

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

September 13, 2022



IN THE MATTER OF THE)	
PROPOSED REVISION OF)	STATEMENT OF PRINCIPAL
THE LAND QUALITY)	REASONS (SOPR) FOR ADOPTON
DIVISION RULES RELATED)	
TO THE REGULATION OF)	DOCKET #: 22-4101
URANIUM RECOVER PROGRAM)	

Uranium Recovery Program Rules

- Chapter 3 – Radiation Protection Standards**
- Chapter 4 – Licensing Requirements for Source and Byproduct Material**
- Chapter 5 – Notices, Instructions, and Reports to Workers**
- Chapter 9 – Transportation of Radioactive Material**

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Attachment A: Strike & Underline ChaptersA-1

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Introduction to Rule Package

Wyoming’s Agreement State program is required to be adequate and compatible with the Nuclear Regulatory Commission’s (NRC) rules and regulations. Because of this, many of the federal regulations are incorporated by reference within the Uranium Recovery Program’s (URP) rules. The URP is updating the incorporation by reference date of the Code of Federal Regulation’s (CFR) from January 1, 2017 to January 1, 2022. In a 2020 rule change by the NRC, changes were made to the way the organization is referenced, and contact information was changed. Those changes necessitated a revision to the incorporation by reference dates within Chapters 3, 4, 5, and 9 of the URP rules. Additional revisions were made to update incorrect citations to the federal rules and correct a previous drafting error.

Summary of Proposed Amendments

Chapter 3 – Radiation Protection Standards

Chapter 3 was revised to update the date of incorporation by reference and to revise the reference to the NRC headquarters in Section 4.

Chapter 4 – Licensing Requirements for Source and Byproduct Material

Chapter 4 revisions include an update to the incorporation by reference dates in Section 3, a correction to an editing error in Section 6 where language was left out of the subsection, two grammatical corrections in Section 10, and one grammatical correction in Section 15 to remove redundant language.

Chapter 5 – Notices, Instructions, and Reports to Workers

Chapter 5 was revised to update the incorporation by reference dates and to add a missing quotation mark.

Chapter 9 – Transportation of Radioactive Material

Chapter 9 was revised to update the incorporation by reference dates and to correct two subsections in Section 3 that contained incorrect citations to the federal regulations.

The authority to amend these rules is provided by Wyoming Statute (W.S.) §§ 35-11-112(a)(i), 35-11-114(b), 35-11-2001 and 35-11-2002(b).

CHAPTER 3

RADIATION PROTECTION STANDARDS

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No changes have been proposed for Section 1 through 3 of this Chapter.

Section 4. Incorporation by Reference of 10 Code of Federal Regulations (C.F.R.) Part 20; Standards for Protection Against Radiation.

(a) Any reference in these rules to requirements, or procedures contained in 10 C.F.R., Part 20, Sections 20.1001 through 20.2402 shall constitute the full adoption by reference of that part and subparts as they appear in 10 C.F.R., revised as of January 1, ~~2017~~2022, including any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections, as of January 1, ~~2017~~2022, are excluded from these rules and are not incorporated by reference: 20.1001, 20.1002, 20.1003, 20.1004(a), 20.1005, 20.1006, 20.1007, 20.1008, 20.1009, 20.1206, 20.1301(c), 20.1401, 20.1402, 20.1403, 20.1404, 20.1405, 20.1406(b), 20.1601(f), 20.1903(b), 20.1903(d), 20.1905(g), 20.2003(b), 20.2104 (b), 20.2105, 20.2203(c), 20.2204, 20.2206(a)(1), 20.2206(a)(3), 20.2206(a)(4), 20.2206(a)(5), 20.2401, 20.2402, and Appendix D.

(c) Any references in the federal rules adopted by reference to “NRC Headquarters Operations Center (~~301-816-5100~~),” or any component thereof, in 10 CFR Part 20 shall be deemed to be a reference to the Department and the Uranium Recovery Program.

(d) Any references in the federal rules adopted by reference to the United States Nuclear Regulatory Commission (NRC), or any component thereof, shall be deemed to be a reference to the Department and the Uranium Recovery Program.

*Section 4 was revised to include updated incorporation by reference dates.
Subsection (c) was also revised to update the reference to NRC headquarters and remove the phone number.*

CHAPTER 4

LICENSING REQUIREMENTS FOR SOURCE AND BYPRODUCT MATERIAL

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No changes are proposed for Sections 1 and 2.

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.) Part 40, Sections 40.2(a), 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, ~~2017~~ 2022, 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, ~~2017~~ 2022 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 9(h)(4), 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. §§ 150.20 and 150.31 shall constitute the full adoption by reference of that part and subparts as they appear in 10 C.F.R. §§ 150.20 and 150.31, revised as of January 1, ~~2017~~ 2022, 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, ~~2017~~ 2022 are excluded from these rules and are not incorporated by reference: 10 C.F.R. § 150.15, 150.15(a), and 150.31(b)(3)(iv). The NRC shall retain the rights reserved to the NRC in 10 C.F.R. §§ 150.15 and 150.15(a).

Chapter 4, Section 3 was revised to update the incorporation by reference dates to January 1, 2022.

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No revisions are proposed for Sections 4 and 5 of this chapter.

Section 6. Exemptions from Regulatory Requirements.

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(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 source, and byproduct material in the regular course of carriage for another or storage incident thereto.

...

Chapter 4, Section 6 was revised to include language that was inadvertently deleted during a previous rulemaking. No changes are proposed for Sections 7 through 9.

Section 10. Operational Requirements.

...

(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:

...

(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.

Chapter 4, Section 10(c)(iv) was revised to make two corrections. Subsection (iv) was revised to capitalize the word "Section" and subsection (A)(I) was revised to remove some unnecessary language. No changes are proposed for the remainder of the Section. No changes are proposed for Sections 11 through 14.

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.

...

(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.

Chapter 4, Section 15(a)(iv) was revised to remove redundant language. No changes are proposed for the remainder of the Section and the rest of Chapter 4.

CHAPTER 5

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS

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Section 3. Incorporation by Reference (IBR) of 10 Code of Federal Regulations (C.F.R.) Part 19; Notice, Instructions and Reports to Workers: Inspection and Investigations.

(a) The Department fully adopts and hereby incorporates by reference 10 C.F.R, Part 19, revised as of January 1, ~~2017~~ 2022, including all sections and any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections as listed on January 1, ~~2017~~ 2022 are excluded from these rules: 19.1, 19.2, 19.3, 19.5, 19.8, 19.14(a), and 19.18.

(c) Any references in 10 C.F.R. Part 19 adopted by reference to the United States Nuclear Regulatory Commission (NRC) or any component thereof shall be deemed to be a reference to the Department.

(d) Any reference in the federal rules adopted by reference to the Commission's "Form 3" shall be deemed a reference to the Department's "Uranium Recovery Program Form 3".

No changes are proposed for Chapter 5, Sections 1 and 2. Section 3 was revised to update the incorporation by reference date to January 1, 2022 from January 1, 2017. Subsection 3(d) was also revised to add a missing quotation mark.

CHAPTER 9

TRANSPORTATION OF RADIOACTIVE MATERIAL

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Section 2. Scope.

(a) This Chapter applies to any licensee authorized by specific or general license issued by the Department to acquire, own, possess, use, transfer, offer or receive for transport, ~~use~~, or dispose of licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Chapter allows for the unauthorized possession of licensed material.

No changes are proposed for Chapter 9, Section 1. Section 2 was revised to remove a term that was repeated twice in the sentence.

Section 3. Incorporation by Reference (IBR) of 10 Code of Federal Regulations (C.F.R.) Part 71; Packaging and Transportation of Radioactive Material.

(a) The Department fully adopts and hereby incorporates by reference 10 C.F.R. Part 71, §§ 71.0 through 71.137, revised as of January 1, ~~2017~~ 2022, including all sections and any notes and appendices therein, unless expressly provided otherwise in these rules. The U.S. Department of Transportation's regulations, as cited in 10 C.F.R. § 71.5 (January 1, ~~2017~~ 2022), are also fully adopted and hereby incorporated by reference. These rules do not include any later amendments or editions of the incorporated matter.

(b) The following 10 C.F.R. sections, including all subparts, as of January 1, ~~2017~~ 2022 are excluded from these rules and are not incorporated by reference: 71.0, 71.1, 71.2, 71.6, 71.7, 71.9, 71.11, 71.13, 71.14(b), 71.15, 71.16, 71.18, 71.19, 71.22, 71.23, 71.24, 71.25, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.53, 71.55, 71.57, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.81, 71.83, 71.85(a), 71.85(b), 71.85(c), 71.87(g), 71.88, 71.91(a)(5), 71.91(a)(7), 71.91(b), 71.95, 71.97, 71.99, 71.100, 71.101(c)(2), 71.101(d), 71.101(e), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, and 71.125.

(c) The terms "Close reflection by water," "Critical Safety Index," "Containment System," "Deuterium," "Fissile material," "Graphite," "Maximum normal operating pressure," "Optimum interspersed hydrogenous moderation," "Special Form," "Spent nuclear fuel" or "Spent fuel," "State," "Depleted uranium," and "Enriched uranium" as defined in 10 CFR § 71.4 as of January 1, ~~2017~~ 2022 are excluded from these rules and are not incorporated by reference.

(d) Any references in the federal rules adopted by reference to the United States Nuclear Regulatory Commission (NRC), or any component thereof, shall be deemed to be a reference to the Department and the Uranium Recovery Program, except when used in 10 C.F.R. §§ 71.5(b) and 71.10.

(e) Any references in the federal rules adopted by reference to the Commission's "Form 3," and as referenced in 10 C.F.R. §§ 71.9(e)(1) and 17.9 (e)(2), shall be deemed to be a reference to the Department's "Uranium Recovery Program Form 3".

(f) If, for any reason, the U.S. Department of Transportation's regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 171~~0~~ through 180~~9~~ appropriate to the mode of transport to the same extent as if the shipment was subject to these regulations.

(g) A request for modification, waiver, or exemption from the requirements in 49 C.F.R. Parts 171~~0~~ through 180~~9~~, and any notification referred to in those requirements, must be filed with, or made to, the Department.

Chapter 9, Section 3 was revised to update the incorporation by reference dates from January 1, 2017 to January 1, 2022 in order to incorporate some recent revisions to the federal regulations. Section 3 was also revised to correct citations to the federal regulations in subsections (f) and (g).

CONCLUSION

The Environmental Quality Council, in accordance with the authority granted to it by W.S. § 35-11-112 As Amended, and having complied with the provisions of the Wyoming Administrative Procedures Act, find as follows:

1. These rules provide for the regulation of source material involved in the extraction and concentration of uranium and thorium milling and the management and disposal of byproduct material as defined in 11e.(2) of the Atomic Energy Act of 1954, as amended, in accordance with the requirements of W.S. § 35-11-2001 and 2002.
2. These rules and regulations are as effective as those promulgated by the Nuclear Regulatory Commission pursuant to P.L. 83-703, as amended.
3. The Department of Environmental Quality, Land Quality Division, Uranium Recovery Rules and Regulations are necessary and appropriate to preserve and exercise the primary responsibilities and right of the State of Wyoming; to retain for the State the control over its air, land, and water resources and secure cooperation between agencies of the State and Federal Government in carrying out the policy and purposes of the Environmental Quality Act.
4. These Land Quality Division Coal Rules and Regulations are reasonable and necessary for the effectuation of the Wyoming Environmental Quality Act, W.S. § 35-11-101 through W.S. § 35-11-2004, as amended.
5. These Land Quality Division Uranium Recovery Rules and Regulations are necessary and appropriate to protect the public health, safety, welfare, and environment of the State of Wyoming.

Dated this 13th day of September, 2022.



Hearing Examiner, Wyoming Environmental Quality Council