

## CHAPTER 4

### LICENSING REQUIREMENTS FOR SOURCE AND BYPRODUCT MATERIAL

#### Section 1. **Purpose.**

(a) This Chapter establishes the criteria for issuance and terms of conditions upon which the Department may issue licenses to receive title to, acquire, own, possess, transfer, offer or receive for transport, or deliver any licensed material. This Chapter also governs the operation of facilities for handling and disposing of licensed material. This Chapter also provides requirements for decommissioning and the long-term care and maintenance of byproduct material. Unless otherwise specified, the requirements of this Chapter are in addition to, and not in substitution for, other applicable requirements of these rules.

#### Section 2. **Scope.**

(a) This Chapter establishes performance objectives and procedural requirements applicable to any licensee. This Chapter also applies to waste systems for byproduct material, including specific technical and financial requirements for siting, construction, operation, monitoring, decontamination, reclamation, and ultimate stabilization of byproduct material, as well as requirements for licensee transfer and termination, long-term site monitoring, surveillance, ownership, and ultimate custody of source material milling facilities and byproduct material impoundments.

(b) This Chapter governs byproduct material located at a site where milling operations are no longer active, if such site is not covered by the remedial action program of Title I of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978 (42 U.S.C. §§ 7901 *et seq.*). This Chapter does not establish criteria and procedures for the issuance of licenses for materials covered under Title I of UMTRCA of 1978, unless that program fails to accomplish the remedial action. Disposal at a uranium or thorium processing site of licensed material which is not byproduct material must not inhibit reclamation of the tailings impoundment or the ability of the United States Government to take title to the impoundment as long-term custodian.

(c) A person subject to the regulations of this Chapter may not receive title to, acquire, own, possess, transfer, offer or receive for transport, provide for long-term care and maintenance, or deliver or dispose of licensed material, or residual radioactive material as defined in Chapter 1, General Provisions after removal from its place of deposit in nature, unless authorized in a general or specific license issued by the Department pursuant to this Chapter.

#### Section 3. **Incorporation by Reference.**

(a) Any reference in these rules to requirements, or procedures contained in 10 Code of Federal Regulations (C.F.R.) 40, Sections 40.36(f), 40.51, 40.54, 40.55, 40.61, and Appendix A shall constitute the full adoption by reference of that part and subparts as they appear in 10 C.F.R. 40, Appendix A, revised as of January 1, 2016, unless expressly provided otherwise in

these rules. These rules do not include any later amendments or editions of incorporated matter.

(b) The following 10 C.F.R. portions, including all subparts, as of January 1, 2016 are excluded from these rules and are not incorporated by reference: 40.51(b)(6) and the following portions of 10 C.F.R. Part 40, Appendix A: Introduction definitions; Section III Site and Byproduct Material Ownership, Criterion 11; and Section IV Long-Term Site Surveillance, Criterion 12.

(c) Any reference in these rules to requirements, or procedures contained in 10 C.F.R. § 150.31 shall constitute the full adoption by reference of that part and subparts as they appear in 10 C.F.R. § 150.31, revised as of January 1, 2016, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of incorporated matter.

(d) The following sections, as of January 1, 2016 are excluded from these rules and are not incorporated by reference: 10 C.F.R. § 150.15, 150.15(a), and 150.31(b)(iv). The NRC shall retain the rights reserved to the NRC in 10 C.F.R. §§ 150.15 and 150.15(a).

#### Section 4. **Deliberate Misconduct.**

(a) Any licensee, applicant for a license, employee of a licensee or applicant, or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any component, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in part, may not:

(i) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Department.

(ii) Deliberately submit to the NRC or Department information known to be materially incomplete or inaccurate.

(b) The Department may bring an enforcement action against any person who violates subparagraphs (a)(i) or (a)(ii) of this section.

(c) Deliberate misconduct means an intentional act or omission that the person knows:

(i) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Department; or

(ii) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee or applicant as mandated by the Department.

#### Section 5. **Filing an Application for a Specific License.**

(a) Two copies of the application for a specific license shall be mailed, or sent electronically as approved by the Administrator, to the Department accompanied with the license application fee, pursuant to Chapter 13 of these rules to:

Wyoming Department of Environmental Quality  
Land Quality Division  
200 W. 17<sup>th</sup> Street, Suite 10  
Cheyenne, WY 82002

(b) The application for a specific license, and copies thereof, may be submitted in conjunction with an application for a mining permit as described in W.S. §§ 35-11-406 and -428 (2015). An application for a specific license, and copies thereof, shall be presented in a clean and orderly manner, as determined appropriate by the Department. Hard copies of specific license applications shall be bound, with the use of a three ring binder or something comparable, such that the information is easily accessible and pages are not misplaced.

(c) A permit to mine, when applicable, shall be obtained prior to the license being issued. Failure to obtain a permit to mine shall be grounds for refusing to issue a license. As determined by the Department, activities such as toll milling shall not require a permit to mine.

(d) Information provided by an applicant or licensee to the Department shall be complete and accurate in all material respects.

(e) Each applicant or licensee shall notify the Department of information identified by the applicant or licensee as having, for the regulated activity, a significant implication for public health and safety. An applicant or licensee violates this paragraph only if the applicant or licensee fails to notify the Department of information that the applicant or licensee has identified as having a significant implication for public health and safety. This requirement is not applicable to information which is already required to be provided to the Department by other reporting requirements.

#### **Section 6. Exemptions from Regulatory Requirements.**

(a) Any person is exempt from this Chapter to the extent that such person receives title to, acquires, owns, possesses, uses, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(b) Any person is exempt from this Chapter to the extent that such person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material provided that, except as authorized in specific license, such person shall not refine or process such ores.

(c) No person may introduce source or byproduct material into a product or material either knowing or having reason to believe that it will be transferred to persons exempt under this Chapter.

(d) The Department may, upon its own initiative or the application of an interested

person, grant such exemptions from the requirements of this Chapter as authorized by law and, as determined by the Department, will not endanger life, property, the common defense and security, and is otherwise in the public interest.

(e) Common and contract carriers, freight forwarders, warehousemen, and the United States Postal Service are exempt from the requirements of this Chapter and the requirements set forth in Section 81 of the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 *et seq.*, as amended to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident thereto.

(f) Except to the extent that the Department of Energy's (DOE) facilities or activities, subject to licensing pursuant to Section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. § 5842.), are involved, any prime contractor of the DOE is exempt from the requirements for a license set forth in 81 and 82 of the Act (42 U.S.C. § 2111 and 42 U.S.C. § 2112) and from this Chapter to the extent that such contractor, under his prime contract with the DOE manufactures, produces, transfers, receives, acquires, owns, possesses, or uses byproduct material for:

(i) The performance of work for the DOE at a United States Government owned or controlled site, including the transportation of byproduct material to or from such site and the performance of contract services during temporary interruptions of such transportation;

(ii) Research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof; or

(iii) The use or operation of nuclear reactors or other nuclear devices in a United States Government owned vehicle or vessel.

(g) This Chapter shall not be deemed to authorize the import of radioactive material or products containing radioactive material.

#### **Section 7. Pre-Licensing Construction.**

(a) Except as provided in this Chapter, the applicant shall not commence construction at any plant or facility in which the licensed activity will occur until the Department has issued a license. Commencement of construction, defined in Chapter 1 of these rules, prior to issuance of the license may be grounds for denial of a license.

(b) At a minimum, an application for a specific license to receive title to, acquire, own, possess, transfer, offer or receive for transport and use licensed material shall be filed with the Department at least nine (9) months prior to the commencement of construction of any plant or facility in which the licensed activity will occur, and in accordance with existing applicable law, including Chapter 3 of the Non-Coal Rules and Regulations.

#### **Section 8. General Requirements for Issuance of Specific Licenses**

(a) An application for a specific license may be approved if the Department determines that:

(i) The applicant is qualified by reason of training and experience, to use licensed material for the purpose requested in the subject application consistent with the governing statutes and rules and in such a manner as to minimize danger to public health and safety, or property;

(ii) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(iii) The applicant satisfies the requirements listed in this Chapter;

(iv) The issuance of the license will not be detrimental to the health and safety of the public; and

(v) The applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, or disposal.

(b) The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or a person duly authorized to act for and on his behalf.

(c) Upon determination that an application meets the requirements of the Act, applicable rules, and public health and safety considerations, the Department may issue a specific license authorizing the proposed activity in such form, and containing such conditions and limitations, as the Department deems appropriate or necessary.

(d) The Department may incorporate conditions or provisions in any license at the time of issuance, with respect to the licensee's receipt, possession, use, and transfer of licensed material subject to this Chapter as it deems appropriate or necessary in order to:

(i) Minimize danger to public health and safety, and the environment;

(ii) Require reports and recordkeeping, and to provide for such inspections of activities under the license as may be appropriate and necessary; and

(iii) Prevent loss or theft of licensed material subject to this Chapter.

(e) All licenses, whether issued by the NRC or the Department, and the authorization to possess or utilize licensed material cannot be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of any license to any person unless the Department, after securing full information, determines the transfer is in accordance with the Act and these rules. Upon the transfer of an existing license, the new licensee shall comply with existing laws and license conditions. The Department may impose

new license conditions to be complied with by the new licensee as it deems necessary.

(f) Each licensee pursuant to this Chapter shall confine use and possession of licensed material to the locations and purposes authorized in the license.

(g) Each licensee shall notify the Department in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license.

(h) Each licensee shall notify the Department in writing within seven (7) business days following the filing of voluntary or involuntary petition for bankruptcy under any Chapter of the United States Code (U.S.C.) by or against:

(i) The licensee;

(ii) An entity controlling the licensee, or listing the license or licensee as property of the estate as that term is defined in 11 U.S.C. § 101(14); or

(iii) An affiliate of the licensee as that term is defined in 11 U.S.C. § 101(2).

(i) The written notification of bankruptcy submitted to the Department shall identify the bankruptcy court in which the petition for bankruptcy was filed, the case number, and the date of filing.

(j) The licensee shall allow the Department, to enter and inspect any licensed area as provided by W.S. §§ 35-11-109(a)(iv), (v) and (vi). The licensee shall obtain for the Department the right to access and cross over private lands leading to or within a licensed area for inspection of regulated activities consistent with state law and these rules. The right to access and cross over private property shall be in writing, notarized, included in the application, and contain the following:

(i) The name of the landowner of the property to be accessed or crossed;

(ii) A legal description of the lands, using Public Land Survey System nomenclature that will be crossed during the inspection process;

(iii) A declarative statement from the landowner providing the Department permission to access the described private property for the inspection of regulated activities; and

(iv) The landowner's signature.

(v) In lieu of the foregoing, the licensee may provide the Department with an executed Department, Land Quality Division, Form 8 or a copy of the Surface Use Agreement clearly providing the Department the authority to access or cross over the subject private property.

## Section 9. **Specific Requirements for Issuance of Specific Licenses**

(a) A specific license for source material involved in the extraction and concentration of uranium or thorium at uranium or thorium facilities and for the management and disposal of byproduct material will be issued if the applicant submits to the Department a complete and accurate application that clearly demonstrates how the requirements and objectives of this Chapter are met.

(b) An application for a license, including applications for the amendment or renewal of an existing license, to receive, possess and use licensed material shall contain all information required under these rules and such material as the Department may deem necessary. The application shall, at a minimum, contain the following information:

- (i) A description of the proposed project or action;
- (ii) For new licenses, environmental data that includes the results of a one-year preoperational monitoring program;
- (iii) For renewal of licenses, environmental data containing results of the operational monitoring program or monitoring required to be conducted if the facility was not in operation but in standby mode;
- (iv) Site characteristics, including regional and site specific geology, topography, hydrology, and meteorology;
- (v) Radiological and non-radiological impacts of the proposed project or action including waterway and groundwater impacts;
- (vi) An assessment of the radiological and non-radiological impacts to the public health and the environment;
- (vii) Consideration of the long-term impacts of the licensed activities;
- (viii) A representative presentation of the physical, chemical, and radiological properties of the type of licensed material to be received, stored, processed, or disposed of;
- (ix) An evaluation of the short-term and long-term environmental impacts of such receipt, storage, processing, or disposal;
- (x) An analysis of the environmental, economic, social, technical, and other benefits of the proposed activities against environmental costs and social effects;
- (xi) Environmental effects of accidents;
- (xii) Byproduct material disposal, decommissioning, decontamination, reclamation, and impacts of these activities;
- (xiii) A closure plan to be included in the reclamation plan for decontamination, decommissioning, restoration, and reclamation of buildings of the licensed area to levels that

would allow where applicable unrestricted use and for reclamation of the byproduct material disposal areas in accordance with technical requirements of 10 C.F.R. Part 40, Appendix A;

(xiv) Proposal of an acceptable form and amount of financial assurance in accordance with 10 C.F.R. Part 40, Criterion 9 of Appendix A; and the Department's rules;

(xv) Specifications for the emissions control and disposition of byproduct material; and

(xvi) Emergency response protocol.

(c) For applications for a new license or application for a license amendment to expand the licensed site, proof of mailed notification to the owner or owners of the property on which licensed material are recovered, stored, processed, or disposed. The applicant for a new license must demonstrate that the owner or owners of the property were sent by certified United States mail, notification from the applicant stating that:

(i) Licensed radioactive material will be recovered, stored, processed, or disposed on the property; and

(ii) Decommissioning by the Department, funded by a surety, or as directed by order may be required and performed on the licensed site even if the licensee is unable or fails to decommission the licensed site as required by license.

(d) Environmental concerns outlined in subsection (b) of this section need to be resolved when the Department:

(i) Receives application for a new specific license or renewal of a specific license;

(ii) Receives an amendment request that would authorize or result in:

(A) A significant expansion of a site;

(B) A significant change in the type of releases;

(C) A significant increase in the amounts of releases;

(D) A significant increase in individual or cumulative occupational radiation exposure; or

(E) A significant increase in the potential for or consequences from radiological accidents.

(e) The Department may exempt an applicant or licensee from the requirement to submit additional environmental impact information on the determination that environmental concerns are addressed through information previously provided to the Department.



(i) In considering exemptions, the Department may request additional information to ensure that no significant environmental impacts will result from the proposed or licensed activity.

(f) The applicant shall provide written specification describing the means employed so that all airborne effluent releases are reduced to levels as low as is reasonably achievable (ALARA) during the operational phase of any project.

(g) During any one full year prior to submittal of a new application or an amendment to expand the licensed area or operations, the applicant or licensee shall conduct a preoperational monitoring program to provide complete baseline data on an in-situ recovery or a conventional milling site describing its pre-operational environment condition.

(h) Throughout the construction and operating phases of the in-situ recovery facility or conventional mill, the applicant or licensee shall conduct an operational monitoring program to measure or evaluate compliance with applicable standards and regulations, in order to evaluate performance of control systems and procedures, environmental impacts of operation, and to detect potential long-term effects.

(i) Upon receipt of the license application or any amendments thereto, and of any other documents required, the Department may transmit information for review and comment to federal, state, and local agencies having expertise in or jurisdiction over the proposed project or activity. Written comments and reports of reviewing agencies may be considered by the Department in its decision-making review process on the license application or amendment.

(i) If an Environmental Impact Statement (EIS) or Environmental Assessment (EA) is required by a federal agency pursuant to the National Environmental Policy Act of 1969 (NEPA) and is provided by such federal agency, it may be used in the Department's decision-making review process.

(j) An application for a license shall contain proposed specifications relating to the recovery or milling operations and management and disposition of tailings or wastes resulting from such recovery or milling activities to achieve the requirements and objectives set forth in the criteria listed in 10 C.F.R. Part 40, Appendix A. Each applicant for a new license or for license renewal must clearly demonstrate how the requirements and objectives set forth in 10 C.F.R. Part 40, Appendix A have been addressed. Failure to clearly demonstrate how the requirements and objectives in 10 C.F.R. Part 40, Appendix A have been addressed shall be grounds for refusing to approve an application.

## **Section 10. Operational Requirements.**

Each licensee shall:

(a) Operate in accordance with the requirements and objectives of 10 C.F.R. Part 40, Appendix A, and this Chapter, including the procedures required by Section 9(f) and the monitoring required by Section 9(g).

(b) Submit a semi-annual report to the Department within sixty (60) days following January 1 and July 1 of each year. The report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, and such other information as the Department may require to estimate the maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above the licensee's design objectives previously reviewed as part of the most recent licensing action, the report shall cover this specifically. On the basis of such reports or any additional information the Department may obtain from the licensee or others, the Department may require the licensee to take such actions as the Department deems appropriate to protect public health and safety and the environment.

(c) Licensee shall report events that have significant radiological effects on employee safety, public health, or the environment to the Department according to the following:

(i) All licensees shall notify the Department as soon as possible but no later than four (4) hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposure to radiation or licensed materials that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.). The following events require immediate notification to the Department:

(A) Any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas; and

(B) Any unusual conditions which are not contemplated in the design of the retention system and which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(ii) Each licensee shall notify the Department within twenty-four (24) hours after the discovery of any of the following events involving licensed material:

(A) An unplanned contamination event that:

(I) Requires access to the contaminated area, by workers or the public, to be restricted for more than twenty-four (24) hours by imposing additional radiological controls or by prohibiting entry into the area;

(II) Involves a quantity of material greater than five times the lowest annual limit on intake specified in 10 C.F.R. Part 20, Appendix B; and

(III) Requires access to the area restricted for a radiological safety reason other than to allow isotopes with a half-life of less than twenty-four (24) hours to decay prior to decontamination.

(B) An event in which equipment is disabled or fails to function as designed when:

(I) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(II) The equipment is required to be available and operable when it is disabled or fails to function; and

(III) No redundant equipment is available and operable to perform required safety function.

(C) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body;

(D) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(I) The quantity of material involved is greater than five times the lowest annual limit on intake specified in 10 C.F.R. Part 20, Appendix B.

(II) The damage affects the integrity of the licensed material or its container.

(iii) Reporting of spills of licensed material and excursions shall be done pursuant to Chapter 11 of the Non-Coal Rules and Regulations.

(iv) Reports made by the licensees in response to the requirements of this section must be made as follows:

(A) Licensees shall make reports required by Sections 10(c)(i) and 10(c)(ii) of this Chapter by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports must include:

(I) The caller's name and call back telephone number;

(II) A description of the event, including date and time;

(III) The exact location of the event;

(IV) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(V) Any personnel radiation exposure data available.

(B) Licensees who make a report required by Section 10(c)(iii) of this

Chapter shall submit a written follow-up report as prescribed in Chapter 11 of the Non-Coal Rules and Regulations.

(C) Written reports prepared pursuant to other applicable rules may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. The reports must include the following:

(I) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(II) The exact location of the event;

(III) A description of the isotopes, quantities, and chemical and physical form of the licensed material involved;

(IV) Date and time of the event;

(V) Corrective actions taken or planned and the result of any evaluations or assessments;

(VI) Timely schedule for remediation of the spill or release, if required; and

(VII) The extent of exposure of individuals to radiation or to radioactive materials without identification of the individuals by name.

#### **Section 11. Expiration and Termination of Licenses.**

(a) The term of the specific license is for a fixed term not to exceed ten (10) years.

(b) Expiration of the specific license does not relieve the licensee of the requirements of the Act, these rules, or existing license conditions.

(c) All license provisions continue in effect beyond the expiration date with respect to possession of licensed material until the Department notifies the former licensee in writing that the provisions of the license are no longer binding. During this time, the former licensee must:

(i) Limit actions involving radioactive material to strictly decommissioning related activities; and

(ii) Continue to control entry to restricted areas until the location(s) is suitable for release for unrestricted use or for release for long-term care and maintenance.

(d) A licensee shall notify the Department, in writing to request the termination of the license within seven (7) days from when the licensee decides to terminate all licensed activities.

This notification and request for termination of the license shall include the reports on decommissioning and reclamation activities as required by this Chapter.

(e) No less than thirty (30) days before the expiration date specified in the license, the licensee shall either:

- (i) Submit an application for license renewal; or
- (ii) Notify the Department, in writing, if the licensee decides not to renew the license.

(f) If a licensee does not submit a notification for a license renewal under Section 13 of this Chapter the licensee shall, on or before the expiration date specified in the license:

- (i) Terminate use of licensed material;
- (ii) Remove radioactive contamination to the extent practicable;
- (iii) Properly dispose of the licensed material;
- (iv) Submit a completed Department Form URP-314 or equivalent; and
- (v) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in this Chapter or the requirements in Criterion 6(6) of 10 C.F.R. Part 40, Appendix A. The licensee shall:

(A) Report levels of radioactivity, including alpha and beta in units of  $\mu\text{Ci}$  per  $100\text{cm}^2$  removable and fixed for surfaces,  $\mu\text{Ci}$  per milliliter for water, and  $\text{pCi}$  per gram for solids such as soils or concrete; and report levels of gamma radiation in units of microrentgen per hour at one meter from the surface.

(B) Specify the instrumentation used and certify that each instrument was properly calibrated and tested.

(C) If no residual radioactivity attributable to activities conducted under the license is detected or detectable residual radioactivity is below release criteria found in this Chapter, 10 C.F.R. 40 Appendix A, or 10 C.F.R. 20. 1401 through 1404, the licensee shall certify in writing that no detectable radioactivity contamination was found or it was below release criteria (Department Form URP-314 or equivalent). The Department will notify the licensee, in writing, of the termination of the license.

(D) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found above release criteria, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactivity or radioactive material present as contamination until the Department notifies the

licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of subsection (c) of this section.

(g) In addition to the information provided in subsection (f) of this Section, the licensee shall submit a plan for decontamination within twelve (12) months after the time of license expiration, contemplating for the residual radioactivity remaining at the time the license expires.

#### Section 12. **Renewal of Licenses.**

(a) A licensee shall notify the Department of their intent to renew their license at least thirty (30) days prior to the expiration of the existing license.

(i) Upon receipt of the notification to renew, the Department shall open the original license application, including, but not limited to, all applicable renewals and amendments, to:

- (A) Ensure the application accurately reflects current operations;
  - (B) Incorporates changes to industrial standards codified in these rules;
- and
- (C) Incorporate operational data to accurately set design objectives.

(b) If an application for renewal has been filed at least thirty (30) days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Department makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

#### Section 13. **Amendments of Licenses at Request of Licensee.**

(a) Application for amendment of a license shall be filed in accordance with Section 9 of this Chapter and shall specify the items which the licensee desires the license to be amended and the grounds for such amendment such items being beyond the scope of the licensee's ability to address under its performance based license.

(b) In considering an application by a licensee to renew or amend his license the Department will apply the applicable criteria set forth in Section 8(a) of this Chapter.

#### Section 14. **Modification and Revocation of Licenses.**

(a) The terms and conditions of all licenses shall be subject to amendment, revision, or modification at the request of the licensee.

(b) The Department may suspend or revoke a license for significant noncompliance to the Act, rules, regulations, or orders issued by the Department.

(c) The Department may suspend or revoke any license in whole or in part, for any false material statement in the application, any false statement of fact required under the provisions of the Act, or because of any report, record, or inspection or other means which would warrant the Department to refuse to grant a license on an original application.

(d) Except in the case of wanton and willful behavior or in situations where the public health, interest, or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefore, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

#### Section 15. **Public Notice.**

(a) Upon completion of the Department's review of an application, the Department shall provide notice to the public of issuance of an initial draft decision where the license application is approved, approved with conditions, or denied.

(i) The initial draft decision shall include, but is not limited to, the following:

(A) A decision analysis, that includes discussions on environmental impacts; and

(B) The final technical analysis conducted by the Department.

(ii) Upon issuance of the initial draft decision described in Section 15(a)(i), or a licensing action that significantly impacts the environment or public health and safety, the Department shall initiate a public comment process, and hold a public hearing upon written request from an “aggrieved party” as defined in W.S. § 35-11-103(a)(vii). If a public hearing is requested, the Department shall publish notice of the public hearing in a newspaper of statewide or general circulation or on the Department’s website at least forty-five (45) days before the public hearing. The notice of the public hearing shall include:

(A) The time, place, and nature of the hearing;

(B) A copy of the initial draft decision; and

(C) A statement detailing where public comments may be submitted.

(iii) Pursuant to the request and notice described in Section 15(a)(ii), the Department shall hold a public hearing. Such hearing shall be transcribed and, at a minimum, require:

(A) The opportunity for cross-examination;

(B) A summary of the licensing activity proposed in the application;

and

(C) An opportunity for the public to comment and be heard.

(iv) The Rules of Practice and Procedure applicable to hearings before the Department shall apply to hearings before the Department. To the extent that any inconsistencies exist between the Rules of Practice and Procedure and these rules, these rules shall govern.

(b) For applications which are denied, the Department shall issue a written summary containing the basis for denial.

(c) The applicant or licensee shall pay for the expenses associated with public notice, public comment, or public meetings associated with the specific licensing request by the applicant or licensee.

(d) Following the public comment period and public hearing associated with a specific licensing request, the Department shall, after review of the public comments received by the Department, issue a written final decision. The final decision must ban all major construction before the completion of the written environmental analysis. The final decision is subject to review by the Environmental Quality Council and judicial review in accordance with Wyoming law.

#### Section 16. **Decommissioning Requirements.**

(a) The licensee shall notify the Department in writing within sixty (60) days of the licensee deciding to permanently cease principle activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with these regulations.

(b) The licensee shall notify the Department in writing within sixty (60) days if no principle activities under the license have been conducted for a period of twenty-four (24) months; or no principle activities have been conducted for a period of twenty-four (24) months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC regulations.

(c) From the date of written notification sent to the Department required in Sections 16(a) and (b), the licensee shall either:

(i) Begin decommissioning activities; or

(ii) Within twelve (12) months of written notification submit a decommissioning plan, if required by section 17(a) of this Chapter or 10 C.F.R. Part 40, Appendix A, and begin decommissioning upon the Department approval of that plan.

(d) The Department may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest.



(e) Coinciding with and in addition to the notification requirements of Sections 16(a) and (b) of this Chapter, the licensee shall maintain in effect all decommissioning financial assurances as required by 10 C.F.R. Part 40, Appendix A. The amount of financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to Section 17 of this Chapter.

(f) The Department may approve an alternate schedule for the submission of plans and for the completion of decommissioning as required pursuant to Sections 16(a) and (b) if the Department determines that the alternate schedule: (1) is necessary to effectively conduct decommissioning, (2) presents no undue risks to public health and safety, and (3) is otherwise in the public's interest. The request for an alternate schedule must be submitted no later than thirty (30) days before the required notification in Section 16(a) of this Chapter. The schedule for decommissioning may not commence until the Department has made a determination on the request for an alternate schedule.

(g) Except as provided in subparagraph (e) of this Section,

(i) Licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(ii) Except as provided in subparagraph (f)(i) of this Section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(h) As the final step in decommissioning, the licensee shall:

(i) Certify the disposition of all licensed material, including accumulated wastes, by submitting a Department Form URP-314 or equivalent; and

(ii) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee after approval by the Department demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in this Chapter or criteria in 10 C.F.R. Part 40, Appendix A. The licensee shall, as appropriate:

(A) Report levels of gamma radiation in units of microroentgen (millisieverts) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of microcuries (disintegrations per minute or megabecquerels) per 100 square centimeters removable and fixed for surfaces, microcuries (megabecquerels) per milliliter for water and picocuries (becquerels) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(i) Specific licenses, including expired licenses, will be terminated by written notice

to the licensee when the Department determines, where applicable, that:

- (i) Licensed material has been properly disposed;
- (ii) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and
- (iii) A radiation survey has been performed which demonstrates that:
  - (A) The premises are suitable for release in accordance with the applicable criteria for decommissioning found in 10 C.F.R. Part 40, Appendix A; and
  - (B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the applicable criteria found in 10 C.F.R. Part 40, Appendix A.
- (iv) The licensee has satisfied the applicable technical and other requirements for closure and reclamation of a 11e.(2) byproduct material disposal site; and
- (v) The NRC has made a determination that all applicable standards and requirements have been met.
- (j) Specific licenses for uranium and thorium milling are exempt from subparagraph (e) of this section with respect to reclamation of tailings impoundments and/or waste disposal areas.
- (k) A licensee may request that a subsite or a portion of a licensed area be released for unrestricted use before full license termination as long as release of the area of concern will not adversely impact the remaining unaffected areas and will not be recontaminated by ongoing authorized activities. When the licensee is confident that the area of concern will be acceptable to the Department for release for unrestricted use, a written request for release for unrestricted use and Department confirmation of closeout work performed shall be submitted to the Department. The request should include a comprehensive report, accompanied by survey and sample results that show contamination is less than the limits specified 10 C.F.R. Par 40, Appendix A and an explanation of how ongoing authorized activities will not adversely affect the area proposed to be released. Upon confirmation by the Department that the area of concern is releasable for unrestricted use, the licensee may apply for a license amendment, if required.

#### **Section 17. Decommissioning Plan.**

- (a) Each licensee authorized to receive, possess, and use licensed material shall submit a plan for completion of decommissioning, if the procedures necessary to carry out decommissioning:
  - (i) Have not been previously approved by the Department; or

(ii) Could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) Procedures with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(c) The proposed decommissioning plan, if required by this Chapter or by license condition must include:

(i) Description of the condition of the site, separate buildings, or outdoor areas sufficient to evaluate the acceptability of the plan;

(ii) Description of planned decommissioning activities;

(iii) Description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(A) For decommissioning plans calling for completion of decommissioning later than twenty-four (24) months after plan approval, the licensee must provide a justification for any delay based on the criteria in subsection (f) of this Section.

(d) Except as provided in subsection (f) of this Section, the licensee shall complete decommissioning of the site, separate buildings, or outdoor area as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(e) Except as provided in subsection (f) of this Section, when decommissioning involves the licensed area, the licensee shall request license termination as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning.

(f) The Department may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate and if the Department determines that the alternative schedule is warranted. In doing so, the Department shall consider the following:

(i) Whether it is technically feasible to complete decommissioning within the allotted twenty-four (24) month period;

(ii) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four (24) month period;

(A) Including whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay.

(iii) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(iv) Other site specific factors which the Department may consider appropriate on a case-by-case basis, such as the regulatory requirement of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(g) After submittal and upon approval of the decommissioning plan by the Department, the licensee shall decommission in accordance with the approved plan. As a final step in the decommissioning the licensee shall:

(i) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed Department Form URP-314 or equivalent;

(ii) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in this Chapter or the requirements in Criterion 6(6) of 10 C.F.R. Part 40, Appendix A. The licensee shall:

(A) Report levels of gamma radiation in units of microroentgen (millisieverts) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of microcuries (disintegrations per minute or megabecquerels) per 100 square centimeters removable and fixed for surfaces, microcuries(megabecquerels) per milliliter for water and picocuries (becquerels) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.