

December 1, 2003

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

Dear Mr. Nanney:

We have reviewed the proposed revisions to the Tennessee "State Regulations for Protection Against Radiation" received by our office on October 22, 2003. Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to Tennessee's radiation control rules that incorporated the amendments identified on the States Regulation Status Data Sheet (SRS). These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Parts 20, 34, 35 and 36 and the requirements of the 5 amendments identified in the enclosed SRS. We discussed our review of the regulations with Debra Shults on November 10, 2003.

As a result of our review, we have four comments. 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. Please provide a final amended version of your rules showing the location of any changes made in response to our comments. If there are any comments which the State believes are in error, the State should identify the section of their regulations that meet the designated compatibility category. Please note that we have limited our review to regulations required for compatibility and/or health and safety, but have determined that if these regulations are adopted, incorporating our comments and without significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure [SA-200](#).

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 STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

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 Lloyd Bolling of my staff at (301) 415-2327 or LAB@NRC.GOV.

Sincerely,

/RA By KX Schneider for/

Josephine Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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|--------|-----------|--|-----------|--|-----------|--|----------------------------|--|
| NAME | LABolling | | JZabko | | STreby | | KSchneider for JPiccone | |
| DATE | 11/10/03* | | 11/13/03* | | 12/01/03* | | 12/01/03* | |

ML033360370

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**COMPATIBILITY COMMENTS ON
TENNESSEE FINAL REGULATIONS**

| | STATE SECTION | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---|-----------------------|-------------|---------|----------|--|
| 1 | 1200-2-5-.32(72) | 20.1003 | 1998-5 | A | <p>Definitions: “Very High Radiation Area”</p> <p>Add “or 1 meter” between “radiation or” and “from any”</p> <p>The State needs to include this definition to meet compatibility</p> |
| 2 | 1200-2-5-.56(4) | 20.1208 | 1998-5 | A | <p>Dose Equivalent to an Embryo/Fetus</p> <p>Text and radiation units not equivalent. State should use NRC rule text.</p> <p>The State needs to include these requirements to meet compatibility</p> |
| 3 | 1200-2-5-.71(1)(a)(2) | 20.1502 | 1998-5 | H&S | <p>Conditions Requiring Individual Monitoring of External and Internal Occupational Dose.</p> <p>Text and radiation units not equivalent. State should use NRC rule text.</p> <p>The State needs to incorporate the NRC rule text to include these requirements to meet compatibility</p> |
| 4 | 1200-2-5-.94 | 20.1705 | 1999-3 | B | <p>Application for use of higher assigned protection factors:</p> <p>This section is not included in the State’s regulations.</p> <p>The State needs to incorporate this section in its’ regulations in order to meet compatibility</p> |

STATE REGULATION STATUS

State: **TENNESSEE**

[Five Amendments reviewed are identified by a ★
at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 3-243

Date: **DECEMBER 1, 2003**

| 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 | | | |
| 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 2/5/02 ML020360223 | 2/4/02 |

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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 2/5/02 ML020360223 | 2/4/02 |
| 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 2/5/02 ML020360223 | 2/4/02 |
| Performance Requirements for Radiography Equipment-Part 34 | 60 FR 28323; (6/30/98) | 1995-4 | F ML020320229 | N 2/5/02 ML020360223 | 2/4/02 |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038; (8/14/98) | 1995-5 | F ML020320229 | N 2/5/02 ML020360223 | 2/4/02 |
| 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 ML020320229 | N 2/5/02 ML020360223 | 2/4/02 |
| 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 | Y 2/5/02 ML020360223 | 2/4/02 |
| 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 2/5/02 ML020360223 | 2/4/02 |
| 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 2/5/02 ML020360223 | 2/4/02 |
| Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35 | 62 FR 4120; (5/29/00) | 1997-3 | F ML020320229 | N 2/5/02 ML020360223 | 2/4/02 |

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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 2/5/02 ML020360223 | 2/4/02 |
| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (8/20/00) | 1997-6 | | | |
| 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 2/5/02 ML020360223 | 2/4/02 |
| 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 2/5/02 ML020360223 | 2/4/02 |
| 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 ML020320229 | Y 2/5/02 ML020360223 | 2/4/02 |
| ★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 | |

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|---|----------------------------|---------|--|---|--|
| ★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 | |
| ★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 | | | |
| Revision of the Skin Dose Limit - Part 20 | 67 FR 16298; (4/5/05) | 2002-1 | | | |
| 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 | | | |

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