

**76 FR 56951 Licenses, Certifications, and Approvals for Materials Licensees
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Date Due for State Adoption 11/14/2014**

REVIEWER PLEASE NOTE: 79 FR 75735, 12/19/2014 – Organization change from FSME to NMSS

| 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 |
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| § 30.4 | Definition: Commencement of construction, Paragraph 1 | .0117 (Note, .0117 is not being amended at this time. It incorporates § 30.4 by ref.) | D | <p>In § 30.4, the definition for the term “commencement of construction” is revised 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: (1) Radiological health and safety; or</p> | | | |
| § 30.4 | Definition Commencement of construction, Paragraph 2 | .0117 (Note, .0117 is not being amended at this time. It incorporates § 30.4 by ref.) | NRC | <p>In § 30.4, the definition for the term “commencement of construction” is revised as follows:</p> <p>(2) Common defense and security.</p> | | | |

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| § 30.4 | Definition Construction, Paragraph 1-8, 9(i) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 30.4 by ref.) | D | <p>In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <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 | | | |

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| | | | | <p>information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(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;</p> <p>(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;</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,</p> | | | |

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| | | | | 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 . | | | |
| § 30.4 | Definition Construction, Paragr(ii) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 30.4 by ref.) | NRC | In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows: (ii) Common defense and security. | | | |
| § 30.33 | General requirements for issuance of specific licenses. | .0337(a) (excludes 10 CFR 30.33(a)(5) from incorp) | D | In § 30.33, paragraph (a)(5) is revised. | | | |
| § 36.2 | Definition: Commencement | .0117 (Note, .0117 is not | D | In § 36.2, definitions for the terms “commencement of construction” is added in | | | |

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| | of construction, Paragraph 1 | being amended at this time. It incorporates § 36.2 by ref.) | | <p>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> | | | |
| § 36.2 | Definition Commencement of construction, Paragraph 2 | .0117 (Note, .0117 is not being amended at this time. It incorporates § 36.2 by ref.) | 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) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 36.2 by ref.) | D | <p>In § 36.2, definitions for the terms “construction” is added in alphabetical order to read as follows:</p> <p><i>Construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any</p> | | | |

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| | | | | <p>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 | | | |

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| | | | | <p>use of, or security of, radiological materials 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) | .0117 (Note, .0117 is not | NRC | In § 36.2, definitions for the terms “construction” is | Yes | Yes | |

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| | | being amended at this time. It incorporates § 36.2 by ref.) | | added in alphabetical order to read as follows: (ii) Common defense and security. | | | |
| § 36.13(a) | Specific licenses for irradiators | .0337 | 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. | | | |
| § 36.15 | Commencement of construction | .0117 (Note, .0117 is not being amended at this time. It incorporates § 36.15 by ref.) | D | N/A | | | |
| § 39.13 | Specific licenses for well logging. | .0337 | H&S | In § 39.13, paragraph (a) is revised to read as follows: | | | |

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| | | | | ***** (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. | | | |
| § 40.4 | Definition: Commencement of construction, Paragraph 1 | NC has no licensees in this category | 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 “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 | | | |
| § 40.4 | Definition: Commencement of construction, Paragraph 2 | .0117 (Note, .0117 is not being amended at this time. It | NRC | In § 40.4, the definition for the term “commencement of construction” is revised as follows: | | | |

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| | | incorporates § 40.4 by ref.) | | (2) Common defense and security. | | | |
| § 40.4 | Definition Construction, Paragraph 1-8, 9(i) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 40.4 by ref.) | 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 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: (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 | | | |

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| | | | | <p>establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(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;</p> <p>(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;</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> | | | |

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| | | | | (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) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 40.4 by ref.) | 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 licenses | .0337 NC has no licensees in this category | H&S - States with authority to regulate uranium mill activities (11e.(2)) | In § 40.32, paragraph (e) is revised to read as follows: (e) In the case of an application for a license for a uranium enrichment facility, or for a license to possess and | | | |

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| | | | byproduct material) NRC - States without authority | 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 | | | |

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| | | | | construction as defined in section 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 | .0117 (Note, .0117 is not being amended at this time. It incorporates § 70.4 by ref.) | 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 | | | |
| § 70.4 | Definition: Commencement of construction, Paragraph 2 | .0117 (Note, .0117 is not being amended at this time. It incorporates § 70.4 by ref.) | 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, | .0117 (Note, | D | In § 70.4, the definition for the term “construction” is | | | |

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| | Paragraph 1-8, 9(i) | .0117 is not being amended at this time. It incorporates § 70.4 by ref.) | | <p>added in alphabetical order to read as follows:</p> <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 | | | |

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| | | | | <p>environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(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;</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> | | | |

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| | | | | (9) Taking any other action that has no reasonable nexus to: (i) Radiological health and safety, or . | | | |
| § 70.4 | Definition Construction, Paragraph 9(ii) | .0117 (Note, .0117 is not being amended at this time. It incorporates § 70.4 by ref.) | NRC | In § 70.4, the definition for the term “construction” is added in alphabetical order to read as follows: (ii) Common defense and security. | | | |
| § 70.23 | Requirements for the approval of applications | .0337(a) (excludes 70.23(a)(7)-(12) (package 2) | NRC | In § 70.23, paragraph (a)(7) is revised to read as follows: (a) * * * (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 | | | |

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| | | | | <p>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. 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.</p> | | | |
| § 150.31 (b)(3)(iv) | Requirements for Agreement State regulation of byproduct material. | .0117 (Note, .0117 is not being amended at this time. It | C - States with authority to regulate uranium mill activities | <p>In § 150.31, paragraph (b)(3)(iv) is revised to read as follows:</p> <p>(b) * * *</p> <p>(3) * * *</p> | No | | |

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| | | incorporates § 150.31 by ref.) | (11e.(2) byproduct material) D - States without authority | <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 part that have a reasonable nexus to radiological safety or security. The term “construction” does not include:</p> <p>(1) Changes for temporary use of the land for public recreational purposes;</p> | | | |

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| | | | | <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete</p> | | | |

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| | | | | <p>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> | | | |