

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 410. RADIATION MANAGEMENT**

SUBCHAPTER 1. GENERAL PROVISIONS

252:410-1-7. Incorporation of federal regulations by reference

- (a) **10 CFR.** References in this Chapter to Title 10 of the Code of Federal Regulations (10 CFR) mean the ~~January 1, 2015~~ January 1, 2016 publication of 10 CFR.
- (b) **40 CFR.** References in this Chapter to Title 40 of the Code of Federal Regulations (40 CFR) mean the July 1, 1998 publication of 40 CFR and 64 Fed. Reg. 5574 (February 3, 1999).
- (c) **Citations incorporated.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

SUBCHAPTER 10. RADIOACTIVE MATERIALS PROGRAM

PART 1. GENERAL PROVISIONS

252:410-10-1. Radioactive Materials Program

(a) **Scope.**

(1) The rules in this Subchapter establish license requirements for the following categories of radioactive materials: byproduct material, source material and special nuclear material.

(2) License requirements incorporated by reference from 10 CFR are applicable requirements for all categories of radioactive materials within the scope of this Subchapter.

(b) **Exclusions.** Responsibility for the following regulatory requirements remains with the NRC:

(1) **In 10 CFR 20.** Exemptions to labeling requirements, § 20.1905(g); Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits at nuclear power plants, § 20.2203(c); Reports of individual monitoring, § 20.2206(a)(1), (a)(3), (a)(4) and (a)(5);

(2) **In 10 CFR 30.** Activities requiring license, § 30.3(b); Definitions, § 30.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Terms and conditions of licenses, § 30.34 (d), (e)(1) and (e)(3); Transfer of byproduct material, § 30.41 (b)(6); Tritium reports, § 30.55;

(3) **In 10 CFR 32.** Purpose and scope, § 32.1(c)(1); Subpart A, Exempt concentrations and items, §§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.18 through 32.23, and 32.25 through 32.29; Subpart D, Specifically licensed items, § 32.210;

(4) **In 10 CFR 35.** License required, § 35.11(c)(1); License amendments, § 35.13(a)(1);

(5) **In 10 CFR 36.** Definitions, § 36.2 "Commencement of construction" paragraph 2 and "Construction" paragraph 9(ii);

(6) **In 10 CFR 37.** General security program requirements, § 37.43(d)(9); ~~Advance notification of shipment of category 1 quantities of radioactive material, § 37.77(f);~~

(7) **In 10 CFR 40.** General Provisions, §§ 40.2a and 40.3; Definitions, § 40.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Exemptions, §§ 40.11, 40.12 and 40.13 (a), (b), (c)(1) through (5), (c)(7) through (9), 40.14; General Licenses, §§ 40.20 through 40.24; 40.26 through 40.28; License Applications, §§ 40.31 (f) through (l), §§ 40.32 (d) through (g), §§ 40.33 through 40.35, § 40.37, and § 40.38;

Licenses, §§ 40.41 (d), (e)(1) and (3), (f) and (g), § 40.42 and § 40.46; Transfer of Source Material, § 40.51 (b)(6); Records, Reports, and Inspections, § 40.60 (c)(3), §§ 40.64 through 40.67; Appendix A;

(8) **In 10 CFR 61.** Other information, § 61.16; Standards for issuance of a license, § 61.23 (i) and (j) regarding physical security information and criticality safety procedures for special nuclear material possessed prior to disposal;

(9) **In 10 CFR 70.** Regulation of special nuclear material for spent fuel, high level radioactive waste and uranium enrichment facilities, §§ 70.1(c),(d) and (e); Definitions, § 70.4 "Commencement of construction" paragraph (2) and "Construction" paragraph (9)(ii); Department of Defense, § 70.13; Foreign military aircraft, § 70.14; General license to possess special nuclear material for transport, § 70.20a; General license for carriers of transient shipments of formula quantities of strategic special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel regulated under 10 CFR 73, § 70.20b; Subpart D - License Applications, § 70.21(a)(1), (c), (f), (g) and (h); § 70.22 (b), (c) and (f) through (n), § 70.23 (a)(6) through (12) and (b),

§ 70.23a, and § 70.24; Subpart E - Licenses, § 70.31 (c), (d), and (e), § 70.32 (a)(1), (a)(4) through (7), (b)(1), (b)(3), (b)(4), (c) through (k), and § 70.37; § 70.40; Subpart F - Acquisition, Use and Transfer of Special Nuclear Material, Creditor's Rights, § 70.42(b)(6), and § 70.44; Subpart G - Special Nuclear Material Control, Records, Reports and Inspections, § 70.51(c),(d) and (e), § 70.52 through § 70.54, § 70.55(c), § 70.56, and § 70.59; Subpart H - Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material, § 70.60 through 70.76; Subpart I - Modification and Revocation of Licenses, § 70.81 and § 70.82; Subpart J - Enforcement, §§ 70.91 and 70.92; (10) **In 10 CFR 71.** Subpart A - General Provisions, § 71.10; Subpart B - Exemptions, § 71.14(b); Subpart C – General licenses, § 71.19; Subpart D - Application for Package Approval, §§ 71.31 through 71.39; Subpart E - Package Approval Standards, §§ 71.41 through 71.45 and §§ 71.51 through 71.65; Subpart F - Package, Special Form, and LSA-III Tests, §§ 71.74 through 71.77; Subpart G – Operating Controls and Procedures, § 71.85(a), (b), and (c) and § 71.91(b); Subpart H - Quality Assurance, § 71.101(c)(2), (d), and (e) and §§ 71.107 through 71.125;

(11) **In 10 CFR 150.** Persons in offshore waters not exempt, § 150.7; Persons in agreement states exempt, § 150.10; Commission regulatory authority for physical protection in agreement states, § 150.14; Persons in agreement states not exempt, Continued Commission authority pertaining to byproduct material in agreement states, § 150.17; Compliance with requirements of US/IAEA safeguards agreement for source material under state agreement license; Submission to Commission of reports for tritium in agreement states, § 150.19; Transportation by aircraft of special nuclear material by agreement state licensee, § 150.21; Violations, § 150.30; Requirements for Agreement State regulation of byproduct material, § 150.31; Funds for reclamation or maintenance of byproduct material, § 150.32; and Criminal penalties, § 150.33.

(c) **Effective date.** The requirements of this Subchapter became effective September 29, 2000, the date upon which jurisdiction over all unrevoked and unexpired NRC licenses and plan approvals was transferred to DEQ.

**PART 37. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL**

252:410-10-37. 10 CFR 37 Incorporations by reference

Incorporations by reference. The following provisions are hereby incorporated by reference from 10 CFR 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material:

(1) Subpart A; General Provisions.

- (A) 37.1 - Purpose
- (B) 37.3 - Scope
- (C) 37.5 - Definitions
- (D) 37.7 - Communications
- (E) 37.9 - Interpretations
- (F) 37.11 - Specific exemptions
- (G) 37.13 - Information collection requirements: OMB approval

(2) Subpart B; Background Investigations and Access Control Program.

- (A) 37.21 - Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
- (B) 37.23 - Access authorization program requirements
- (C) 37.25 - Background investigations
- (D) 37.27 - Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
- (E) 37.29 - Relief from fingerprinting identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
- (F) 37.31 - Protection of information
- (G) 37.33 - Access authorization program review

(3) Subpart C; Physical Protection Requirements During Use.

- (A) 37.41 - Security program
- (B) 37.43 - General security program requirements, except (d)(9)
- (C) 37.45 - LLEA coordination
- (D) 37.47 - Security zones
- (E) 37.49 - Monitoring, detection, and assessment
- (F) 37.51 - Maintenance and testing
- (G) 37.53 - Requirements for mobile devices
- (H) 37.55 - Security program review
- (I) 37.57 - Reporting of events

(4) Subpart D; Physical Protection in Transit.

- (A) 37.71 - Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
- (B) 37.73 - Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
- (C) 37.75 - Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
- (D) 37.77 - Advance notification of shipment of category 1 quantities of radioactive material, except (f)

- (E) 37.79 - Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
- (F) 37.81 - Reporting of events
- (5) **Subpart E; Reserved.**
- (6) **Subpart F; Records.**
 - (A) 37.101 - Form of records
 - (B) 37.103 - Record retention
- (7) **Appendix A to Part 37.** Category 1 and Category 2 Radioactive Materials

PART 71. PACKAGING AND TRANSPORTING RADIOACTIVE MATERIAL

252:410-10-71. 10 CFR 71 incorporations by reference

The following provisions are hereby incorporated by reference from 10 CFR 71, Packaging and Transportation of Radioactive Material:

- (1) **Subpart A; General provisions.**
 - (A) 71.0 - Purpose and scope
 - (B) 71.1(b) - Communications and records
 - (C) 71.3 - Requirement for license
 - (D) 71.4 - Definitions
 - (E) 71.5 - Transportation of licensed material
 - (F) 71.7 - Completeness and accuracy of information
 - (G) 71.8 - Deliberate misconduct
 - (H) 71.9 - Employee protection
- (2) **Subpart B; Exemptions.**
 - (A) 71.12 - Specific exemptions
 - (B) 71.13 - Exemptions of physicians
 - (C) 71.14(a) - Exemption for low-level materials
 - ~~(D)~~ 71.15 - Exemption from classification as fissile material
- (3) **Subpart C; General licenses.**
 - (A) 71.17 - General license: NRC-approved package
 - (B) 71.20 - General license: DOT specification container
 - (C) 71.21 - General license: Use of foreign approved package
 - (D) 71.22 - General license: Fissile material
 - (E) 71.23 - General license: Plutonium-beryllium special form material
- (4) **Subpart E; Package Approval Standards.** 71.47 - External radiation standards for all packages
- (5) **Subpart G; Operating controls and procedures.**
 - (A) 71.81 - Applicability of operating controls and procedures
 - (B) 71.83 - Assumptions as to unknown properties
 - (C) 71.85(d) - Preliminary determinations
 - (D) 71.87 - Routine determinations
 - (E) 71.88 - Air transport of plutonium
 - (F) 71.89 - Opening instructions
 - (G) 71.91(a), (c), and (d) - Records
 - (H) 71.93 - Inspection and tests
 - (I) 71.95 - Reports

(J) 71.97 - Advance notice of shipment of irradiated reactor fuel and nuclear waste

(6) **Subpart H; Quality assurance.**

(A) 71.101(a), ~~(b)~~, (c)(1), (f), and (g) - Quality assurance requirements

(B) 71.103 - Quality assurance organization

(C) 71.105 - Quality assurance program

(D) 71.106 – Changes to quality assurance program

~~(D)~~(E) 71.127 - Handling, storage and shipping control

~~(E)~~(F) 71.129 - Inspection, test and operating status

~~(F)~~(G) 71.131 - Nonconforming materials, parts or components

~~(G)~~(H) 71.133 - Corrective action

~~(H)~~(I) 71.135 - Quality assurance records

~~(I)~~(J) 71.137 - Audits

(7) Appendix A to Part 71--Determination of A₁ and A₂.