

August 18, 2010

Lawrence E. Nanney, Director
Division of Radiological Health
401 Church Street
Nashville, TN 37243

Dear Mr. Nanney:

We have reviewed the proposed changes to the Tennessee regulations, "State Regulations for Protection Against Radiation," received by our office on June 9, 2010. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 40, 61, 70, 71, and the requirements of the six amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Beth Murphy on August 17, 2010.

As a result of our review, we have four comments that have been identified in the enclosure. 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 the Tennessee regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Tennessee regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) 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 us for review. As requested in FSME Procedure [SA-201](#), "Review of State Regulatory Requirements," please highlight the final changes, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The 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 FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

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 Kathleen Schneider, State Regulation Review Coordinator, at (301) 415-2320 (Kathleen.Schneider@nrc.gov) or Candace Clemons at (301) 415-5231 (Candace.Clemons-Webb@nrc.gov).

Sincerely,

/RA A. F. Dias/

Terrence

Office

Reis, Deputy Director
Division of Materials Safety and State Agreements
of Federal and State Materials
and Environmental Management Programs

Enclosures:
As Stated

[Concurrence Page]

Enclosures: As stated

Distribution:

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NAME	CClemons-Webb / KNS	KSchneider		BJones		ADias		TReis / AFD	
DATE	07/26/10	07/26/10 08/12/10				08/18/10 08/18/10			

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COMPATIBILITY COMMENTS ON *TENNESSEE* PROPOSED REGULATIONS

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1 1200-02-11-.14	61.30(a)(3)	1996-3	H & S	<p>Transfer of license</p> <p>Tennessee omitted from 1200-02-11-.14(1)(c) the following equivalent reference “That any funds and necessary records for care, required by 1200-02-11-19(1)(e) and (f), will be transferred to the disposal site owner;”</p> <p>Tennessee needs to make the above change in order to meet the Compatibility Category H & S designation to 10 CFR 61.30(a)(3).</p>
2 1200-02-04	71.4	2004-1	[B]	<p>Purpose and scope</p> <p>Tennessee omits an equivalent paragraph to 10 CFR 71.0(c) from their regulations.</p> <p>Tennessee needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 71.0(c).</p>
3 1200-02-10-.30(14)	71.87 2004-1		B	<p>Routine determinations</p> <p>Tennessee needs to delete the phrase “49 CFR 173.401-435” in 1200-02-10-.30(14)(a)1.</p> <p>Tennessee needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 71.87.</p>
4 1200-02-10-.30(21)	71.97 2004-1		B	<p>Advance notification of shipment of irradiated reactor fuel and nuclear waste</p> <p>As drafted, Tennessee’s equivalent regulation to Section 71.97(a) limits the licensee’s notification to Tennessee’s governor or governor’s designee. Tennessee needs to revise</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>1200-02-10-.30(21) to include the concept that the advance notification includes each state within or through which the shipment will be transported.</p> <p>Tennessee needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 71.97.</p>

STATE REGULATION STATUS

State: Tennessee

Tracking Ticket Number: 10-27

[6 amendment(s) reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]

Date: August 18, 2010

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5)	01/10/1994	Not Required	Not Required	Tennessee has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5)	none	Not Required	Not Required	Tennessee has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-3	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;	01/01/1994	Final ML062130090	No Comments 09/01/2006 ML062490270	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final	No Comments 12/02/1996	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995			Tennessee has not yet adopted Final Regulations equivalent to RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
*1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	R ¹ ML101580029	No Comments 08/18/2010 ML102010156	1997-current LBR adequate per MRB

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Not Applicable ²	Not Applicable	Tennessee does not have any licensees subject to these regulations. (See SECY-95-112)
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Final	No Comments 12/02/1996	
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Not Applicable	Not Applicable	Tennessee does not have the authority to regulate this material under its Agreement.
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997	Final ML071560152	No Comments 07/11/2007 ML071920135	
1995-1	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	01/01/1998	Final ML020320229	No Comments 02/01/2002 ML020360223	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment	03/13/1998	Final ML020320229	No Comments 02/01/2002 ML020360223	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML020320229	No Comments 02/01/2002 ML020360223	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Final ML020320229	No Comments 02/01/2002 ML020360223	Tennessee has adopted Final Regulations equivalent to RATS ID: 1997-5.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML020320229	No Comments 02/01/2002 ML020360223	
*1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Proposed ML101580029	Comments 08/18/2010 ML102010156	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superceded by 2002-2 and 2005-2)	10/20/1998	Final ML040980538	No Comments 05/06/2004 ML041270512	Tennessee has not yet adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-1.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1)	04/01/1999	Final ML020320229	No Comments 02/01/2002 ML020360223	Tennessee has not yet adopted Final Regulations equivalent to RATS ID: 2004-1.
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
*1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Proposed ML101580029	Comments 08/18/2010 ML102010156	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML020320229	No Comments 02/01/2002 ML020360223	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final ML020320229	No Comments 02/01/2002 ML020360223	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML020320229	No Comments 02/01/2002 ML020360223	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superceded by 2004-1)	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final ML020320229	No Comments 02/01/2002 ML020360223	
*1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	R ML101580029	Comments 08/18/2010 ML102010156	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final ML020320229	No Comments 02/01/2002 ML020360223	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71,	02/12/2001	Final ML020320229	No Comments 02/01/2002 ML020360223	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superceded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074)
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML040980538	No Comments 05/06/2004 ML041270512	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 35, 36 63 FR 39477; 63 FR 45393	10/26/2001	Final ML062130094	No Comments 09/01/2006 ML062490270	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML062130094	No Comments 09/01/2006 ML062490270	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	Tennessee does not have the authority to regulate this material under its Agreement.
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML062130094	No Comments 09/01/2006 ML062490270	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML062130094	No Comments 09/01/2006 ML062490270	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML062130094	No Comments 09/01/2006 ML062490270	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct	02/16/2004	Final ML071560152	Comments 07/11/2007 ML071920135	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML071560152	No Comments 07/11/2007 ML071920135	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML100840107	No Comments 05/03/2010 ML100980120	
*2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Proposed ML101580029	No Comments 08/18/2010 ML102010156	
*2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Proposed ML101580029	Comments 08/18/2010 ML102010156	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	License Condition ML081260292	No Comments 05/13/2008 ML081340237	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35	04/29/2008	Final ML100840107	No Comments 05/03/2010 ML100980120	
2005-3	Increased Controls for Risk-Significant Radioactive Sources	12/01/2005	License Condition ML052590043	No Comments 09/19/2005 ML052630474	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML100840107	No Comments 05/03/2010 ML100980120	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Not Applicable ²	Not Applicable	Tennessee does not have any licensees subject to these regulations.
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML100840107 License Condition ML082880040	No Comments 05/03/2010 ML100980120 No Comments 10/21/2008 ML082880288	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML100840107	No Comments 05/03/2010 ML100980120	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010			
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010			
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML080840479	No Comments 04/14/2008 ML081050443	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011			
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012			

¹ R stands for proposed changes to a final rule.

² IMPEP Team: verify that Tennessee does not have any licensees subject to these regulations during each review.