

March 25, 2004

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

Dear Mr. Nanney:

We have reviewed the proposed revisions to the Tennessee "State Regulations for Protection Against Radiation" received by our office on February 19, 2004. Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to Tennessee's radiation control rules that incorporated the amendments identified on the States Regulation Status Data Sheet (SRS). These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Parts 20, 30, 31, and 32 and the requirements of the 3 amendments identified in the enclosed SRS. We discussed our review of the regulations with Barbara Davis on March 25, 2004.

As a result of our review, we have two comments and two editorial suggestions. 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. Please provide a final amended version of your rules showing the location of any changes made in response to our comments. If there are any comments which Tennessee believes are in error, the State should identify the section of their regulations that meet the designated compatibility category. Please note that we have limited our review to regulations required for compatibility and/or health and safety, but have determined that if these regulations are adopted, incorporating our comments and without significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

The SRS Data Sheet summarizes our knowledge of the status of other Tennessee regulations, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Dr. Stephen Salomon of my staff at (301) 415-2368 or SNS@NRC.GOV.

Sincerely,

IRA By K.N. Schneider for
Josephine Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Response to Incoming Document: **ML040540516**

Tennessee File

DOCUMENT NAME: E:\Filenet\ML040850212.wpd

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DATE	3/09/04*		3/09/04*		3/23/04*		3/25/04*	

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**COMPATIBILITY COMMENTS ON
TENNESSEE FINAL REGULATIONS**

	STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	1200-2-5-.32(64)	20.1003	2002-1	A	<p>Definition: “Shallow-dose equivalent (H_s)”</p> <p>The phrase, “averaged over an area of 1 square centimeter,” was not deleted. The deletion in the previous definition was one of the purposes of the new regulation.</p> <p>The State needs to delete this phrase in the definition to meet compatibility.</p>
2	None	31.5(c) (13)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>The State omitted paragraph 31.5(c)(13)(F)(iv) concerning 180 day reciprocity.</p> <p>The State needs to include this provision to meet compatibility.</p>

Editorial Suggestions

1. In 1200–2-10-.10(2)(c)13.(iii), paragraph (iii) in the State regulation is mislabeled. It should read (ii).
2. In 1200-2-10-.16(7) on p. 69, The reference to (b) should be (c) to read:1200-2-10-.10(2)(c)14.

STATE REGULATION STATUS

State: TENNESSEE

[Three Amendments reviewed are identified by a i at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 4-37

Date: MARCH 25, 2004

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			1997-Current LBR adequate per MRB
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
I Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P 2/13/04 ML040540516	N 3/25/04 ML040850212	
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	F ML020320229	N 2/5/02 ML020360223	2/4/02
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F ML020320229	N 2/5/02 ML020360223	2/4/02
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F ML020320229	N 2/5/02 ML020360223	2/4/02

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML020320229	N 2/5/02 ML020360223	2/4/02
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML020320229	N 2/5/02 ML020360223	2/4/02
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	F ML020320229	N 2/5/02 ML020360223	2/4/02
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	F ML020320229	Y 2/5/02 ML020360223	2/4/02
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	F ML020320229	N 2/5/02 ML020360223	2/4/02
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	F ML020320229	N 2/5/02 ML020360223	2/4/02
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML020320229	N 2/5/02 ML020360223	2/4/02
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F ML020320229	N 2/5/02 ML020360223	2/4/02
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (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	F ML020320229	N 2/5/02 ML020360223	2/4/02
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML020320229	N 2/5/02 ML020360223	2/4/02
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	F ML020320229	Y 2/5/02 ML020360223	2/4/02

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)
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	P 10/17/03 ML033010588	Y 12/01/03 ML033360370	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P 10/17/03 ML033010588	N 12/01/03 ML033360370	
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 55524 (2/2/03)	1999-3	P 10/17/03 ML033010588	Y 12/01/03 ML033360370	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P 10/17/03 ML033010588	N 12/01/03 ML033360370	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P 10/17/03 ML033010588	N 12/01/03 ML033360370	
i Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P 2/13/04 ML040540516	Y 03/25/04 ML040850212	
i Revision of the Skin Dose Limit - Part 20	67 FR 16298; (4/5/05)	2002-1	P 2/13/04 ML040540516	Y 03/25/04 ML040850212	
Medical Use of Byproduct Material - Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			

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,” Ill.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number