

641—38.3(136C) Exemptions from the regulatory requirements.

38.3(1) General provision. The agency may, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of the rules in 641—Chapters 38 to 46 as it determines are authorized by law and will not result in undue hazard to public health and safety or property. Application for exemptions or exceptions should be made in accordance with 641—Chapter 178.

38.3(2) Persons using by-product material under certain Department of Energy and Nuclear Regulatory Commission contracts.

a. Except to the extent that NRC facilities or activities of the types subject to licensing pursuant to the Energy Reorganization Act of 1974 are involved, any prime contractor of the NRC is exempt from the license requirements of these rules and from the regulations of these rules to the extent that such contractor, under the contractor's prime contract with the NRC, manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material for:

(1) The performance of work for a department at the United States government-owned or government-controlled site, including the transportation of by-product material to or from such site and the performance of contract services during temporary interruptions of such transportation;

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

(3) The use or operation of nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel.

b. In addition to the foregoing exemptions and subject to the requirement for licensing of NRC facilities and activities pursuant to the requirements of the Energy Reorganization Act of 1974, any prime contractor or subcontractor of the NRC is exempt from the requirements for a license set forth in the Act and from the regulations in these rules to the extent that such prime contractor or subcontractor manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material under the contractor's or subcontractor's prime contract or subcontract when the NRC determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work can be accomplished without undue risk to the public health and safety.

c. Carriers. Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from these rules to the extent that they transport or store radioactive material in the regular course of carriage for another or of storage incident thereto.