

August 30, 2007

Mr. Thomas A. Conley, CHP, RRPT, Chief
Radiation and Asbestos Control Radiation Section
Department of Health and Environment
Bureau of Air and Radiation
1000 SW Jackson, Suite 310
Topeka, KS 66612-1366

Dear Mr. Conley:

We have reviewed the final revision to the Kansas Radiation Protection Regulations, received by our office on July 18, 2007. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 31, 32, 39, 40 and 70 and the requirements of the six amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Isabelle Busenitz on August 27, 2007.

As noted in All Agreement States letter STP-05-072, dated September 28, 2005, NRC staff will continue to review Agreement State General Device (GL) proposed and final rules but will hold in abeyance any determination on those rules and compatibility of those rules, if the Agreement State has the essential elements of the NRC's rule and is more restrictive than the NRC's rule. For Agreement States without a GL Device rule or a GL Device rule less restrictive than the NRC rules, the staff will factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during Integrated Materials Performance Evaluation Program (IMPEP) reviews. Comment 1 indicates that the State's regulation is more restrictive than the NRC's regulation, and there is no corrective action required for this comment at this time.

As a result of the remainder of our review, we have one additional comment that has 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.

We request that when you revise your regulations to address our comment, 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 location of any changes made by Kansas, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The SRS Data Sheet summarizes our knowledge of the status of other Kansas 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 FSME website: <http://www.hsr.gov/nrc/rulemaking.htm>.

Mr. Thomas A. Conley

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August 30, 2007

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 Jenny Tobin at 301-415-2328 (email: jct1@nrc.gov).

Sincerely,

\RA By D. White For

Robert J. Lewis, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosures:
As stated

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 Jenny Tobin at 301-415-2328 (email: jct1@nrc.gov).

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Enclosures:
As stated

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| OFFICE | DILR | | SAIS | | OGC | | SAIS:BC | | MSSA:DD | |
| NAME | JTobin | | KSchneider | | FCameron | | DWhite | | RA by ADW for RLewis | |
| DATE | 8/06/07* | | 8/08/07* | | 8/22/07* | | 8/30/07* | | 8/30/07* | |

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COMPATIBILITY COMMENTS ON KANSAS FINAL REGULATIONS

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---------------|---------------|------------------|---------|----------|---|
| 1 | 28-35-178b. | §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 Kansas regulations require registration of all general licenses, rather than only those required by 10 CFR 31.5(c)(13)(iv). The Kansas rule is more restrictive than the NRC rule.</p> <p>Kansas' rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule. §31.5</p> |
| 2 | 28-35-230g(a) | §20.2207 (a) | 2006-3 | B | <p>Reports of transactions involving nationally tracked sources</p> <p>Kansas omitted licensees who "transfer, receive, disassemble or dispose of sources" from the regulations in 28-35-230g(a).</p> <p>Kansas needs to add the reference to these licensees in 28-35-230g(a) to meet the compatibility B assigned to 20.2207(a).</p> |

STATE REGULATION STATUS

State: Kansas

(6 Amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.)

Tracking Ticket Number: 7-57

Date: August 30, 2007

| NRC Chronology Identification | FR Notice (State Due Date) | RATS ID | Proposed (P) / Final (F) ¹ Rule / License Condition (LC) ML # ⁵ | NRC Review / Y, N ² / Date / ML # ⁵ | Final State Regulation ¹ (Effective Date) |
|---|---|---------|---|---|---|
| Safety Requirements for Radiographic Equipment-Part 34 | 55 FR 843; (1/10/94) | 1991-1 | F ML060940369 | N 5/18 /06 ML061370535 | |
| ASNT Certification of Radiographers-Part 34 | 56 FR 11504; (none) | 1991-2 | F ML060940369 | N 5/18/06 ML061370535 | |
| 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 12/30/97 | |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980; (10/15/94) | 1991-4 | F ML060940369 | N 5/18/06 ML061370535 | |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104; (1/7/95) | 1992-1 | | | superceded by 2002-2 |
| Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30, 35 | 57 FR 45566; (none) | 1992-2 | | | Not Required ³ |
| Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40 | 58 FR 39628; (10/25/96) | 1993-1 | F | N 1/3/97 | |
| Licensing and Radiation Safety Requirements for Irradiators-Part 36 | 58 FR 7715; (7/1/96) | 1993-2 | F ML060940369 | N 5/18/06 ML061370535 | |
| Definition of Land Disposal and Waste Site QA Program-Part 61 | 58 FR 33886; (7/22/96) | 1993-3 | | | Not Applicable SECY-95-112 ⁴ |
| Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70 | 58 FR 68726; 59 FR 1618; (none) | 1994-1 | | | Not Required ³ |
| Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40 | 59 FR 28220; (7/1/97) | 1994-2 | | | Not Required ³ |

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|---|---|---------|---|---|---|
| Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70 | 59 FR 36026; (8/15/97) | 1994-3 | F ML060940369 | N 5/18/06 ML 061370535 | |
| 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 ML060940369 | N 5/18/06 ML061370535 | |
| Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20 | 60 FR 7900; (3/13/98) | 1995-2 | F ML060940369 | N 5/18/06 ML061370535 | |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649; 60 FR 25983; (3/1/98) | 1995-3 | F ML060940369 | N 5/18/06 ML061370535 | |
| Performance Requirements for Radiography Equipment-Part 34 | 60 FR 28323; (6/30/98) | 1995-4 | F ML060940369 | N 5/18/06 ML061370535 | |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038; (8/14/98) | 1995-5 | F ML060940369 | N 5/18/06 ML061370535 | |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235; (11/24/98) | 1995-6 | F ML060940369 | N 5/18/06 ML061370535 | |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623; (10/20/98) | 1995-7 | F ML060940369 | N 5/18/06 ML061370535 | |
| 10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71 | 60 FR 50248; 61 FR 28724; (4/1/99) | 1996-1 | | | superceded by 2004-1 |
| 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 | F ML060940369 | N 5/18/06 ML061370535 | |
| Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20 | 61 FR 65120; (1/9/00) | 1997-1 | F ML060940369 | N 5/18/06 ML061370535 | |

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|---|---|---------|---|---|---|
| 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 ML060940369 | N 5/18/06 ML061370535 | |
| Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35 | 62 FR 4120; (5/29/00) | 1997-3 | F ML060940369 | N 5/18/06 ML061370535 | |
| Fissile Material Shipments and Exemptions-Part 71 | 62 FR 5907; (none) | 1997-4 | | | superceded by 2004-1 |
| 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 ML060940369 | N 5/18/06 ML061370535 | |
| ★Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (8/20/00) | 1997-6 | F ML072010244 | N 8/30/07 ML072390354 | |
| Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30 | 62 FR 63634; (1/02/01) | 1997-7 | F ML060940369 | N 5/18/06 ML061370535 | |
| Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 50, 52, 60, 61, 70, 71, 72 | 63 FR 1890; 63 FR 13773; (2/12/01) | 1998-1 | F ML060940369 | N 5/18/06 ML061370535 | |
| 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 ML060940369 | N 5/18/06 ML061370535 | |
| Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36 | 63 FR 39477; 63 FR 45393; (10/26/01) | 1998-5 | F ML060940369 | N 5/18/06 ML061370535 | |
| Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20 | 63 FR 50127; (11/20/01) | 1998-6 | F ML060940369 | N 5/18/06 ML061370535 | |
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506; (6/11/02) | 1999-1 | | | Not Required ³ |

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|--|--------------------------------------|---------|---|---|---|
| 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 | LC ML052510063 | N 9/22/05 ML052660291 | |
| ★Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39 | 65 FR 20337; (5/17/03) | 2000-1 | F ML072010244 | N 8/30/07 ML072390354 | |
| New Dosimetry Technology-Parts 34, 36, 39 | 65 FR 63750; (1/8/04) | 2000-2 | F ML060940369 | N 5/18/06 ML061370535 | |
| ★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32 | 65 FR 79162; (2/16/04) | 2001-1 | F ML072010244 | Y 8/30/07 ML072390354 | |
| Revision of the Skin Dose Limit-Part 20 | 67 FR 1629; (4/5/05) | 2002-1 | F ML060940369 | N 5/18/06 ML061370535 | |
| Medical Use of Byproduct Material-Parts 20, 32, 35 | 67 FR 20249; (10/24/05) | 2002-2 | F ML070851184 | N 4/23/07 ML071140120 | |
| Financial Assurance for Materials Licensees – Parts 30, 40, 70 | 68 FR 57327; (12/3/06) | 2003-1 | F ML060940369 | N 5/18/06 ML061370535 | |
| Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71 | 69 FR 3697; (10/01/07) | 2004-1 | F ML060940369 | N 5/18/06 ML061370535 | |
| ★Security Requirements for Portable Gauges Containing Byproduct Material - Part 30 | 70 FR 2001; (7/11/08) | 2005-1 | F ML072010244 | N 8/30/07 ML072390358 | |
| Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35 | 70 FR 16336; 71 FR 1926 (4/29/08) | 2005-2 | F ML060940369 | N 5/18/06 ML061370535 | |
| Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶ | 70 FR 72128; (12/1/05) | 2005-3 | LC ML052650212 | N 09/27/2005 ML0526503270 | |

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|--|--|---------------------|---|---|---|
| Minor Amendments - Parts 20, 30, 32, 35, 40, and 70 | 71 FR 15005 (3/27/09) | 2006-1 | | | |
| ★National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E | 71 FR 65685 (2/6/07) | 2006-2 | F ML072010244 | N 8/30/07 ML072390354 | |
| ★National Source Tracking System - Part 20 | 71 FR 65865 (11/15/07) & (11/30/07) | 2006-3 ⁷ | F ML072010244 | Y 8/30/07 ML072390354 | |

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 the regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1.Time From For Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number.
6. The Final State Regulation (Effective Date) of some regulations may be the date of adoption with the effective date occurring 31 days after adoption according to Kansas statute.
7. RATS ID 2006-3 will not be considered under the Non-Common Performance Indicator "Compatibility Requirements" for IMPEP reviews until such time as the National Source Tracking System is ready for use. Revisions in the implementation date for Agreement States will be provided to the States under separate correspondence and the SRS sheet will be revised as appropriate.