



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

November 3, 2015

Ms. Debra G. Shults, Director
Department of Environment and Conservation
Division of Radiological Health
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243

Dear Ms. Shults:

We have reviewed the State of Tennessee's legally binding requirements to address implementation of Title 10 of the *Code of Federal Regulations* Part 37, "Physical Protection of Byproduct Material," received by our office on October 19, 2015. These requirements were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the legally binding requirements with you on November 3, 2015.

As a result of our review, we have no comments that are related to compatibility and one comment that is not related to compatibility but should be addressed. This comment has been identified in the enclosure. We have determined that Tennessee's legally binding requirements meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

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 NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

D. Shults

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If you have any questions regarding the review results, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at (610) 337-6942 (Michelle.Beardsley@nrc.gov) or Kathy Dolce Modes, at (215) 872-5804 (Kathy.Modes@nrc.gov).

Sincerely,

/RA/

DWhite for PHenderson

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Non-Compatibility Comment
2. Tennessee SRS Data Sheet

**COMMENT NOT RELATED TO COMPATIBILITY ON TENNESSEE PROPOSED
LEGALLY BINDING REQUIREMENTS**

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---------------|------------|-----------------|---------|----------|---|
| 1 | 0400-20-13 | 10 CFR 37.31(d) | 2013-1 | B | <p>Part 37—Physical Protection Of Category 1 And Category 2 Quantities Of Radioactive Material</p> <p>There is a typographical error in the Proposed License Condition submitted by the State:</p> <p>Paragraph (b) reads: Any reference to the Commission or the NRC shall be deemed to be a reference to the Division “or” Radiological Health. This should state: Division “of” Radiological Health</p> |

STATE REGULATION STATUS

State: Tennessee

Tracking Ticket Number: 16-04

Date: 11/03/2015

[1 amendment(s) reviewed identified by a *at the beginning of the equivalent NRC requirement.]

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|--|-----------------------------|----------------------|--|--|
| 1991-1 | Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superseded 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 (Superseded 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 (Superseded by 2002-2) | 01/27/1995 | | | |
| 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. |

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|---------|---|-----------------------------|-----------------------------|--|--|
| 1993-1 | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628 | 10/25/1996 | Final ML113550088 | No Comments 02/03/2012 ML120090004 | 1997-current LBR adequate per MRB |
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Not Applicable ¹ | 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 | |

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|---------|--|-----------------------------|----------------------|--|--|
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 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. |
| 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 | Final ML113550088 | No Comments 02/03/2012 ML120090004 | |
| 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 | |
| 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 | |

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|---------|---|-----------------------------|----------------------|--|---|
| 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 | Final ML113550088 | No Comments 02/03/2012 ML120090004 | |
| 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 | |
| 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 (Superseded 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 | |

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|---------|--|-----------------------------|----------------------|--|---|
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final ML113550088 | No Comments 02/03/2012 ML120090004 | |
| 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, 150 63 FR 1890; 63 FR 13773 | 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 (Superseded 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 | |
| 1998-5 | Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393 | 10/26/2001 | Final ML062130094 | No Comments 09/01/2006 ML062490270 | |

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| 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 Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | Final ML12255A011 | No Comments 09/26/2012 ML12257A288 | |

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|---------|---|-----------------------------|--|--|-------|
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML071560152 | No Comments 07/11/2007 ML071920135 | |
| 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 | Legally binding requirement 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 | Final ML113550088 | No Comments 02/03/2012 ML120090004 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML113550096 License Condition ML081260292 | No Comments 02/03/2012 ML120090004 No Comments 05/13/2008 ML081340237 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML100840107 | No Comments 05/03/2010 ML100980120 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML052590043 | No Comments 09/19/2005 ML052630474 | |

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| 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 ¹ | 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 | |
| 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 | Final ML113550096 | No Comments 02/03/2012 ML120090004 | |
| 2007-3 | Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864 | 11/30/2010 | Final ML113550096 | No Comments 02/03/2012 ML120090004 | |

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|---------|--|-----------------------------|----------------------------------|--|-------|
| 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 | Final ML113550096 | No Comments 02/03/2012 ML120090004 | |
| 2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | Final ML113550096 | No Comments 02/03/2012 ML120090004 | |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512 | 12/17/2015 | Proposed ML15149A063 | Comments 07/01/2015 ML15149A061 | |
| 2011-2 | Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951 | 11/14/2014 | Proposed ML14059A053 | No Comments 04/30/2014 ML14059A044 | |
| 2012-1 | Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640 | 01/25/2015 | Final ML12255A011 | No Comments 09/26/2012 ML12257A288 | |
| 2012-2 | Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194 | 08/10/2015 | Proposed ML14059A053 | Comments 04/30/2014 ML14059A044 | |
| 2012-3 | Technical Corrections Part 30, 34, 40 and 71 77 FR 39899 | 08/06/2015 | Proposed ML14059A053 | No Comments 04/30/2014 ML14059A044 | |

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| 2012-4 | Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666 | 10/23/2015 | Proposed ML15118A549 | Comments 06/18/2015 ML15118A549 | |
| *2013-1 | Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922 | 03/19/2016 | Proposed ML15230A076 Proposed License Condition ML15292A555 | Comments 09/21/2015 ML15230A069 No Comments DATE ML15292A553 | Part 37 only |
| 2013-2 | Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310 | 08/27/2016 | | | |
| 2015-1 | Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143 | 01/26/2018 | | | |
| 2015-2 | Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73, and 150 79 FR 58664, 80 FR 3865 | 01/28/2018 | | | |
| 2015-3 | Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987 | 07/13/2018 | | | |
| 2015-4 | Miscellaneous Corrections, Parts 37 and 40 80 FR 45841 | 09/02/2018 | | | |