, review, and grading of the examinations and tests.

*Person* as used in this part has the same meaning as found in parts 30, 40, 50, and 70 of title 10 of the Code of Federal Regulations.

*Power reactor* means a nuclear reactor designed to produce electrical or heat energy licensed by the Commission under the authority of section 103 or

subsection 104b of the Act and pursuant to the provisions of § 50.21(b) or § 50.22 of this chapter.

*Production facility* means:

(1) Any nuclear reactor designed or used primarily for the formation of plutonium or uranium-233; or

(2) Any facility designed or used for the separation of the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(3) Any facility designed or used for the processing of irradiated materials containing special nuclear material except:

(i) Laboratory scale facilities designed or used for experimental or analytical purposes;

(ii) Facilities in which the only special nuclear materials contained in the irradiated material to be processed are uranium enriched in the isotope  $U^{235}$  and plutonium produced by the irradiation, if the material processed contains not more than  $10^{-6}$  grams of plutonium per gram of  $U^{235}$  and has fission product activity not in excess of 0.25 millicurie of fission products per gram of  $U^{235}$ ; and

(iii) Facilities in which processing is conducted pursuant to a license issued under parts 30 and 70 of this chapter, or equivalent regulations of an Agreement State, for the receipt, possession, use, and transfer of irradiated special nuclear material, which authorizes the processing of the irradiated material on a batch basis for the separation of selected fission products and limits the process batch to not more than 100 grams of uranium enriched in the isotope 235 and not more than 15 grams of any other special nuclear material.

*Reference systems concept* means a concept that involves the review of an entire facility design or major fraction of a facility design outside of the context of a license application. The standard design would be referenced in subsequent license applications.

*Research reactor* means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at a thermal power level of 10 megawatts or less, and which is not a

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testing facility as defined by paragraph (m) of this section.

The phrase *review is completed* as used in this part means that the review has been brought to an end, whether by reason of issuance of a permit, license, approval, certificate, exemption, or other form of permission, or whether the application is denied, withdrawn, suspended, or action on the application is postponed by the applicant.

*Sealed source* means any byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material.

*Source material* means:

(1) Uranium or thorium, or any combination thereof, in any physical or chemical form; or

(2) Ores which contain by weight one-twentieth of one percent (0.05%) or more of

(i) Uranium,

(ii) Thorium, or

(iii) Any combination thereof. Source material does not include special nuclear material.

*Special nuclear material* means:

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

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

*Special projects* means those requests submitted to the Commission for review for which fees are not otherwise specified in this chapter. Examples of special projects include, but are not limited to, topical reports reviews, early site reviews, waste solidification facilities, route approvals for shipment of radioactive materials, services provided to certify licensee, vendor, or other private industry personnel as instructors for Part 55 reactor operators, reviews of financial assurance submissions that do not require a license amendment, reviews of responses to Confirmatory Action Letters, reviews of uranium recovery licensees' land-use survey reports, and reviews of 10 CFR 50.71 final safety analysis reports. As used in this part, special projects does

not include requests/reports submitted to the NRC:

(1) In response to a Generic Letter or NRC Bulletin which does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(2) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards or environmental issue, or to assist the NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(3) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts.

*Testing facility* means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of §50.21(c) of this chapter for operation at:

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

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

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

(ii) A liquid fuel loading; or

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

*Uranium enrichment facility* means:

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

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

*Utilization facility* means any nuclear reactor other than one designed or used primarily for the formation of plutonium or U<sup>235</sup> and any other equipment or device determined by rule of the Commission to be a utilization facility

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within the purview of subsection 11cc of the Act.

[33 FR 10924, Aug. 1, 1968, as amended at 36 FR 146, Jan. 6, 1971; 38 FR 30254, Nov. 2, 1973; 40 FR 8794, Mar. 3, 1975; 43 FR 7218, Feb. 21, 1978; 46 FR 58284, Dec. 1, 1981; 49 FR 21302, May 21, 1984; 54 FR 15399, Apr. 18, 1989; 55 FR 21179, May 23, 1990; 56 FR 31499, July 10, 1991; 57 FR 18394, Apr. 30, 1992; 57 FR 32707, July 23, 1992; 58 FR 38690, July 20, 1993; 59 FR 36917, July 20, 1994; 64 FR 31469, June 10, 1999]

### § 170.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

### § 170.5 Communications.

All communications concerning the regulations in this part should be addressed to the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Communications may be delivered in person at the Commission's offices at 11555 Rockville Pike, Rockville, MD.

[64 FR 31469, June 10, 1999]

### § 170.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

[62 FR 52191, Oct. 6, 1997]

### § 170.11 Exemptions.

(a) No application fees, license fees, renewal fees, or inspection fees shall be required for:

(1)-(3) [Reserved]

(4) A construction permit or license applied for by, or issued to, a non-profit educational institution for a production or utilization facility, other than a power reactor, or for the possession and use of byproduct material, source material, or special nuclear material. This exemption does not apply to those byproduct, source or special nuclear material licenses which authorize:

(i) Human use;

(ii) Remunerated services to other persons;

(iii) Distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material; and

(iv) Activities performed under a Government agency contract.

(5) A construction permit, license, certificate of compliance, or other approval applied for by, or issued to, a Government agency, except where the Commission is authorized by statute to charge such fees.

(6)-(8) [Reserved]

(9) State-owned research reactors used primarily for educational training and academic research purposes. For purposes of this exemption, the term *research reactor* means a nuclear reactor that—

(i) Is licensed by the Nuclear Regulatory Commission under section 104c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

(ii) If so licensed for operation at a thermal power level or more than 1 megawatt, does not contain—

(A) A circulating loop through the core in which the licensee conducts fuel experiments;

(B) A liquid fuel loading; or

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

(10) Activities of the Commission undertaken, pursuant to part 75 of this chapter, solely for the purpose of implementation of the US/IAEA Safeguards Agreement.

(11) [Reserved]

(12) A performance assessment or evaluation for which the licensee volunteers at the NRC's request and which is selected by the NRC.

(b)(1) The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest.

(2) Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or

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