



January 15, 2016

Scott Moore, Acting Director
Division of Materials Safety, State, Tribal and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards (NMSS)
U.S. Nuclear Regulatory Commission, T8-E24
Washington, DC 20555-0001

Dear Mr. Moore:

Enclosed is a copy of the proposed license condition to address implementation of 10 CFR Part 37, Physical Protection of Byproduct Material. The legally binding requirements correspond to the following equivalent amendments to NRC's Regulations:

<u>Rats ID</u>	<u>Title</u>	<u>State Section</u>
2013-1	Physical Protection of Byproduct Material, Part 37	License Condition

We believe that adoption of these legally binding requirements satisfies the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental (FSME) Procedure SA-200.

If you have any questions, please feel free to contact Julia Schmitt at (402) 471-0528 or julia.schmitt@nebraska.gov.

Sincerely,

Julia Schmitt
Program Manager
Office of Radiological Health
Radiation Control Program

Enclosures:
As stated

Electronically sent to: AgreementStateRegs.Resource@nrc.gov
Michelle.Beardsley@nrc.gov

Proposed License Condition

Beginning on March 19, 2016, the licensee shall comply with Title 10 Code of Federal Regulations, Part 37 except as follows:

(a) §§ 37.1, 37.3, 37.7, 37.9, 37.11 (a-b), 37.13, 37.77(f), 37.105, 37.107, and 37.109 are excluded.

(b) Any reference to the Commission or NRC shall be deemed to be a reference to the Nebraska Department of Health and Human Services, Office of Radiological Health, except:

(1) § 37.5 Definitions: Agreement State, Byproduct material, Commission, Fingerprint Orders, Person;

(2) § 37.25(b);

(3) § 37.27(a) and (c);

(4) § 37.29(a);

(5) § 37.71 referring to NRC's license verification system;

(6) § 37.71 "licensee of the Commission or an Agreement State" shall be deemed to be a reference to "licensee of the Nebraska Department of Health and Human Services, NRC or an Agreement State."

(c) In lieu of the address given in § 37.27(c), licensees shall submit fingerprint cards or records to Director, Division of Facilities and Security, U.S. NRC, 11545 Rockville Pike, Rockville, Maryland 20852-2738, ATTN: Criminal History Program, Mail Stop T-03B46M.

(d) Reference in Part 37 to the following NRC regulation shall be deemed a reference to the identified section(s) in Nebraska Regulations for *Control of Radiation*.

NRC Regulation
10 CFR 30.41(d)

Nebraska Regulation
180 NAC 3-025.04

(e) License required reports of events or notifications in §§ 37.41, 37.45, 37.57, 37.77(a)-(d), and 37.81, shall use DHHS contact information in 180 NAC 3-026.

6. To the agency in any Agreement State which regulates radioactive material pursuant to an agreement under § 274 of the Atomic Energy Act of 1954¹²

3-025.03 Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State prior to receipt of the radioactive material, the licensee transferring the material must verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

3-025.04 The following methods for the verification required by 180 NAC 3-025.03 are acceptable:

1. The transferor may have in his/her possession, and read, a current copy of the transferee's specific license or registration certificate;
2. The transferor may have in his/her possession a written certification by the transferee that s/he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
3. For emergency shipments the transferor may accept oral certification by the transferee that s/he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided, that the oral certification is confirmed in writing within ten days;
4. The transferor may obtain other sources of information compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registration; or
5. When none of the methods of verification described in 180 NAC 3-025.04, items 1. through 4. are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State that the transferee is licensed to receive the radioactive material.

3-025.05 Preparation for shipment and transport of radioactive material must be in accordance with the provisions of 180 NAC 13.

3-026 REPORTING REQUIREMENTS

¹²Ibid. p. 64

6. To the agency in any Agreement State which regulates radioactive material pursuant to an agreement under § 274 of the Atomic Energy Act of 1954¹²

3-025.03 Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State prior to receipt of the radioactive material, the licensee transferring the material must verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

3-025.04 The following methods for the verification required by 180 NAC 3-025.03 are acceptable:

1. The transferor may have in his/her possession, and read, a current copy of the transferee's specific license or registration certificate;
2. The transferor may have in his/her possession a written certification by the transferee that s/he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
3. For emergency shipments the transferor may accept oral certification by the transferee that s/he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided, that the oral certification is confirmed in writing within ten days;
4. The transferor may obtain other sources of information compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registration; or
5. When none of the methods of verification described in 180 NAC 3-025.04, items 1. through 4. are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State that the transferee is licensed to receive the radioactive material.

3-025.05 Preparation for shipment and transport of radioactive material must be in accordance with the provisions of 180 NAC 13.

3-026 REPORTING REQUIREMENTS

¹²Ibid. p. 64

1. Licensees must make reports required by 180 NAC 3-026.01 and 3-026.02 by telephone to the Department.¹³ To the extent that the information is available at the time of notification, the information provided in these reports must include:
 - a. The caller's name and call back telephone number;
 - b. A description of the event, including date and time;
 - c. The exact location of the event;
 - d. The isotopes, quantities, and chemical and physical form of the radioactive material involved; and
 - e. Any personnel radiation exposure data available.
2. Written report. Each licensee who makes a report required by 180 NAC 3-026.01 or 180 NAC 3-026.02 must submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to:

Department of Health and Human Services
Division of Public Health, Radiological Health
301 Centennial Mall South
P.O. Box 95026
Lincoln, NE 68509-5026

The reports must include the following:

- a. A description of the event, including the probable cause and the manufacturer and model number, if applicable, of any equipment that failed or malfunctioned;
- b. The exact location of the event;
- c. The isotopes, quantities, and chemical and physical form of the radioactive material involved;
- d. Date and time of the event;
- e. Corrective actions taken or planned and the results of any evaluations or assessments; and
- f. The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

3-027 MODIFICATION AND REVOCATION OF LICENSES: The terms and conditions of all licenses will be subject to amendment, revision, modification, limitation, suspension or revocation upon:

¹³The telephone number for the Department is (402) 471-2168.