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Environmental Protection Division, Air Protection Branch
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Judson H. Turner, Director
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November 30, 2015

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal, and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
T8-E24
Washington, D.C. 20555-0001

Dear Ms. Henderson,

We received two groups of comments from NRC regarding the proposed revisions to the Georgia Rules and Regulations for Radioactive Materials related to RATS ID 2011-1. These comments are listed in Enclosure 1 of the memorandum from NRC to me dated 9/17/15 (attached). Below are the responses from us to your comments:

Group 1: Comments regarding criteria for license termination under restricted conditions:

Comment #1: Georgia's equivalent regulation to 20.1403(c)(1) omits the phrase "and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment".

Response: Section 10CFR20.1403 provides criteria for license termination under restricted conditions. State of Georgia does not allow license termination under restricted conditions (see Response to Comment #3 below) so there is no equivalent regulation to the entire section 10CFR20.1403. As a result, Georgia does not have equivalent regulations to Subsections 20.1403(c)(1)~(3) which list financial assurance mechanisms acceptable to NRC to carry out the restricted conditions following termination. Hence, the change made to 20.1403(c)(1) by NRC does not apply to Georgia rules.

Comment #2: Georgia's equivalent regulation to 20.1403(c)(2) needs to be removed as this regulation no longer exists in 10CFR20.1403.

Response: Section 10CFR20.1403 provides criteria for license termination under restricted conditions. State of Georgia does not allow license termination under restricted conditions (see Response to Comment #3 below) so there is no equivalent regulation to entire section 10CFR20.1403. As a result, Georgia does not have equivalent regulations to Subsections 20.1403(c)(1)~(3) which list financial assurance mechanisms acceptable to NRC to carry out the restricted conditions following termination. Hence, the removal of 20.1403(c)(2) by NRC does not apply to Georgia rules.

Comment #3: Georgia needs to make the above changes to their regulations in order to meet the Compatibility Category C designation assigned to 10CFR20.1403(c).

Response: Section 10CFR20.1403 rules over one type of license closure for which the site is terminated under restricted land use with institutional control. However, a more stringent rule for license termination can be used, i.e., the license can be terminated only if the site has been cleaned up to the extent allowing it to be completely open to the general public for unrestricted use. In other words, the institutional control is not permitted for license termination in this situation. Consequently, the financial assurance required for institutional control is not warranted. This is the case for state of Georgia where the more stringent rule for land use following license termination is employed and the institutional control is not an option. As a result, Georgia did not adopt Section 10CFR20.1403. Therefore, meeting the Compatibility Category C designation assigned to section 10CFR20.1403(c) is not applicable to Georgia rules.

Group 2: Comments regarding Inalienability of Licenses:

Comment #1: Georgia did not submit their equivalent regulations to 10CFR40.46 and 70.36 for review.

Response: Acknowledged.

Georgia equivalent rule to 10CFR40.46 is now in Georgia Rule 391-3-17-.02(13)(b)1.

Georgia equivalent rule to 10CFR70.36 is now in Georgia Rule 391-3-17-.02(13)(b)1.

Comment #2: Georgia needs to provide for review the above equivalent regulations that meet the essential objectives of 10CFR40.46 and 70.36 in order to meet the compatibility Category C designation assigned to 10CFR40.46 and 70.36.

Response: Agreed.

Georgia Rule 391-3-17-.02(13)(b)1 has now been updated to meet the compatibility Category C designation assigned to 10CFR40.46 and 70.36.

In addition, the Georgia Rulebook with changes marked is also attached, which include the changes incorporating your comments in Group 2. If you have any questions or concerns, please do not hesitate to contact Show-Hwa Fong, PhD at 404-362-2643 or Show-Hwa.Fong@dnr.ga.gov

Sincerely,

Travis Cartoski
Program Manager
Radioactive Materials Program
State of Georgia