

**Licenses, Certifications, and Approvals for Materials Licensees
(76 FR 56951) RATS ID # 2011-2 Effective date 11/14/2011
Date Due for State Adoption 11/14/2014**

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§ 30.4	Definition: Commencement of construction, Paragraph 1	105 CMR 120.102	D	In § 30.4, the definition for the term “commencement of construction” is revised as follows: <i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or	No		
§ 30.4	Definition Commencement of construction, Paragraph 2	N/A	NRC	In § 30.4, the definition for the term “commencement of construction” is revised as follows: (2) Common defense and security.			
§ 30.4	Definition Construction, Paragraph 1-8, 9(i)	105 CMR 120.102	D	In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows: <i>Construction</i> means the installation of foundations, or in-place	No		

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				<p>assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term "construction" does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) 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; (3) 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; (4) 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; (5) Excavation; (6) Erection of support buildings 			

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				<p>(e.g., 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;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 30.4	Definition Construction, Paragraph 9(ii)	N/A	NRC	<p>In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and security.</p>			
§ 30.33	General requirements	105 CMR	D	In § 30.33, paragraph (a)(5) is revised.	No		

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	for issuance of specific licenses.	120.125 (B)					
§ 36.2	Definition: Commencement of construction, Paragraph 1	105 CMR 120.635	D	<p>In § 36.2, definitions for the terms “commencement of construction” is added in alphabetical order to read as follows:</p> <p><i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to:</p> <p>(1) Radiological health and safety; or</p>	Yes	No	Reference to definition of 105 CMR 120.102 made instead of being duplicated.
§ 36.2	Definition Commencement of construction, Paragraph 2	N/A	NRC	<p>In § 36.2, definitions for the terms “commencement of construction” is added in alphabetical order to read as follows:</p> <p>(2) Common defense and security.</p>			
§ 36.2	Definition Construction, Paragraph 1-8, 9(i)	105 CMR 120.635	D	<p>In § 36.2, definitions for the terms “construction” is added in alphabetical order to read as follows:</p>	Yes	No	Reference to definition of 105 CMR 120.102 made instead of being duplicated.

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				<p><i>Construction</i> means 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 the regulations in this part that are related to radiological safety or security. The term “construction” does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) 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; (3) 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; (4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials 			

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				<p>subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., 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;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 36.2	Definition Construction, Paragraph 9(ii)	N/A	NRC	<p>In § 36.2, definitions for the terms “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and</p>			

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				security.			
§ 36.13(a)	Specific licenses for irradiators	105 CMR 120.633 (A)	H&S	In § 36.13, paragraph (a) is revised to read as follows: ***** (a) The applicant shall satisfy the general requirements specified in §§ 30.33(a)(1)-(4) and 30.33(b) of this chapter and the requirements contained in this part.	Yes	No	No changes made. Reference to 105 CMR 120.100 continues to apply and be adequate.
§ 36.15	Commencement of construction	105 CMR 120.635	D	N/A	No		
§ 39.13	Specific licenses for well logging.	105 CMR 120.903 (A)	H&S	In § 39.13, paragraph (a) is revised to read as follows: ***** (a) The applicant shall satisfy the general requirements specified in § 30.33 of this chapter for byproduct material, in § 40.32 of this chapter for source material, and in § 70.23 of this chapter for special nuclear material, as appropriate, and any special requirements contained in this part.	Yes	No	No changes made. Reference to 105 CMR 120.100 continues to apply and be adequate.
§ 40.4	Definition: Commencement of construction, Paragraph 1	N/A	C - States with authority to regulate uranium mill	In § 40.4, the definition for the term “commencement of construction” is revised as follows:			

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			activities (11e.(2) byproduct material) D - States without authority	<i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or			
§ 40.4	Definition: Commencement of construction, Paragraph 2	N/A	NRC	In § 40.4, the definition for the term “commencement of construction” is revised as follows: (2) Common defense and security.			
§ 40.4	Definition: Construction, Paragraph 1-8, 9(i)	N/A	C - States with authority to regulate uranium mill activities (11e.(2) byproduct material) D - States without authority	In § 40.4, the definition for the term “construction” is added in alphabetical order to read as follows: <i>Construction</i> means the installation of wells associated with radiological operations (e.g., 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			

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				<p>a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term "construction" does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) 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; (3) 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; (4) 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; (5) Excavation; (6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and 			

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				shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility; (7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines); (8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or (9) Taking any other action that has no reasonable nexus to: (i) Radiological health and safety, or .			
§ 40.4	Definition: Construction, Paragraph 9(ii)	N/A	NRC	In § 40.4, the definition for the term “construction” is added in alphabetical order to read as follows: (ii) Common defense and security.			
§ 40.32	General requirements for issuance of specific	N/A	H&S - States with authority to regulate uranium mill	In § 40.32, paragraph (e) is revised to read as follows:			

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	licenses		activities (11e.(2) byproduct material) NRC - States without authority	(e) In the case of an application for a license for a uranium enrichment facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the NRC determines will significantly affect the quality of the environment, the Director, Office of Federal and State Materials and Environmental Management Programs or his/her designee, before commencement of construction, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility. Commencement of construction as defined in section			

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				40.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.			
§ 70.4	Definition: Commencement of construction, Paragraph 1	105 CMR 120.102	D	In § 70.4, the definition for the term “commencement of construction” is revised as follows: <i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or	No		
§ 70.4	Definition: Commencement of construction, Paragraph 2	N/A	NRC	In § 70.4, the definition for the term “commencement of construction” is revised as follows: (2) Common defense and security.			
§ 70.4	Definition Construction, Paragraph 1-8, 9(i)	105 CMR 120.102	D	In § 70.4, the definition for the term “construction” is added in alphabetical order to read as follows: <i>Construction</i> means the installation of foundations, or in-place	No		

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				<p>assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term "construction" does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) 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; (3) 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; (4) 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; (5) Excavation; (6) Erection of support buildings 			

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				<p>(e.g., 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;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 70.4	Definition Construction, Paragraph 9(ii)	N/A	NRC	<p>In § 70.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and security.</p>			
§ 70.23	Requirements for the	N/A	NRC	<p>In § 70.23, paragraph (a)(7) is revised to read as follows:</p>			

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	approval of applications			<p>(a) * * *</p> <p>(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, uranium enrichment facility construction and operation, or any other activity which the NRC determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his/her designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial to possess and use special nuclear material in the plant or facility.</p>			

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				Commencement of construction as defined in section 70.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.			
§ 150.31 (b)(3)(iv)	Requirements for Agreement State regulation of byproduct material.	N/A	<p>C - States with authority to regulate uranium mill activities (11e.(2) byproduct material)</p> <p>NRC - States without authority</p>	<p>In § 150.31, paragraph (b)(3)(iv) is revised to read as follows:</p> <p>(b) * * *</p> <p>(3) * * *</p> <p>(iv) Prohibit commencement of construction with respect to such material prior to complying with the provisions of paragraph (b)(3)(C)(iii) of this section. As used in this paragraph:</p> <p>(A) The term <i>commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to radiological health and safety.</p> <p>(B) The term <i>construction</i> means 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 the regulations in this</p>			

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				<p>part that have a reasonable nexus to radiological safety or security. The term "construction" does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) 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; (3) 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; (4) 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; (5) Excavation; (6) Erection of support buildings (e.g., construction 			

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				<p>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;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action which has no reasonable nexus to radiological health and safety.</p>			