

From: [Jason Barney](#)
To: [AgreementStateRegs Resource](#)
Cc: [Kim Steves](#); [Isabelle Busenitz](#)
Subject: [External_Sender] Kansas Part 37 license condition
Date: Wednesday, January 20, 2016 2:17:31 PM
Attachments: [license condition.docx](#)

Hi, David.

Here is the license condition to comply with Part 37 for your review.

Essentially, this is our Part 37 regulation adoption by reference using the state of Wisconsin's prior approved template.

Please let me know whatever I need to change.

Hopefully, this should be close as I have made the changes based on our previous emails and the comment letter I received.

Thank you for your time.

Jason

Jason Barney, RRPT
Environmental Scientist IV
Supervisor, Radioactive Materials and X-Ray Units
Radiation Control Program
Bureau of Community Health Systems
Kansas Department of Health and Environment
1000 SW Jackson, Suite 330
Topeka, KS 66612
jbarney@kdheks.gov
(785)296-1986

From: AgreementStateRegs Resource [mailto:AgreementStateRegs.Resource@nrc.gov]
Sent: Monday, January 11, 2016 10:09 AM
To: Jason Barney
Cc: Kim Steves; Isabelle Busenitz
Subject: RE: RE: RE: RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Jason,

Yes, please submit the license condition for review to this mailbox, just as you would for a formal regulation submission. Our goal is to have formal reviews completed within 60

days.

Thanks,
David

From: Jason Barney [<mailto:JBarney@kdheks.gov>]
Sent: Monday, January 11, 2016 11:05 AM
To: AgreementStateRegs Resource <AgreementStateRegs.Resource@nrc.gov>
Cc: Kim Steves <KSteves@kdheks.gov>; Isabelle Busenitz <IBusenitz@kdheks.gov>
Subject: [External_Sender] RE: RE: RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Not a problem, David.

I had already looked up the NRC Parts and the Kansas corresponding Parts just in case you were going to require the specifics for the exemption.
I'm currently adding them in.

Since you've been so helpful, another question for you.

As we won't have our regs in place by the due date in March, we have to submit to the NRC a license condition for approval that we must add to our IC licenses that addresses Part 37.

I've been in contact with Wisconsin (approved by NRC license condition,) who provided a template which I've modified for Kansas.

Do I submit this license condition for approval to you in the same manner as we have here?

Once again, thanks a million for your help and patience.

J

Jason Barney, RRPT
Environmental Scientist IV
Supervisor, Radioactive Materials and X-Ray Units
Radiation Control Program
Bureau of Community Health Systems
Kansas Department of Health and Environment
1000 SW Jackson, Suite 330
Topeka, KS 66612
jbarney@kdheks.gov
(785)296-1986

From: AgreementStateRegs Resource [<mailto:AgreementStateRegs.Resource@nrc.gov>]
Sent: Monday, January 11, 2016 9:50 AM
To: Jason Barney
Cc: Kim Steves; Isabelle Busenitz; AgreementStateRegs Resource
Subject: RE: RE: RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Hi Jason,

Thank you for sending in the proposed amendment to 28-35-140(b) for us to take a look at. Please remember that a final determination on compatibility can only be made through our formal review process.

The version below does look much closer to 10 CFR 30.13 than the previous version, but there is one portion of this regulation that should be addressed, the exemption. The exemption in 10 CFR 30.13 reads, "...are exempt from the regulations in this part [part 30] and parts 31 through 37 and 39 of this chapter and the requirements for a license set forth in section 81 of the Act to the extent..." The Kansas exemption in 28-35-140(b) reads, "... are exempt from these regulations to the extent..." The Kansas regulation provides a broader exemption than the NRC regulation because it does not limit the exemption to certain specific regulations, it provides an exemption to all "these regulations."

Consequently, the exemption in 28-35-140(b) should be modified to give exemptions to only those Kansas regulations that directly correspond to 10 CFR Parts 30 – 37 and 39, and requirements for a license in the Kansas radiation control act (if any). I have listed the titles of Parts 30-37 and 39 below for your convenience.

Part 30	RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL
Part 31	GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL
Part 32	SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL
Part 33	SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL
Part 34	LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS
Part 35	MEDICAL USE OF BYPRODUCT MATERIAL
Part 36	LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS
Part 37	PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL
Part 39	LICENSES AND RADIATION SAFETY

Please let me know if you have any more questions as you prepare your regulations.

Thanks,

David Spackman
Health Physicist
U.S. Nuclear Regulatory Commission
NMSS/MSTR/ASPB
Phone: 301-415-6389
Office: T-8F41

From: Jason Barney [<mailto:JBarney@kdheks.gov>]
Sent: Friday, January 08, 2016 3:55 PM
To: AgreementStateRegs Resource <AgreementStateRegs.Resource@nrc.gov>
Cc: Kim Steves <KSteves@kdheks.gov>; Isabelle Busenitz <Busenitz@kdheks.gov>
Subject: [External_Sender] RE: RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Good Afternoon,

I am hoping to receive approval/guidance in amending our state regulation to ensure compatibility with 10 CFR 30.13.

I have removed the extended wordage from 28-35-140(b) and attempted to follow the CRCPD Part C guidance as instructed.

Amended Kansas state reg –

28-35-140 EXEMPTIONS

(b) *Carriers*. Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from these regulations to the extent that they transport or store radioactive material in the regular course of carriage for another or storage incident thereto.

If this is acceptable, I will draft the required letter and resubmit the amended regulation.
(This would also include the second comment, which is a simple exclusion of 10 CFR 37.43(d)(9).)

Thank you for your time and patience.

Jason

Jason Barney, RRPT

Environmental Scientist IV
Supervisor, Radioactive Materials and X-Ray Units
Radiation Control Program
Bureau of Community Health Systems
Kansas Department of Health and Environment
1000 SW Jackson, Suite 330
Topeka, KS 66612
jbarney@kdheks.gov
(785)296-1986

From: AgreementStateRegs Resource [<mailto:AgreementStateRegs.Resource@nrc.gov>]
Sent: Tuesday, December 22, 2015 2:44 PM
To: Jason Barney
Subject: RE: RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Hi Jason,

It was nice talking with you today. Here is the link to the CRCPD's Suggested States Regulations (SSR), Part C: <http://www.crcpd.org/SSRCRs/cpart.PDF>. Please let me know if you have any additional questions.

Thanks,
David Spackman

From: Jason Barney [<mailto:JBarney@kdheks.gov>]
Sent: Monday, December 21, 2015 3:24 PM
To: AgreementStateRegs Resource <AgreementStateRegs.Resource@nrc.gov>
Cc: Kim Steves <KSteves@kdheks.gov>; Susan Vogel <svogel@kdheks.gov>
Subject: [External_Sender] RE: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Good afternoon.

I am looking for clarification if the existing Kansas regulation listed below is compatible to 10 CFR 30.13 as listed in the first comment of the regulation review letter.
This is the Kansas equivalent already within our regulations.

28-35-140

(b) Carriers. Common and contract carriers, freight forwarders, and warehousemen, who are subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service (39 CFR Parts 14 and 15), shall be exempt from these regulations to the extent that they transport or store sources of radiation in the regular course of their carriage for another. Private carriers who are subject to the rules and regulations of the U.S. department of transportation shall be exempt from these regulations to the extent

that they transport sources of radiation. Common , contract, and private carriers who are not subject to the rules and regulations of the U.S. department of transportation or the U.S. postal service shall be subject to applicable sections of these regulations.

The second comment is a simple exclusion of 10 CFR 37.43(d)(9).

I thought I would attempt an email prior to drafting and sending another letter to you.

Thank you for your time and help.

Jason

Jason Barney, RRPT
Environmental Scientist IV
Supervisor, Radioactive Materials and X-Ray Units
Radiation Control Program
Bureau of Community Health Systems
Kansas Department of Health and Environment
1000 SW Jackson, Suite 330
Topeka, KS 66612
jbarney@kdheks.gov
(785)296-1986

From: AgreementStateRegs Resource [<mailto:AgreementStateRegs.Resource@nrc.gov>]
Sent: Thursday, December 17, 2015 10:06 AM
To: Jason Barney
Cc: Einberg, Christian; Flannery, Cindy; Tharakan, Binesh
Subject: 12/16/2015 Regulation Review Letter to J. Barney - ML15335A348

Please see the attached letter – The original will be mailed

Thank you for your attention to this matter.

-Michelle

Michelle R. Beardsley, Health Physicist
State Regulation Review Coordinator
U.S. Nuclear Regulatory Commission
ASPB/MSTR/NMSS

Mail Stop: Region I

Office phone: 610-337-6942

Cell phone: 301-873-2108