

April 5, 2005

Mr. Lawrence E. Nanney, Director
Division of Radiological Health
L & C Annex, Third Floor
401 Church Street
Nashville, TN 37243-1532

Dear Mr. Nanney:

We have reviewed the proposed changes to the Tennessee rule 1200-2-5-.161 and to Schedule RHS 8-30, "*Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage*" received by our office on January 26, 2005. Our review and comments are in response to Tennessee's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to the Tennessee radiation control rules in response to our letter dated April 12, 2004. This review by the NRC also closes out the sections of the following letters dealing with this subject; the July 14, 2004 letter from Karen Stachowski to Paul Lohaus transmitting Tennessee's response to the final IMPEP report, the August 19, 2004 letter from Paul Lohaus regarding Tennessee's response to the final IMPEP report, and the December 10, 2004 letter from Josephine Piccone requesting the status on the Tennessee rulemaking concerning this issue. These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Part 20 and 34. We discussed our review of these regulations with Barbara Davis on March 25, 2005.

As a result of our review, we have no comments. However, your letter stated that the revisions to the radiography regulations were to address the omission of the "registrants" from the last update of the industrial radiography regulations. We reviewed these changes to verify that the revisions did not impact the compatibility findings NRC previously made for these regulations. We found these sections met the compatibility requirements as stated in STP Procedure SA-200. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if these regulations are adopted without significant change, they would meet the compatibility and health and safety categories established in STP Procedure SA-200. We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to the NRC for review.

The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of other Tennessee 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 STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

Mr. L. Nanney

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April 5, 2005

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 me, or John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

IRA Byl

Paul Lohaus, Director
Office of State and Tribal Programs

Enclosure:
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 me, or John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

IRA BYI

Paul Lohaus, Director
Office of State and Tribal Programs

Enclosure:
As stated

SISP Review Complete

- Publicly Available Non-Publicly Available
- Non-Sensitive Sensitive

Distribution:
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Response to incoming: **ML050320037**

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OFFICE	STP		STP		OGC		STP:D	
NAME	JZabko		WRautzen		STreby		PLohaus	
DATE	03/10/05*		03/10/05*		03/22/05*		04/05/05	

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STATE REGULATION STATUS

State: TENNESSEE

Tracking Ticket Number: 5-27

[No Amendments reviewed]

Date: April 5, 2005

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
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 12/18/97	
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 12/2/96	12/28/96
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	N 12/2/96	12/28/96
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			1997-Current LBR adequate per MRB
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 12/2/96	Not required ³ Alternate rule 1987
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to TN
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P 2/13/04 ML040540516	N 3/25/04 ML040850212	
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 ML020320229	N 2/1/02 ML020360223	10/02/02

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F ML020320229	N 2/1/02 ML020360223	10/02/02
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F ML020320229	N 2/1/02 ML020360223	10/02/02
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML020320229	N 2/1/02 ML020360223	10/02/02
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML020320229	N 2/1/02 ML020360223	10/02/02
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6			
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML040980538	N 5/06/04 ML041270512	10/02/02
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	F ML020320229	N 2/1/02 ML020360223	10/02/02
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			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML020320229	N 2/1/02 ML020360223	10/02/02
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
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 ML020320229	N 2/1/02 ML020360223	10/02/02
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML020320229	N 2/1/02 ML020360223	10/02/02

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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 ML020320229	N 2/1/02 ML020360223	10/02/02
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML040980538	Y 5/06/04 ML041270512	10/02/02
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML020320229	N 2/1/02 ML020360223	10/02/02
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML020320229	N 2/1/02 ML020360223	10/02/02
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 ML040980538	N 5/06/04 ML041270512	10/02/02
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	P 10/17/03 ML033010588	Y 12/01/03 ML033360370	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P 10/17/03 ML033010588	N 12/01/03 ML033360370	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable to TN
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	P 10/17/03 ML033010588	Y 12/01/03 ML033360370	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P 10/17/03 ML033010588	N 12/01/03 ML033360370	

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New Dosimetry Technology- Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P 10/17/03 ML033010588	N 12/01/03 ML033360370	
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P 2/13/04 ML040540516	Y 03/25/04 ML040850212	
Revision of the Skin Dose Limit - Part 20	67 FR 16298; (4/5/05)	2002-1	P 2/13/04 ML040540516	Y 03/25/04 ML040850212	
Medical Use of Byproduct Material - Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71	69 FR 3697; (10/01/07)	2004-1			

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 that regulation. See: “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs,” III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number.