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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Radiological Health
Contact Person:	Laura Turner
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, Tennessee 37243
Phone:	(615) 532-0364
Email:	Laura.S.Turner@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	beverly.evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Conference Room A & B, 15 th Floor		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	01/29/2014		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

The amendment to paragraph (1) of Rule 0400-20-04-.07 updates the mailing address and telephone number for the Division's central office. The amendments to Rule 0400-20-10-.32 are designed to eliminate requirements inconsistent to a provision of the federal Price-Anderson Act, which provide a federal guarantee of response to any nuclear incident. The department's existing rule is designed to promote safety in the event of accidental releases of radioactive materials being transported into Tennessee, but the rule is unworkable and not necessary when the federal government assumes liability under the Price-Anderson Act, 42 USC § 2210. The federal provision is better than the existing state rule. The Department of Energy inserts provisions into its contracts both to assume liability and to prevent a contractor from being reimbursed for costs for insurance coverage for transportation accidents. Without these amendments contractors will be required to pay for insurance that will not be reimbursable as a cost from DOE and required to make a guarantee of indemnification that is both not necessary and far less reliable than the federal government's assumption of liability. The portion of the rule that is not being amended continues to make sense for private entities shipping radioactive materials, making this

amendment only an exemption based on the federal liability.

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Laura Turner at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive comments in its Central Office by 4:30 p.m. (CST), January 29, 2014, in order to assure consideration.

Copies of draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Nashville Field Office
711 R. S. Gass Boulevard
Nashville, TN 37243
(615) 687-7000 / 1-888-891-8332

Knoxville Field Office
3711 Middlebrook Pike
Knoxville, TN 37921
(865) 594-6035 / 1-888-891-8332

Chattanooga Field Office
State Office Building
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402-2013
(423) 634-5781 / 1-888-891-8332

Memphis Field Office
8383 Wolf Lake Drive
Bartlett, TN 38133-4119
(901) 368-7939 / 1-888-891-8332

Copies are available for review also at the Division of Radiological Health, Central Office:

Division of Radiological Health
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, Tennessee 37243
(615) 532-0364

The "DRAFT" rules may be accessed for review also at the Department's World Wide Web Site located at <http://tn.gov/environment/ppo/#rad>.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-20-04	General Provisions
Rule Number	Rule Title
0400-20-04-.07	Notifications, Reports, and Other Communications

Chapter Number	Chapter Title
0400-20-10	Licensing and Registration
Rule Number	Rule Title
0400-20-10-.32	Licensing of Shippers of Radioactive Material Into or Within Tennessee

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0400-20-04
General Provisions

Amendments

Paragraph (1) of Rule 0400-20-04-.07 Notifications, Reports and Other Communications is amended by deleting the paragraph in its entirety and substituting the following so that paragraph (1) shall read as follows:

- (1) Address notifications and reports required by these regulations, communications concerning these regulations and applications filed thereunder as follows:
 - (a) Telephone notifications and communications, 7:00 a.m. Central Time to 4:30 p.m. Central Time, except weekends and holidays:

Division of Radiological Health 615-532-0364
 - (b) Telephone notifications, all other times:

Tennessee Emergency Management Agency (TEMA): 1-800-262-3300
 - (c) Applications, written notifications, reports and communications:

Division of Radiological Health
Tennessee Department of Environment and Conservation
William R. Snodgrass, Tennessee Tower, 15th Floor
312 Rosa Parks Avenue
Nashville, Tennessee 37243
 - (d) Facsimile communications:

Division of Radiological Health 615-532-0614

Authority: T.C.A. §§ 68-202-101 et seq. and 4-5-201 et seq.

Chapter 0400-20-10
Licensing and Registration

Amendments

Paragraph (4) of Rule 0400-20-10-.32 Licensing of Shippers of Radioactive Material Into or Within Tennessee is amended by deleting subparagraph (b) in its entirety and instead substituting the following:

- (b) Except as provided in part 6 of this subparagraph, before a license for delivery shall be issued, the shipper must deposit and maintain with the Division an acceptable form of financial assurance in the amount of \$500,000; or, provide to the Division satisfactory evidence of liability insurance.
 1. For purposes of this paragraph, liability insurance shall mean coverage of \$500,000 per occurrence and \$1,000,000 aggregate, or as otherwise provided by State law.
 2. Any insurance carried pursuant to Section 2210 of Title 42 of the United States Code and U.S. NRC Regulations (10 CFR Part 140) of November 30, 1988, as amended shall be sufficient to meet the requirements of this subparagraph.
 3. Liability insurance shall be specific to the packaging, transportation, disposal, storage and delivery of radioactive waste.
 4. Shippers maintaining liability insurance for the purpose of this paragraph may provide to

the Division a certificate of insurance from their insurer indicating the policy number, limits of liability, policy date and specific coverage for packaging, transportation, disposal, storage pending disposal and delivery of radioactive materials.

5. A cash or corporate surety bond previously posted will be returned to the shipper upon notification to the Division in writing of his intention to cease shipments of radioactive waste into or within the State. Such bond will be returned after the last such shipment is accepted safely at its destination.
6. The requirements of this subparagraph shall not apply to any contractor or subcontractor to the United States Department of Energy that has contract terms consistent with the Price-Anderson Act, 42 U.S.C. § 2210.

Paragraph (4) of Rule 0400-20-10-.32 Licensing of Shippers of Radioactive Material Into or Within Tennessee is amended by adding a new subparagraph (e) to read as follows:

- (e) Any contractor or subcontractor to the United States Department of Energy is not required to meet the requirements of subparagraph (d) of this paragraph as long as it has a contract provision based on the DOE regulations implementing the Price-Anderson Act, 42 U.S.C. § 2210.

Authority: T.C.A. §§ 68-202-101 et seq. and 4-5-201 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: November 5, 2013

Signature: *Anthony Hogan*

Name of Officer: Anthony Hogan

Title of Officer: Deputy Director of the Division of Radiological Health

Subscribed and sworn to before me on: November 5, 2013

Notary Public Signature: *Carol L. Grice*

My commission expires on: June 21, 2016

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Filed with the Department of State on: 11/5/13

Tre Hargett
Tre Hargett
Secretary of State

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