

From: [Amy Snyder](#)
To: [Tim Devik](#)
Subject: exemptions -TMI-2
Date: Thursday, September 22, 2022 3:39:00 PM

Hi Tim,

You asked about exemptions – if the old ones still apply.

Here is the information:

NRC looked into 4 different regulatory provisions for which TMI-2 was previously exempted, all of which relate to the inventorying, record keeping and reporting requirements; specifically, 30.51; 40.61; 70.51(d); and 70.53. We examined if any, exemptions remain applicable today given the regulatory changes since the 1985 exemptions were granted. First, since the move from a possession only license to decon is not a new licensing action, but a continuation (with changes) of the existing part 50 license, the existing exemptions – translated into today's regulatory provisions – would continue to apply. (If there is something additional about the move from possession only to decon that changes the rationale for the exemptions issued in 1985, please feel free to reach back out to discuss.) With that understanding, based upon how the regulations have been amended over time, the 1985 exemptions to TMI-2, if issued today, would correlate to TMI-2 exemptions from: **30.51(a), (b), and (c); 40.61(a), (b), and (c); 74.13, and 74.19(c).**

Here's slightly more detailed information on the specifics of the provisions and the changes over time:

30.51 and 40.61

30.51 and 40.61 have similar regulatory histories. Both of these regulations have changed a bit since 1985, mainly through the restructuring of the provisions and the application of more consistent timeframes for submission of reports. The real substantive change in the regulations since 1985 came in 1996, when both 30.51 and 40.61 were amended to add new provisions to ensure reporting of disposal of material under Part 20 provisions. The new additions were added to both 30.51 and 40.61 as part of the same rulemaking effort and the provisions, which are parallel in construction, were added as subsections (d), (e), and (f) to both 30.51 and 40.61. **Thus, TMI-2's 1985 exemptions from 30.51 and 40.61 would equate to exemptions today from 30.51(a),(b),&(c); and 40.61(a),(b), and (c).** It is unclear from the information I have if 30.51(d)-(f) and 40.61(d)-(f) are applicable to TMI-2, but these were new provisions that were not part of the original 1985 exemption. If they are applicable to TMI-2, then TMI-2 would be required to be in compliance with 30.51(d)-(f) and 40.61(d)-(f); and if the provisions are not applicable, they would not need an exemption from them anyway so no need to include them here.

70.51(d)

As part of the NRC's efforts to move MC&A requirements to a new Part 74, in 2002, 70.51(d) was moved to 74.19(c) with little change. Thus, the 1985 exemption from 70.51(d) is equivalent to an exemption today from **74.19(c).**

70.53

In the same 2002 rulemaking as that impacting 70.51(d), 70.53 requirements were likewise

moved into Part 74 as 74.13 and 74.17, with some process changes, but nothing newly substantive. Thus, the 1985 exemption from 70.53 would be equivalent to an exemption today from **74.13 and 74.17**. Because it does not appear that 74.17 applies to TMI-2, **the specific exemption for TMI-2 would be only the exemption from 74.13**. (Feel free to double check me on that.)

1985 Regulatory Provisions

To the extent you might find it helpful to view the 1985 CFRs at the time the exemption was issued, I've compiled links here:

- 1985 version of Part 30: <https://heinonline.org/HOL/P?h=hein.cfr/cfr1985025&i=294>
- 1985 version of Part 40: <https://heinonline.org/HOL/P?h=hein.cfr/cfr1985025&i=376>
- 1985 version of Part 70: <https://heinonline.org/HOL/P?h=hein.cfr/cfr1985025&i=627>

I hope this helps! I'm happy to talk through any of this if it might be helpful.

A