



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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October 25, 2017

William Irwin, ScD, CHP
Radiation Control Program Director
Radiological and Toxicological Sciences Program Chief
Vermont Department of Health
108 Cherry Street
Burlington, VT 05402

Dear Dr. Irwin:

We have reviewed the proposed Vermont Radiological Health Rules received by our office on June 19, 2017. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules in 10 CFR 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 70, 71, and 150 as identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on October 11, 2017.

As a result of our review, we have 101 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. Given our extensive comments, the NRC requests that Vermont provide updated proposed regulations for review. To help facilitate timely review of Vermont's regulations, as we discussed with you, we would like to set up a meeting with you and your staff to discuss our comments, and in general, the procedure for incorporating NRC regulations by reference, before Vermont finalizes their regulations. Under our current procedure, a finding that the Vermont 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 Vermont regulations.

The SRS Data Sheet summarizes our knowledge of the status of Vermont's 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>.

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 Michelle Beardsley, State Regulation Review Coordinator, at (267) 884-2305 (Michelle.Beardsley@nrc.gov).

Sincerely,

/RA Paul Michalak for/

Kevin Williams, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility Comments
2. Vermont SRS Data Sheet

COMPATIBILITY COMMENTS ON VERMONT PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
1	Various	Various	Various	N/A	<p>General comments:</p> <p>1) Vermont regulations Section 1.2.8 incorporates the CRCPD State Suggested Regulations (SSRs) by reference. SSRs are not revised after each NRC rulemaking, and therefore are not compatible with certain current NRC requirements. Using the SSRs by incorporation would cause a duplication of requirements; Vermont should not incorporate the SSRs by reference.</p> <p>2) Vermont regulations Section 1.2.6, contain the statement: "If a provision of the CFR incorporated by reference in this regulation includes a section which is inconsistent with this regulation, this regulation controls to the extent Federal law does not preempt the State of Vermont law. If a provision of the CFR incorporated by reference in this regulation is beyond the scope of authority granted the Vermont Department of Health under statute, or is in excess of the statutory authority, the provisions shall be and remain effective only to the extent authorized by State of Vermont law."</p> <p>This statement can cause confusion as it leaves it up to the licensee to determine which regulation applies. Vermont needs to delete this statement.</p> <p>3) Vermont incorporates NRC regulations by reference, but also includes some of these same regulations. This results in a duplication of requirements.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					<p>Vermont needs to either incorporate NRC regulations by reference or submit all equivalent regulations, (e.g., Section 4.2.1 and 10 CFR 30.12, 40.11, and 70.11).</p> <p>4) In Vermont regulations titled, "Human Use", Section 3.2.3, it states, "Auxiliary personnel employed by a health care facility regulated by the Department of Health or the Federal government may only use radiation sources in the healing arts in accordance with written job descriptions and employee qualifications." Vermont does not have jurisdiction over federal facilities and therefore should remove the term "federal government".</p> <p>5) Vermont regulations Sections 6.4.1.2 and 6.4.1.3, state: "Each sealed source... approved by the Department, a state or the NRC." Vermont needs to replace "a state" with "an Agreement State".</p> <p>6) Vermont regulations Sections 10.1.2 and 10.1.4, discuss "the Department's independent compliance monitoring of Vermont Yankee Nuclear Power Station" and "If the Department determines that an enforcement action is appropriate,...the Department shall issue a notice of violation in writing." Vermont does not have jurisdiction over this facility and should remove these statements from their regulations.</p> <p>7) Vermont regulations Section 11.2 state, "The use of radioactive material in the State of Vermont under a license issued by the NRC is exempt from the licensing</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					<p>requirements of this subsection until the State of Vermont becomes an agreement state on the date published in the <i>Federal Register</i>.” As written, this statement appears too broad and can be misinterpreted to include federal facilities which Vermont cannot regulate currently or after the Agreement is signed. It also appears to contradict the sentence in Section 1.2.3. Vermont needs to indicate that this does not include those NRC licenses for federal facilities.</p>
2	1.2.5 1.3 7.6.1	19.3, <i>Regulated entities</i>	19	D/NRC	<p>Regulated entities</p> <p>Vermont incorporates the definition of regulated entities by reference in 1.2.5, 1.3, and 7.6.1. Vermont needs to specifically exclude the portions of this definition that are reserved to the NRC from incorporation by reference.</p>
3	1.2.5 7.2 7.6.1	19.11	19	C, except portions of paragraph (a), and all of paragraphs (b) and (e) are designated as NRC.	<p>Posting of notices to workers</p> <p>Vermont incorporates all of 10 CFR 19.11 by reference in 1.2.5 and 7.6.1. Vermont needs to specifically exclude the portions of paragraph (a), and all of paragraphs (b) and (e) which are reserved to the NRC from incorporation by reference.</p> <p>In addition, Vermont incorporates 10 CFR 19.11 by reference and includes duplicative requirements for posting notices to workers in 7.2. Vermont needs to revise their equivalent regulations to exclude either 10 CFR 19.11 or Vermont regulations 7.2, to eliminate the duplication of requirements.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
4	1.2.5 7.6.1	19.13	19	C	<p>Notification and reports to individuals</p> <p>In their equivalent regulations to 10 CFR 19.13(a), Vermont needs to replace the phrase “Nuclear Regulatory Commission regulation 10 CFR part 19” with their equivalent regulation.</p>
5	1.2.5 7.6.1	19.14(a)	19	NRC	<p>Presence of representatives of licensees and workers during inspections</p> <p>Vermont incorporates 10 CFR 19.14(a) by reference in 1.2.5 and 7.6.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
6	1.2.5 7.6.1	19.15	19	C	<p>Consultation with workers during inspections</p> <p>Vermont needs to revise their equivalent regulations to 10 CFR 19.15(b) so that the phrase “the act” refers to the applicable Vermont legislation, and not the Atomic Energy Act of 1954.</p>
7	1.2.5 7.6.1	19.16	19	C	<p>Requests by workers for inspections</p> <p>Vermont needs to indicate in their equivalent regulations that the phrase “the Act” in 19.16(a) refers to the applicable Vermont legislation, and not the Atomic Energy Act of 1954.</p> <p>In addition, Vermont needs to indicate that the phrases “Administrator of the appropriate Commission Regional Office” and “Regional Office Administrator” in their equivalent regulations to 19.16(a) and (b) are replaced with the appropriate Vermont official(s).</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
8	1.2.5 7.6.1	19.17	19	C	<p>Inspection not warranted; informal review</p> <p>Vermont needs to indicate that all references to NRC officials and contact information (e.g. “Executive Director for Operations” and “11555 Rockville Pike, Rockville, Maryland”) in their equivalent regulation to 10 CFR 19.17 are replaced with references to the appropriate Vermont officials and contact information.</p>
9	1.2.5 1.2.7.1 1.3 6.2.1	20.1003, 30.12 40.11 70.1	20 30 40 70	Various	<p>Various sections</p> <p>In the Vermont regulations noted, it states that the word “Commission” should remain and should not mean the Vermont Department of Public Health. This is not always the case for every notation, e.g., in the definitions of byproduct material and special nuclear material in 10 CFR 20.1003, the word “Commission” should remain and should not mean the Vermont Department of Public Health according to 1.2.7.1.</p> <p>In addition:</p> <p>Vermont needs to clarify that “both the NRC and Vermont determine “that the exemption of the prime contractor or subcontractor is authorized by law , and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.”</p>
10	1.2.5, 6.2.1, 7.6.1, 12.2.1, 12.6.1.1, 12.7.1.1,	All Parts	All Sections	Various	<p>Various Parts/Sections</p> <p>Throughout Vermont’s regulations, there are many sections that point to the NRC’s website at http://www.nrc.gov for reference.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
	12.8.1.1, 12.9.1, 12.10.2, 13.2.1, 14.2.1, 15.1.2.1, 16.2.4, 17.2.1, 18.2.1, 18.4.5				As this website does not contain the official version of the regulations, Vermont should either reference the hard copy CFR or state that, "The unofficial version of these regulations can be accessed at http://www.nrc.gov ."
11	1.2.5 6.2.1	20.1401	20	C	General provisions and scope The provisions of 20.1401 are, for the most part, very specific to NRC-regulated activities and the regulation is not well suited to adoption by reference. Vermont needs to provide an equivalent to 20.1401 that does not rely on incorporation of 20.1401 by reference.
12	1.2.5 6.2.1	20.1405	20	C	Public notification and public participation Vermont should remove the requirement to publish a notice in the Federal Register in 20.1405(b).
13	1.2.5 6.2.1	20.1406(b)	20	NRC	Minimization of contamination Vermont incorporates 10 CFR 20.1406(b) by reference in 1.2.5 and 6.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
14	1.2.5 6.2.1	20.1905(g)	20	NRC	Exceptions to labeling requirements Vermont incorporates 10 CFR 20.1905(g) by reference in 1.2.5 and 6.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
15	1.2.5 6.2.1	20.2203(c)	20	NRC	Reports of exposures, etc, exceeding the limits.

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					Vermont incorporates 10 CFR 20.2203(c) by reference in 1.2.5 and 6.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
16	12.2.1 1.2.7.1 1.2.5 1.3	30.4, <i>Byproduct material</i>	30	H&S	Byproduct material In their equivalent definition of byproduct material, Vermont needs to indicate that the word “Commission” should remain and should not mean the Vermont Department of Public Health according to 1.2.7.1.
17	12.2.1 1.2.5 1.3	30.4, <i>Commencement of construction, paragraph 2</i>	30	NRC	Commencement of construction, paragraph 2 Vermont incorporates the definition of commencement of construction, paragraph 2 by reference in 12.2.1, 1.3, and 1.2.5.3. Vermont needs to specifically exclude the portions of this definition that are reserved to the NRC from incorporation by reference.
18	12.2.1 1.2.5 1.3	30.4, <i>Construction, paragraph 9ii</i>	30	NRC	Construction, paragraph 9ii Vermont incorporates the definition of construction, paragraph 9(ii) by reference in 12.2.1, 1.3, and 1.2.5.3. Vermont needs to specifically exclude the portions of this definition that are reserved to the NRC from incorporation by reference.
19	12.2.1 1.2.5	30.10	30	C	Deliberate misconduct Vermont should replace the reference in their equivalent regulations to 30.10(b) to “the procedures in 10 CFR part 2, subpart B” with the applicable Vermont procedures.
20	12.2.1 1.2.5	30.14	30	B	Exempt concentrations Vermont needs to specify in their

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					equivalent regulation to 10 CFR 30.14(d) that only the NRC can issue a license under 10 CFR 32.11.
21	12.2.1 1.2.5	30.18	30	B	Exempt quantities Vermont needs to add the phrase “or the NRC” following both instances of the words “Agreement State” in their equivalent regulation to 10 CFR 30.18(d).
22	12.2.1 1.2.5	30.19	30	B	Self-luminous products containing tritium, krypton-85, or promethium-147 Vermont needs to specify in their equivalent regulation to 10 CFR 30.19(a) and (b) that only the NRC can issue a license under 10 CFR 32.22.
23	12.2.1 1.2.5	30.20	30	B	Gas and aerosol detectors containing byproduct material Vermont needs to specify in their equivalent regulation to 10CFR 30.20(a) and (b) that only the NRC can issue a license under 10 CFR 32.26.
24	12.2.1 1.2.5	30.22	30	B	Certain industrial devices Vermont needs to specify in their equivalent regulation to 10 CFR 30.22(a) and (b) that only the NRC can issue a license under 10 CFR 32.30.
25	12.2.1 1.2.5	30.32(g)	30	C	Application for specific licenses Vermont needs to add the phrase “or the NRC” following both instances of the words “Agreement State” in their equivalent regulation to 10 CFR 30.32(g).
26	12.2.1	30.50	30	C	Reporting Requirements

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
	1.2.5				Vermont needs to substitute its own notification requirements in place of the reference to “an appropriate method listed in 30.6” in their equivalent regulations to 10 CFR 30.50(c)(2). Vermont does not incorporate 30.6 by reference.
27	12.2.1 1.2.5 Tables 1a/1b	30.70	30	B	Schedule A- exempt concentrations table Vermont adopts 30.70 by reference and also lists the table in Table 1a/1b. Vermont needs to remove Tables 1a/1b to avoid duplication of requirements.
28	12.2.1 1.2.5 Tables 2a/2b	30.71	30	B	Schedule B - exempt quantity table Vermont adopts 30.71 by reference and also lists the table in Table 2a/2b. Vermont needs to remove Tables 2a/2b to avoid duplication of requirements.
29	12.6.1.1 1.2.5	31.5	31	C	Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere In their equivalent regulations to 10 CFR 31.5(b)(1)(ii), 31.5(c)(3)(ii), and 31.5(c)(8)(i), Vermont needs to add the words “or the NRC” after the words “Agreement State.” In addition, Vermont needs to replace the phrase “part 110 of this chapter” with the phrase “10 CFR part 110” in their equivalent regulation to 10 CFR 31.5(c)(7).
30	12.6.1.1 1.2.5	31.6	31	C	General license to install devices generally licensed in ' 31.5 In their equivalent regulations to 10

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					<p>CFR 31.6, Vermont needs to add the words “or the NRC” after the words “Agreement State” for all four instances.</p> <p>In addition, Vermont needs to replace the phrase “any non-Agreement State” with the word “Vermont.”</p>
31	12.6.1.1 1.2.5	31.7	31	B	<p>Luminous safety devices for use in aircraft</p> <p>In their equivalent regulations to 10 CFR 31.7(a), Vermont needs to add the words “or the NRC” after the words “Agreement State” for both instances.</p>
32	12.6.1.1 1.2.5	31.10	31	B	<p>General license for strontium 90 in ice detection devices</p> <p>In their equivalent regulations to 10 CFR 31.10(a) and 31.10(b)(1), Vermont needs to add the words “or the NRC” after the words “Agreement State” for all instances.</p>
33	12.6.1.1 1.2.5	31.12	31	C	<p>General license for certain items and self-luminous products containing Radium-226</p> <p>In their equivalent regulation to 10 CFR 31.12(c)(4), Vermont needs to add the words “or the NRC” after the words “Agreement State.”</p>
34	12.7.1.1 1.2.5	32.1(c)(1)	32	NRC	<p>Purpose and Scope</p> <p>Vermont incorporates 10 CFR 32.1(c)(1) by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
35	12.7.1.1 1.2.5	32.11	32	NRC	<p>Introduction of byproduct material in exempt concentrations into products or materials and transfer of ownership or possession:</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					<p>Requirements for license</p> <p>Vermont incorporates 10 CFR 32.11 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
36	12.7.1.1 1.2.5	32.12	32	NRC	<p>Same: Records and material transfer reports</p> <p>Vermont incorporates 10 CFR 32.12 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
37	12.7.1.1 1.2.5	32.13	32	C	<p>Same: Prohibition of introduction</p> <p>In their equivalent regulations to 10 CFR 32.13, Vermont needs to add the words “or the NRC” after the words “Agreement State.”</p> <p>In addition, Vermont needs to specify that only the NRC can issue a license pursuant to 10 CFR 32.11.</p>
38	12.7.1.1 1.2.5	32.21a	32	NRC	<p>Same: Conditions of license</p> <p>Vermont incorporates 10 CFR 32.21a by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
39	1.2.5.5	32.24	32	B	<p>Same: Table of organ doses</p> <p>Vermont specifically excludes 10 CFR 32.24 from incorporation by reference in 1.2.5.5. Vermont needs to provide an equivalent regulation to 10 CFR 32.24 for review.</p>
40	12.7.1.1 1.2.5	32.30	32	NRC	<p>Certain industrial devices containing byproduct material: Requirements for license to manufacture, process, produce, or</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					<p>initially transfer</p> <p>Vermont incorporates 10 CFR 32.30 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
41	12.7.1.1 1.2.5	32.30	32	NRC	<p>Certain industrial devices containing byproduct material: Safety criteria</p> <p>Vermont incorporates 10 CFR 32.30 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
42	12.7.1.1 1.2.5	32.31	32	NRC	<p>Certain industrial devices containing byproduct material: Safety criteria</p> <p>Vermont incorporates 10 CFR 32.31 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
43	12.7.1.1 1.2.5	32.32	32	NRC	<p>Conditions of licenses issued under § 32.30: Quality control, labeling, and reports of transfer</p> <p>Vermont incorporates 10 CFR 32.32 by reference in 1.2.5 and 12.7.1.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
44	12.7.1.1 1.2.5	32.51	32	B	<p>Byproduct material contained in devices for use under §31.5: Requirements for license to manufacture or initially transfer</p> <p>In their equivalent regulations to 10 CFR 32.51(a) and 32.51(c), Vermont needs to add the words "or the NRC" after the words "Agreement State" in all instances.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
45	12.7.1.1 1.2.5	32.51a	32	B	<p>Same: Conditions of licenses</p> <p>In their equivalent regulations to 10 CFR 32.51a, Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p>
46	12.7.1.1 1.2.5	32.56	32		<p>Same: Material transfer reports</p> <p>In their equivalent regulations to 10 CFR 32.56, Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p>
47	12.7.1.1 1.2.5	32.72	32	B	<p>Manufacture, preparation or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under Part 35</p> <p>In their equivalent regulations to 10 CFR 32.72(b)(5)(ii), Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p>
48	15.1.2.1, Section II App. A	34, <i>Appendix A</i>	34	B	<p>Radiographer certification</p> <p>In Section II, Subsection 15.1.2.1, Vermont adopts 10 CFR Part 34 by reference. This adoption includes Appendix A to Part 34 – Radiographer Certification; however, in Vermont’s Section II, Subsection 15.0, Appendix A is titled “Subjects to be Covered During the Instruction of Radiographers.” This is confusing to readers.</p> <p>Vermont needs to create a different appendix or pointer to the one currently in Section II, Subsection 15.0, Appendix A, in order to meet the Compatibility Category B designation assigned to Appendix A to Part 34 – Radiographer Certification.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
49	14.2.1 1.2.5	35.11(c)(1)	35	NRC	License required Vermont incorporates 10 CFR 35.11(c)(1) by reference in 1.2.5 and 14.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
50	14.2.1 1.2.5	35.13(a)(1)	35	NRC	License amendments Vermont incorporates 10 CFR 35.13(a)(1) by reference in 1.2.5 and 14.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
51	17.2.1 1.3 1.2.5	36.2, <i>Commencement of construction, paragraph 2</i>	36	NRC	Commencement of construction, paragraph 2 Vermont incorporates the definition of commencement of construction, paragraph 2 in 1.2.5, 1.3, and 17.2.1. Vermont needs to specifically exclude this definition from incorporation by reference.
52	17.2.1 1.3 1.2.5	36.2, <i>Construction, paragraph 9(ii)</i>	36	NRC	Construction, paragraph 9(ii) Vermont incorporates the definition of construction, paragraph 9(ii) in 1.2.5, 1.3, and 17.2.1. Vermont needs to specifically exclude this definition from incorporation by reference.
53	12.9.1 1.2.5 1.3 1.2.7.4	40.4, <i>Byproduct material</i>	40	H&S	Byproduct material Vermont should revise the definition of byproduct material in their equivalent regulations to 10 CFR Part 40 so that it does not include NARM as prescribed in 1.2.7.4.
54	1.2.5 12.9.1 1.3	40.4, <i>Commencement of construction, paragraph 2</i>	40	NRC	Commencement of construction, paragraph 2 Vermont incorporates the definition of commencement of construction,

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					paragraph 2 in 1.2.5, 1.3, and 12.9.1. Vermont needs to specifically exclude this definition from incorporation by reference.
55	1.2.5 12.9.1 1.3	40.4, <i>Construction, paragraph 9(ii)</i>	40	NRC	Construction, paragraph 9(ii) Vermont incorporates the definition of construction, paragraph 9(ii) in 1.2.5, 1.3, and 12.9.1. Vermont needs to specifically exclude this definition from incorporation by reference.
56	1.2.5 12.9.1 1.3	40.4, <i>Foreign obligations</i>	40	NRC	Foreign obligations Vermont incorporates the definition of foreign obligations in 1.2.5, 1.3, and 12.9.1. Vermont needs to specifically exclude this definition from incorporation by reference.
57	1.2.5 12.9.1 1.3	40.4, <i>Reconciliation</i>	40	NRC	Reconciliation Vermont incorporates the definition of reconciliation in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this definition from incorporation by reference.
58	1.2.5 12.9.1 1.3	40.4, <i>Special nuclear material</i>	40	[A]	Special nuclear material Vermont needs to revise the definition of special nuclear material so that the phrase “and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material” is preserved without change.
59	1.2.5 12.9.1	40.10	40	C	Deliberate misconduct Vermont should replace the reference in their equivalent regulations to 10 CFR 40.10(b) to “the procedures in 10 CFR part 2, subpart B” with the applicable Vermont procedures.

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
60	1.2.5 12.9.1	40.13 (a), (b), (c), (d) except for (c)(5)(iv)	40	B	<p>Unimportant quantities of source material</p> <p>In their equivalent regulations to 10 CFR 40.13(c)(10), Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p> <p>In their equivalent regulations to 10 CFR 40.13(c)(10), Vermont needs to specify that only the NRC can issue a license pursuant to 10 CFR 40.52.</p>
61	1.2.5 12.9.1	40.13(c)(5)(iv)	40	NRC	<p>Unimportant quantities of source material</p> <p>Vermont incorporates 10 CFR 40.13(c)(5)(iv) by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
62	1.2.5 12.9.1	40.22(e)	40	B	<p>Small quantities of source material</p> <p>In their equivalent regulations to 10 CFR 40.22(e), Vermont needs to add the words “or the NRC” after the words “Agreement State.”</p>
63	1.2.5 12.9.1	40.25	40	C	<p>General license for use of certain industrial products or devices</p> <p>In their equivalent regulations to 10 CFR 40.25(b) and 40.25(d)(3), Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p>
64	1.2.5 12.9.1 1.2.5.12 12.9.2	40.31(j), (k), (l), & (m)	40	NRC	<p>Application for specific licenses</p> <p>Vermont incorporates 10 CFR 40.31(j) and (m) by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude these regulations from incorporation by reference.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
65	1.2.5 12.9.1 1.2.5.12 12.9.2	40.32(b), (c), and the portions of paragraph (e)	40	H&S	<p>General requirements for issuance of specific licenses</p> <p>Vermont specifically excludes 10 CFR 40.32(e) from incorporation by reference, including the portions that apply to uranium mills. Vermont needs to provide an equivalent regulation to 10 CFR 40.32(e) for review which includes the portions that apply to uranium mills and excludes those portions of paragraph (e) which apply to uranium enrichment and uranium hexafluoride facilities.</p>
66	1.2.5 12.9.1 1.2.5.12 12.9.2	40.41(d), (e)(1), (e)(3), (g) & (h)	40	NRC	<p>Terms and conditions of licenses</p> <p>Vermont incorporates 10 CFR 40.41(d), (e)(1), (e)(3), (g) & (h) by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude these regulations from incorporation by reference.</p>
67	1.2.5 12.9.1	40.52	40	NRC	<p>Certain items containing source material; requirements for license to apply or initially transfer</p> <p>Vermont incorporates 10 CFR 40.52 by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
68	1.2.5 12.9.1	40.53	40	NRC	<p>Conditions for licenses issued for initial transfer of certain items containing source material: Quality control, labeling, and records and reports</p> <p>Vermont incorporates 10 CFR 40.53 by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
69	1.2.5 12.9.1	40.54	40	B	<p>Requirements for license to initially transfer source material for use under the ‘small quantities of source material’ general license</p> <p>In their equivalent regulations to 10 CFR 40.54, Vermont needs to add the words “or the NRC” after the words “Agreement State.”</p>
70	1.2.5 12.9.1	40.55(a), (b), (c), & (d)	40	B	<p>Conditions of licenses to initially transfer source material for use under the ‘small quantities of source material’ general license: Quality control, labeling, safety instructions, and records and reports</p> <p>In their equivalent regulations to 10 CFR 40.55, Vermont needs to add the words “or the NRC” after the words “Agreement State” in all instances.</p>
71	1.2.5 12.9.1	40.56	40	NRC	<p>Restrictions on the use of Australian-obligated source materials</p> <p>Vermont incorporates 10 CFR 40.56 by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
72	1.2.5 12.9.1	40.60	40	C	<p>Reporting requirements</p> <p>Vermont needs to specify in their equivalent regulations where and how the reports and notifications stated in 10 CFR 40.60 should be communicated to the Vermont department. This information should be equivalent to the contact information that is provided for NRC licensees.</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
73	1.2.5 12.9.1	Part 40, <i>Criterion 11A-F</i>	40	NRC	<p>APPENDIX A, III. Site and Byproduct Material Ownership</p> <p>Vermont incorporates 10 CFR Part 40, Appendix A, Criterion 11 by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
74	1.2.5 12.9.1	Part 40, <i>Criterion 12</i>	40	NRC	<p>APPENDIX A, IV. Long-Term Site Surveillance</p> <p>Vermont incorporates 10 CFR Part 40, Appendix A, Criterion 12 by reference in 1.2.5 and 12.9.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
75	1.2.5 1.3 12.10.1	70.4, <i>Commencement of construction, paragraph 2</i>	70	NRC	<p>Commencement of construction, paragraph 2</p> <p>Vermont incorporates the definition of commencement of construction, paragraph 2, by reference. Vermont needs to specifically exclude this definition from incorporation by reference.</p>
76	1.2.5 1.3 12.10.1	70.4, <i>Construction, paragraph 9(ii)</i>	70	NRC	<p>Construction, paragraph 9(ii)</p> <p>Vermont incorporates the definition of construction, paragraph 9(ii) by reference. Vermont needs to specifically exclude this definition from incorporation by reference.</p>
77	1.2.5 1.3 12.10.1	70.4, <i>Sealed source</i>	70	[B]	<p>Sealed source</p> <p>Vermont needs to remove the modification made in 1.2.7.3 to the definition of sealed source as stated in 10 CFR 70.4, because it expands the definition by including naturally occurring or accelerator-produced material (NARM).</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
78	1.2.5 1.3 12.10.1	70.4, <i>Special nuclear material</i>	70	[A]	Special nuclear material Vermont needs to revise its equivalent definition of special nuclear material as defined in 10 CFR Part 70.4 so that the phrase “and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material” is preserved without change.
79	1.2.5 12.10.1	70.10	70	C	Deliberate misconduct Vermont should replace the reference in its equivalent regulation to 70.10(b) to “the procedures in 10 CFR part 2, subpart B” with the applicable Vermont procedures.
80	1.2.5 12.10.1	70.14	70	NRC	Foreign military aircraft Vermont incorporates 10 CFR 70.14 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
81	1.2.5 12.10.1 1.2.7.1	70.19	70	C	General license for calibration or reference sources Vermont needs to indicate that the word “Commission” should not be changed to mean “department” in their equivalent regulations to 10 CFR 70.19(a)(1) and 70.19(c)(3).
82	12.10.2 1.2.5.13	70.25(a)(2)	70	H&S	Financial assurance and recordkeeping for decommissioning Vermont excludes 10 CFR 70.25(a)(2) from incorporation by reference in 1.2.5.13 and 12.10.2. Vermont needs to provide an equivalent regulation to 10 CFR 70.25(a)(2) for review.

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
83	1.2.5 12.10.1	70.42(b)(1)	70	C	<p>Transfer of special nuclear material</p> <p>In their equivalent regulation to 70.42(b)(1), Vermont needs to specify that “the Department” means the U.S. Department of Energy.</p>
84	1.2.5 12.10.1	70.50	70	C	<p>Reporting requirements</p> <p>Vermont needs to specify where and how the reports and notifications in 10 CFR 70.50 should be communicated to the Vermont department. This information should be equivalent to the contact information that is provided for NRC licensees.</p>
85	1.2.5 12.10.1	70.60	70	NRC	<p>Applicability</p> <p>Vermont incorporates 10 CFR 70.60 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
86	1.2.5 12.10.1	70.61	70	NRC	<p>Performance requirements</p> <p>Vermont incorporates 10 CFR 70.61 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
87	1.2.5 12.10.1	70.64	70	NRC	<p>Requirements for new facilities or new processes at existing facilities</p> <p>Vermont incorporates 10 CFR 70.64 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
88	1.2.5 12.10.1	70.65	70	NRC	<p>Additional content of application</p> <p>Vermont incorporates 10 CFR 70.65 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					this regulation from incorporation by reference.
89	1.2.5 12.10.1	70.66	70	NRC	<p>Additional requirements for approval of license application</p> <p>Vermont incorporates 10 CFR 70.66 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
90	1.2.5 12.10.1	70.73	70	NRC	<p>Renewal of licenses</p> <p>Vermont incorporates 10 CFR 70.73 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
91	1.2.5 12.10.1	70.74	70	NRC	<p>Additional reporting requirements</p> <p>Vermont incorporates 10 CFR 70.74 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
92	1.2.5 12.10.1	70.76	70	NRC	<p>Backfitting</p> <p>Vermont incorporates 10 CFR 70.76 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
93	1.2.5 12.10.1	70.82	70	NRC	<p>Suspension and operation in war or national emergency</p> <p>Vermont incorporates 10 CFR 70.82 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
94	1.2.5 12.10.1	Part 70, Appendix A	70	NRC	<p>Reportable Safety Events</p> <p>Vermont incorporates Appendix A to</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					Part 70 by reference in 1.2.5 and 12.10.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
95	1.2.5 18.2	Part 71 Subpart H	71	B.C	<p>Quality Assurance Requirements</p> <p>In their equivalent regulations to 10 CFR Part 71, Vermont needs to indicate that the terms “Certificate of compliance”, “certificate holder”, and “applicant” for a CoC apply only to the NRC, as the NRC is the sole authority for the issuance of a CoC.</p>
96	1.2.5 18.2.1	71.11	71	NRC	<p>Protection of Safeguards Information</p> <p>Vermont incorporates 10 CFR 71.11 by reference in 1.2.5 and 18.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.</p>
97		71.17	71	B	<p>General license: NRC approved package</p> <p>Vermont states in Section 1.2.7.1 that a reference made to the “NRC” or “Commission” means the Vermont Department of Health. However Vermont should note that in 10 CFR 71.17(c)(3), the submission required before the first use of a NRC approved package should be sent to the NRC, ATTN: Document Control Desk, Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 71.1(a), the licensee’s name and license number and the package identification number specified in the package approval.”</p>
98	1.2.5 18.2.1	71.70	71	NRC	<p>Incorporations by Reference</p> <p>Vermont incorporates 10 CFR 71.70</p>

STATE SECTION		NRC SECTION	10 CFR PART	CATEGORY	SUBJECT and COMMENTS
					by reference in 1.2.5 and 18.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
99	1.2.5 18.2.1	71.85(a),(b) and (c)	71	NRC	Preliminary determinations Vermont incorporates 10 CFR 71.85(a), (b), and (c) by reference in 1.2.5 and 18.2.1. Vermont needs to specifically exclude these regulations from incorporation by reference.
100	1.2.5 18.2.1	71.91(b)	71	NRC	Records Vermont incorporates 10 CFR 71.91(b) by reference in 1.2.5 and 18.2.1. Vermont needs to specifically exclude this regulation from incorporation by reference.
101	1.2.5 12.12.2	150.3, <i>Foreign obligations</i>	150	NRC	Foreign obligations Vermont incorporates the definition of foreign obligations by reference in 1.2.5 and 12.12.2. Vermont needs to specifically exclude this definition from incorporation by reference.

STATE REGULATION STATUS

State: Vermont

Tracking Ticket Number: 17-48

Date: 10/25/2017

Vermont Submittal Description	Incoming Letter	Outgoing Package	Notes
Proposed Enabling Legislation Vermont Statute for Ionizing and Nonionizing Radiation Control	ML15222A313 8/5/2015	Comments 8/31/2015 ML15222A300	
Revised Proposed Enabling Legislation Vermont Statute for Ionizing and Nonionizing Radiation Control	ML16028A214 1/25/2016	No Comments 03/04/2016 ML16028A209	
10 CFR Part 19 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 20 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 30 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 31 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments DATE ML17172A626	

Vermont Submittal Description	Incoming Letter	Outgoing Package	Notes
10 CFR Part 32 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 33 Vermont Radiological Health Rule	ML17172A627 6/19/2017	No Comments 10/25/2017 ML17172A626	
10 CFR Part 34 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 35 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 36 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 37 Vermont Radiological Health Rule	ML17172A627 6/19/2017	No Comments 10/25/2017 ML17172A626	
10 CFR Part 39 Vermont Radiological Health Rule	ML17172A627 6/19/2017	No Comments 10/25/2017 ML17172A626	
10 CFR Part 40 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	

Vermont Submittal Description	Incoming Letter	Outgoing Package	Notes
10 CFR Part 61 ¹			Vermont did not submit regulations for this Part.
10 CFR Part 70 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 71 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comments 10/25/2017 ML17172A626	
10 CFR Part 150 Vermont Radiological Health Rule	ML17172A627 6/19/2017	Comment 10/25/2017 ML17172A626	

¹ IMPEP review team: please ensure that Vermont does not have licensees/plans for these facilities.