

June 8, 2001

Mr. Lawrence E. Nanney, Director
Division of Radiological Health
Department of Environment and Conservation
L & C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532

Dear Mr. Nanney:

As requested, we have reviewed the proposed regulations, State Regulations for Protection Against Radiation, that were received on February 28, 2001. The proposed regulations are in response to the 15 amendments identified in the enclosed State Regulation Status. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 19, 20, 30, 34, 35, 40, 61, 71, and 150. We also discussed our review of the regulations with Ms. Barbara Davis of your staff on April 4, 2001.

As a result of our review, we have nine comments that have been identified in the enclosure. In addition, one comment was generated regarding an editorial change related to the recent Part 20 revision. Please note that we have limited our review to regulations required for compatibility and/or health and safety. In addition, we noted that there are several definitions and provisions with categories A, B, C, or H&S that have not been proposed, and that will be needed in the near future. These changes are detailed in 62FR39057, 63FR39477, and 64FR54543, and we believe that it would be more efficient if these were adopted during your currently proposed amendments to your regulations.

Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted incorporating the comments and without other significant change, they would meet the compatibility and health and safety categories established in Office of State and Tribal Programs (STP) Procedure SA-200.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure SA-201, *Review of State Regulations* (November 10, 1998), please highlight the final changes and send one copy in a computer readable format, if possible.

The State Regulation Status summarizes our knowledge of other Tennessee regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the Status. This letter including the Status is posted on the STP Web Site: <http://www.hsr.d.gov/nrc/rulemaking.htm>.

Lawrence E. Nanney

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If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me at (301) 415-2325 or Mr. Richard L. Woodruff of our Region II office at 404-562-4704 or email: rlw@nrc.gov.

Sincerely,

/RA/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF [1-49]

PLohaus

SDroggitis

BUsilton

TO'Brien, ASPO

TN File

DCD (SP03)

PDR (YES_✓)

Response to Incoming: ML010680139

***See previous concurrence.**

DOCUMENT NAME: C:\MYFILES\Copies\Woodruff TN Proposed Regulations.wpd

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OFFICE	RII:RSAO	STP	OGC	STP:ADD	STP:DD
NAME	RLWoodruff:kk/gd via E-Mail	SNSalomon	STreby	KNSchneider	FCombs
DATE	4/18/01*	5/3/01*	5/21/01*	5/4/01*	06/08/01

ML011590410

STP-AG-26

**COMMENTS ON PROPOSED TENNESSEE REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1200-2-5-.130(3) (See p. 30 of 69 pages)	20.2101(d)	1998-5	C	<p>General Records Provisions</p> <p>The term “eye dose equivalent” is an old term and should be replaced with the term “lens dose equivalent” throughout the TN regulations to avoid confusion.</p> <p>The definition of “lens dose equivalent” should be essentially identical (Category A) to the definition as provided in 20.1003 (see RATS ID 1998-5) to meet the compatibility category.</p>
1200-2-5-.161, RHS 8-33 (See p. 38 of 69 pages)	Part 20, Appendix G	1995-3	B	<p>Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests</p> <p>The provisions of Part 20, Appendix G, I.B.5. and I.B.6. are omitted.</p> <p>I.B.5. and I.B. 6 needs to be added to the TN regulations found in RHS 8-33, to meet the compatibility category.</p>
1200-2-5-.161, RHS 8-33 (See p. 42 of 69 pages)	Part 20, Appendix G	1995-3	B	<p>Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests</p> <p>The provisions of Part 20, Appendix G, III.E. are omitted.</p> <p>III.E. needs to be added to the TN regulations found in RHS 8-33, to meet the compatibility category.</p>
1200-2-8*	34.42 (1 st Sentence) 34.42(a)	1997-5 1998-4	H&S C	<p>There is no equivalent provision for “Radiation Safety Officer for Industrial Officer.” The essential objectives of the 1st sentence of 34.42 and paragraph (a) are omitted.</p> <p>They should be adopted for health and safety and to meet the compatibility category.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1200-2-8-.05(3)*	34.47	1997-5	C	<p>Personnel Monitoring</p> <p>This provision should address requirements for monitoring radiation exposures to radiographic personnel. However, the essential objectives of 34.47 (Personnel Monitoring) are omitted from the TN regulation.</p> <p>Although not required at this time, we recommend that the TN regulation be revised to incorporate the provisions of 34.47, including “a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP).” See: RATS ID 2000-2. Furthermore, TLDs are no longer being utilized by radiographers and the “TLD” requirement would produce a conflict with out of State radiographers working under reciprocity.</p> <p>The TN provision requires that “Acceptable dosimeters shall read within plus or minus 30 percent of the true radiation exposure.” However, the accuracy must be within plus or minus 20 percent, and direct reading dosimeters must be read and the exposures recorded at the beginning and end of each shift.</p> <p>These essential objectives should be incorporated to meet the compatibility category.</p>
1200-2-8-.04(7)(a)*	34.71	1997-5	B	<p>The utilization log required by TN regulations does not provide for sources located in transport or storage containers. Failure to include sealed sources in transport or storage containers could produce a gap in the utilization log information.</p> <p>1200-2-8-04(7)(a) should be modified to be essentially identical to 34.71(a)(1) to meet the compatibility category.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1200-2-8-.04(8)*	34.73	1997-5	C	<p>The proposed TN regulations do not provide for the maintenance of records.</p> <p>To meet the compatibility category, the essential objectives of 34.73(a) should be adopted that will provide for maintenance of records of the daily (operational) checks and quarterly inspections of exposure devices, transport and storage containers, associated equipment, and source changers.</p>
1200-2-8- *	34.83	1997-5	C	<p>There is no provision for the maintenance of records as required by §34.83.</p> <p>The essential objectives should be adopted for the maintenance of alarm ratemeter calibrations to meet the compatibility category.</p>
1200-2-10-.26*	34.89	1997-5	C	<p>TN regulations are not specific as to where records are maintained.</p> <p>The essential objectives of 34.89 should be adopted to meet the compatibility category.</p>

*Missing information from the proposed regulations (pp 44 through 54).

STATE REGULATION STATUS

State: **TENNESSEE**

[The 15 proposed amendments received 2/28/01 and reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: **1-49**

Date: **June 8, 2001**

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3	F	N 12/18/97	
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 12/2/96	12/28/96
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	N 12/2/96	12/28/96
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 12/2/96	Not required ³ Alternate rule 1987
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to TN
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
★Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243 60 FR 322; (1/1/98)	1995-1	P ML010680139	N 6/8/01 ML011590410	
★Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P ML010680139	N 6/8/01 ML011590410	

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★Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P ML010680139	Y 6/8/01 ML011590410	
★Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML010680139	N 6/8/01 ML011590410	
★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML010680139	N 6/8/01 ML011590410	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6			
★Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P ML010680139	N 6/8/01 ML011590410	
★10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P ML010680139	N 6/8/01 ML011590410	
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3			
★Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	P ML010680139	N 6/8/01 ML011590410	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
★Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	P ML010680139	N 6/8/01 ML011590410	
★Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P ML010680139	N 6/8/01 ML011590410	
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948; (6/27/00)	1997-5	P ML010680139	Y 6/8/01 ML011590410	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			
★Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	P ML010680139	N 6/8/01 ML011590410	
★Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML010680139	N 6/8/01 ML011590410	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML010680139	Y 6/8/01 ML011590410	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML010680139	N 6/8/01 ML011590410	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable to TN
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number