

November 4, 2022

Theresa V. Clark, Deputy Director
Division Material Safety, State, Tribal,
and Rulemaking Programs
Office of Nuclear Material Safety
And Safeguards
U.S. Nuclear Regulatory Commission
T8-E18
Washington, D.C. 20555-0001

Dear Ms. Clark:

Enclosed is a copy of the final revisions to the Kansas Radiological Health Rules concerning RATS IDs 2015-1, 2, 3, 4, 5, and 2018-1, 2. This includes comments made in package ML20017A243, which references RATS ID 2007-3, and some in ML20303A269 and ML19350A858, which references 2012-4. The final regulations are identified by line-in/line-out text and correspond to the following equivalent amendments to NRC's regulations.

<u>Rats ID</u>	<u>Title</u>
• 2007-3	Requirements for Expanded Definition of Byproduct Material
• 2012-4	Requirements for Distribution of Byproduct Material
• 2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments
• 2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities
• 2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements
• 2015-4	Miscellaneous Corrections
• 2015-5	Miscellaneous Corrections
• 2018-1	Medical Use of Byproduct Material - Medical Event Definitions, Training and Experience, and Clarifying Amendments
• 2018-2	Miscellaneous Corrections - Organizational Changes

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200 with the exception of currently outstanding comments in packages ML19350A858 and ML20303A269.

Outstanding comments remain outstanding due to the length of time that the Kansas rule promulgation process takes. Specific language is required for Kansas editorial styles that conflicts with required NRC language, which extends the amount of time spent between Kansas and NRC legal teams. In the interest of continuing to adopt new regulations and preventing a backlog from growing, it was decided to finish with the rule promulgation process for the current package and address errors in the future. The next package from the state of Kansas, which has already been reviewed in proposed form, will catch up to new RATS IDs, and outstanding comments will be addressed after that in a smaller, more pointed package.

The following is an issue that we would like the NRC to address:

In comment 3 of package ML20303A269, there is difficulty with a definition. Certain definitions, such as "special form material" in K.A.R. 28-35-135s(z), must be verbatim to NRC definitions of the same. In the NRC definition, there is a reference to a different NRC regulation, 71.5. Per Kansas editorial, any adoption must include a date of adoption. The NRC has noted that, since the adoption date is not a part of the NRC definition, and definitions must be adopted verbatim, the inclusion of the date is disallowed.

Although it takes longer to promulgate, this does not impact the definition unless the NRC changes their regulations. The state is already required to adapt to these changes. The state of Kansas would prefer to continually change the adoption date in future rule promulgations than to remove the date, if this is acceptable.

Additionally, some comments refer to the package testing requirements of 10 CFR 71.85. Wisconsin is currently experiencing similar difficulties with these in STC-22-062. Kansas would also like guidance on this subject.

If you have any questions, please feel free to contact me at 785-296-1989 or james.uhlemeyer@ks.gov.

Sincerely,

James Uhlemeyer
Environmental Program Administrator
KDHE Radiation Control Program

CC: Kimberly Steves
Enclosures: As stated.