



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 11, 2015

ALL AGREEMENT STATES, WYOMING, VERMONT

EFFECTIVE DATE FOR IMPLEMENTATION OF PART 37 REQUIREMENTS (STC-15-072)

Purpose: To clarify that the effective date for the implementation of RATS ID 2013-1 or Part 37, *Physical Protection of Byproduct Material*, for Agreement States is March 19, 2016.

Background: On May 7, 2013, U.S. Nuclear Regulatory Commission (NRC) issued FSME 13-042 *Revision of the Chronology of Nuclear Regulatory Commission Amendments Including Summary of Change Document for Requirements for Physical Protection of Byproduct Material, Part 37 [RATS ID 2013-1]*. In the letter, NRC stated that "these regulations are due for adoption by the Agreement States no later than March 19, 2016." The letter further stated that both proposed regulations and final regulations (or legally binding requirements) be provided to NRC for review in accordance with FSME Procedure SA-201, *Review of State Regulatory Requirements*.

Discussion: In Management Directive 5.9 *Adequacy and Compatibility of Agreement State Programs*, the expectation is that *any* compatible regulation adopted by an Agreement State, including Part 37, goes into *effect* by the specific date provided to them in an All Agreement State Letter (currently STC Letters) that announces the new rule. A regulation or other legally binding requirement that goes into *effect* would allow the regulatory agency to take enforcement action against any of the requirements.

The reason for making the Part 37 effective date three years after the *publication* date and not the *effective* date of the NRC rule was due to the one year period given to NRC licensees to implement the rule. Normally, rules go into effect 30 to 90 days after publication and the Agreement States have three years from the effective date. However, waiting one more year for Agreement States (March 2017) to adopt a compatible Part 37 regulation would be too long to implement the safety and security requirements for radioactive materials on a national basis.

A majority of the Agreement States have either completed the compatibility review process or submitted their draft Part 37 regulations or legally binding requirements to the NRC for review. For those who have not yet submitted their Part 37 regulations or legally binding requirements, we encourage you to submit them promptly to allow sufficient time for the NRC review to meet the March 19, 2016 effective date.

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If you have any questions regarding this correspondence, please contact me at (301) 415-3340 or the individual named below:

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