

May 17, 2007

Ruth E. McBurney, Executive Director
Office of Executive Director
Conference of Radiation Control Program Directors
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. McBurney:

We have reviewed the proposed revision to Part C of the Suggested State Regulations (SSR), received by our office on April 3, 2007. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 31, 32, 40, 70 and 150. We discussed our review of the regulations with Monica Perez on May 17, 2007.

As a result of our review, we have 17 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAct). Until such time as NRC's NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAct revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAct.

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 FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, and provide a copy to Division of Materials Safety and State Agreements, FSME.

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 Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (email: KXS@nrc.gov) or Kim Karcagi at 301-415-6701 (email: KXK2@nrc.gov).

Sincerely,

IRA By D.White For

Scott W. Moore, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosures:
As stated

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CHP-Office of Executive Director
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Frankfort, KY 40601

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COMPATIBILITY COMMENTS ON SSR PART C PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
1	Section C.2	30.13	B	<p>Carriers</p> <p>SSR has omitted a reference to its equivalent regulations for “Medical Use of Byproduct Materials” (NRC’s 10 CFR Part 35) in the list of regulations that carriers are exempt from in this provision.</p> <p>SSR needs to reference its Part G to meet the Compatibility Category B designation assigned to 10 CFR 30.13.</p>
2	Section C.4 (a)(i-ii)	30.14	B	<p>Exempt Concentrations</p> <p>SSR Part C Section C.4(a)(ii) does not reference NRC’s 10 CFR Part 150.20 (SSR Part C equivalent C.90)</p> <p>SSR Part C Section C.4(a)(i-ii) does not have equivalent provisions to 10 CFR Part 30.14(b) and (c).</p> <p>SSR Part C Section C.4(a) needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.14.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
3	Section C.4(c)(i)	30.15	B	<p>Certain items containing byproduct material</p> <p>SSR Part C Section C.4(c)(i) does not have an equivalent provision to 10 CFR Part 30.15(b).</p> <p>SSR Part C Section C.4(c)(i) needs to incorporate an equivalent provision to meet the Compatibility Category B designation assigned to 10 CFR 30.15.</p> <p>SSR has included in Section C.4(c)(i)(1)(h) an exemption for radium-226 timepieces upon a yet-to-be-determined effective date.</p> <p>NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAc). Until such time as NRC's NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAc revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAc.</p>
4	Section C.4(c)(iv)	30.16	B	<p>Resins containing scandium-46 and designed for sand-consolidation in oil wells</p> <p>SSR Part C Section C.4(c)(iv) uses the word, "imported" instead of the words "initially transferred".</p> <p>SSR Part C Section C.4(c)(iv) omits from its last sentence the equivalent text "initial transfer for sale or distribution".</p> <p>SSR Part C Section C.4(c)(iv) needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 30.16.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
5	Section C.4(b)	30.18	B	<p>Exempt quantities</p> <p>SSR Part C Section C.4(b)(iii), the word, “transfer,” is not included in the regulation for exemptions related to commercial distribution as stated in the NRC equivalent regulations.</p> <p>SSR Part C Section C.4(b)(iii) needs to incorporate the word, “transfer,” to meet the Compatibility Category B designation assigned to 10 CFR 30.18.</p> <p>SSR added a statement that radium-226 does not apply to the exemption provided in the requirement.</p> <p>NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAct). Until such time as NRC’s NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAct revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAct.</p>

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6	Section C.4(c)(ii)	30.19	B	<p>Self-luminous products containing tritium, krypton-85, or promethium-147</p> <p>SSR Part C Section C.4(c)(ii) line 2 does not include the words “initially transferred for sale or distribution”. This section of C.4(c)(ii) should read, “Except for persons who manufacture, process, produce, or initially transfer for sale or distribution...”</p> <p>SSR Part C Section C.4(c)(ii) line 6 the word, “imported” should be deleted. Also the word “initially” should be placed before the word transfer.</p> <p>SSR Part C Section C.4(c)(ii) omits an equivalent section to 10 CFR 30.19(b).</p> <p>SSR Part C Section C.4(c)(ii) needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.19.</p> <p>Note: SSR Part C Section C.4(c)(ii) includes a provision for exemption of articles containing radium-226.</p> <p>NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAc). Until such time as NRC’s NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAc revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAc.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
7	Section C.4(c)(iii)	30.20	B	<p>Gas and aerosol detectors containing byproduct material</p> <p>SSR Part C Section C.4(c)(iii) in the seventh line down includes the term, “import” and excluded the words “processed, produced, or initially transferred”.</p> <p>SSR Part C Section C.4(c)(iii) in the last sentence only mentions the word “transfer” and not “initial transfer” like the equivalent NRC regulation.</p> <p>SSR Part C Section C.4(c)(iii) omits a regulation equivalent to 10 CFR 30.20(b).</p> <p>SSR Part C Section C.4(c)(iii) needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 30.20.</p>
8	Part C Appendix A	30.70	B	<p>Schedule A- exempt concentrations table</p> <p>SSR Part C Appendix A indicates that the Liquid and Solid Exempt Concentration in Column II for Molybdenum is 6×10^{-4} uCi/ml however it should be 2×10^{-3} uCi/ml. Also, only ND 149 appears in the table. ND 147 should appear in the table as well.</p> <p>SSR Part C Appendix A needs to make the above changes in order to meet the Compatibility Category B assigned to 10 CFR 30.70.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
9	Part C Appendix B	30.71	B	<p>Schedule B - exempt quantity table</p> <p>SSR Part C Appendix B shows the exempt quantity for Manganese 52 at 1 microcurie and instead it should read 10 microcuries.</p> <p>SSR Part C Appendix B needs to change this value in order to meet the Compatibility Category B designation assigned to 10 CFR 30.71.</p> <p>Also SSR Part C Appendix B includes NARM material.</p> <p>NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAct). Until such time as NRC's NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAct revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAct.</p>
10	Section C.22(g)	31.9	C	<p>General license to own byproduct material</p> <p>SSR Part C Section C.22(g) excludes the words "import or export" from the list of things the general license does not authorize. Also C.22(g) omits the words "except as authorized by a specific license"</p> <p>SSR Part C Section C.22(g) needs to add the above wording to meet the Compatibility Category C designation assigned to 10 CFR 31.9.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
11	Section C.22(j)	31.10	B	<p>General license for strontium 90 in ice detection devices</p> <p>SSR Part C Section C.22(j)(i) uses the word “imported” in the fourth line of C.22(j)(i) instead of the words “initially transferred”.</p> <p>SSR Part C Section C.22(j)(iii) uses the words “or initial transfer” instead of the words “or import”.</p> <p>SSR Part C Section C.22(j) needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 31.10.</p>
12	Section C.28(d)(i-iii)	32.51	B	<p>Byproduct material contained in devices for use under §31.5: Requirements for license to manufacture or initially transfer</p> <p>SSR Part C Section C.28(d)(i) uses the word “distribute” instead of the words “initially transfer”.</p> <p>SSR Part C Section C.28(d)(i)(2)(c) does not include “ Other organs 50rem” as specified in column IV of the table in 32.24 required in 10 CFR 32.51(a)(2)(iii).</p> <p>SSR Part C Section C.28(d)(i)(3)(c)(i) does not include the reference to having the name of the “initial transferor” on the required label (See 10 CFR 32.51(a)(3)(iii)) instead it lists the “distributor” on the label.</p> <p>SSR Part C Section C.28(d)(i-iii) needs to incorporate the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
13	Section C.28(d)(iv)	32.51a	B	<p>Same: Conditions of licenses</p> <p>SSR Part C Section C.28(d)(iv)(1)(b)'s reference to Sec. C.22(a) does not correlate to the NRC's regulation for 10 CFR 30.51. The correct reference is Sec. C.95.</p> <p>SSR Part C Section C.28(d)(iv)(1)(b) needs to change the reference made from Sec. C.22(a) to Sec. C.95 in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51a.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
14	Section C.28(f)(i)	32.57 70.39	B	<p>Calibration or reference sources Am-241: Requirements for license to manufacture or initially transfer</p> <p>SSR Part C Section C.28(f)(i) does not include the words, “initially transfer” as the NRC equivalent regulations do in 10 CFR Part 32.57.</p> <p>SSR Part C Section C.28(f)(i) needs to add the words “initially transfer” to this section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.57.</p> <p>SSR Part C Section C.28(f)(i) includes a reference to radium-226 in its regulations, whereas the NRC regulations do not include such material (i.e., C.28(f)(i)(2)(c-d) and C.28(f)(i)(3-4)).</p> <p>NRC has developed the final rule establishing the regulatory framework for certain naturally occurring and accelerator produced radioactive material (NARM), as required by the Energy Policy Act of 2005 (EPAct). Until such time as NRC’s NARM regulations are published in final, NRC will not have any views on the provisions of Part C that address the materials covered by the EPAct revisions. The Conference of Radiation Control Program Directors (CRCPD) will need to resubmit Part C to address changes necessary with the implementation of EPAct.</p>

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15	Section C.28(i)(i)	32.61	B	<p>Ice detection devices containing strontium-90; Requirements for license to manufacture or initially transfer</p> <p>SSR Part C Section C.28(i)(i) uses the word “distribute” instead of the NRC’s term, “initially transfer.”</p> <p>SSR Part C needs to change the word “distribute” to the words “initially transfer” in order to meet the Compatibility Category B designation assigned to 10 CFR 32.61.</p>
16	Section C.28(m)	32.110	B	<p>Acceptance sampling procedures under specific licenses</p> <p>SSR Part C Section C.28(m)(ii)(8) “Lot Tolerance Percent Defective 10.0 percent” needs to be modified to reflect that for the Lot Size of 801 to 100,000, the Acceptance No. should read 1 rather than 0.</p> <p>SSR Part C Section C.28(m)(ii)(8) “Lot Tolerance Percent Defective 10.0 percent” needs to incorporate the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 32.110.</p>

STATE SECTION		NRC SECTION	CATEGORY	SUBJECT and COMMENTS
17	Section C.22(h)	70.19	C	<p>General license for calibration or reference sources</p> <p>SSR Part C Section C.22(h) omits the phrase “or initially transferred” after the word “manufacture” in C.22(h)(iv).</p> <p>SSR Part C Section C.22(h) uses the word “ importer” instead of “ initial transferor” in C.22(h)(v)(2)(a).</p> <p>SSR Part C Section C.22(h) omits the words “import or export” after the word “manufacture” in C.22(h)(vi).</p> <p>SSR Part C Section C.22(h) needs to incorporate the above changes in order to meet the Compatibility Category C designation assigned to 10 CFR 70.19.</p>