

April 13, 2001

Mr. Robert P. Hannah, Administrator
Office of Environmental Assessment
Department of Environmental Quality
P.O. Box 82178
Baton Rouge, Louisiana 70884-2184

Dear Mr. Hannah:

As requested, we have reviewed the proposed regulations, log #RP027, to the Louisiana Administrative Code, Title 33, Part XV, Radiation Protection, dated February 5, 2001. The proposed regulations are in response to the two amendments identified in the enclosed State Regulation Status. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 30, 34, 71, and 150. We also discussed our review of the regulations with Kimberly Detillier on March 7, 2001.

As a result of our review, we have 14 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. 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. However, we have determined that if your proposed regulations were adopted incorporating the comments and without other 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.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure SA-201, *Review of State Regulations* (November 10, 1998), please highlight the final changes and send one copy in a computer readable format, if possible.

The State Regulation Status summarizes our knowledge of the status of other Louisiana regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the status. This letter including the status is posted on the STP web site: <http://www.hsrdo.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me or Vivian Campbell of the Region IV staff at 817-860-8143 or VHC@NRC.GOV.

Sincerely,

/RA/

Kathleen N. Schneider, Acting Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Robert P. Hannah

April 13, 2001

Distribution:

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Response to Incoming: ML010460171

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STP-AG-12

**COMMENTS ON PROPOSED LOUISIANA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
Chapter 1, §101B.	NA	NA	NA	<p>Scope</p> <p>This paragraph is almost verbatim from the footnote to Sec. A.1-Scope in the Suggested State Regulations (SSR), Part A, except for the omission of "10 CFR" before "Part 150" and the parenthesis after the word "regulations."</p> <p>We recommend that you follow the SSR example.</p>
Chapter 3, Appendix B	30.18 and 30.71, Schedule B	NA	B	<p>Exempt Quantities</p> <p>10 CFR 30.71, Schedule B does not specify exempt quantities for americium-241, plutonium-239, thorium (natural), uranium (natural), uranium-233, uranium-234 - uranium-235, and any alpha emitting radionuclide not listed or mixtures of alpha emitters of unknown composition. We understand that Appendix B to 10 CFR Part 30 was confused with §30.71 Schedule B.</p> <p>Chapter 3, Appendix B should be amended to be essentially identical to 10 CFR 30.71, Schedule B.</p>
Chapter 5, §503	34.3	1997-5	<p>B</p> <p>C</p>	<p>Definitions</p> <p>The following definitions were omitted:</p> <p>associated equipment, certifying entity, control tube, exposure head, guide tube (protection sheath), independent certifying organization, S-tube, and source assembly</p> <p>annual refresher safety training, field station, hands-on experience, practical examination, radiation safety officer for industrial radiography, and radiographic operations</p> <p>The missing definitions must be adopted to meet the compatibility category.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
§540	34.21	1997-5	B	<p>Limits on Levels of Radiation for Radiographic Exposure Devices and Storage Containers</p> <p>§540 requires limiting levels of radiation on exposure devices and storage containers. The equivalent NRC regulation in 10 CFR 34.21 requires limiting levels of radiation on storage containers and source changers. Regulatory requirements for limiting levels of radiation on exposure devices are found in 10 CFR 34.20 and the equivalent State regulation §550. In addition, §540 does not include limiting levels of radiation on source changers.</p> <p>§540 should be amended to be essentially identical to 10 CFR 34.21.</p>
§541	34.23(b)	1997-5	B	<p>Locking of Sources of Radiation</p> <p>§541 does not include a requirement for locking source changers.</p> <p>§541 should be amended to be essentially identical to 10 CFR 34.23(b).</p>
§542 B.	34.35(a)	1997-5	B	<p>Storage and Transportation Precautions</p> <p>§542 B. includes labeling requirements for radiographic exposure devices. Labeling requirements for exposure devices are addressed in ANSI N432-1980, which is referenced in §550 and 10 CFR 34.20. These requirements in §542 B. conflict with the requirements in §550 and 10 CFR 34.20. 34.35(a) address labeling and storage requirements for source changers and storage containers.</p> <p>§542 B. should be amended regarding labeling requirements to be essentially identical to 10 CFR 34.35(a).</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
§543 D.	34.31(a)	1997-5	C	<p>Radiation Survey Instruments</p> <p>§543 D. requires the survey instruments to be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift. However, it does not include a requirement that if a problem is found as a result of this operational check, the instrument will be removed from service until repaired.</p> <p>§543 D. should be amended to incorporate the essential objectives of the text of 10 CFR 34.31 (a).</p>
§546 A.1.	34.71	1997-5	B	<p>Utilization Logs</p> <p>§546 A.1. does not include a requirement that the licensee keep utilization logs for transport or storage containers in which sealed sources are located.</p> <p>§546 A.1. should be amended to be essentially identical to 10 CFR 34.71.</p>
§547 B.	34.31(b)(1)	1997-5	C	<p>Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers</p> <p>§547 B. requires licensees to perform inspection and routine maintenance of radiographic exposure devices, source changers, storage containers, and associated equipment at least quarterly. 10 CFR 34.31(b)(1) requires that this inspection and maintenance to be conducted at intervals not to exceed 3 months or before first use thereafter. §547 B. would allow a licensee to conduct this activity at an interval of 6 months.</p> <p>§547 B. should be amended to incorporate the essential objectives of the text of 10 CFR 34.31(b)(1).</p>
§577 C.	34.47(a)(3)	1997-5	C	<p>Personnel Monitoring Control</p> <p>§577 C. does not include a requirement that TLDs must be replaced at periods not to exceed 3 months. §577 C. should be amended to incorporate the essential objectives of the text of 10 CFR 34.47(a)(3).</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
§1502.D	71.5(b)	1996-1	B	<p>Scope</p> <p>§1502 requires the licensee to file a request with U.S. DOT for a modification, waiver, or exemption from DOT requirements for shipments not normally subject to DOT requirements.</p> <p>§71.5(b) imposes, by NRC authority, pertinent DOT requirements on shipments, by NRC licensees, that are not normally subject to DOT requirements. Therefore, NRC licensees must submit their request for modification, waiver, or exemption to NRC since this requirement is imposed by NRC and not DOT.</p> <p>As noted in our 6/29/00 letter to you, the modifications, waiver or exemptions to be given under your rule will be to your licensees for transportation strictly within your jurisdiction.</p> <p>§1502 should be amended to be essentially identical to 10 CFR 71.5(b) with your agency substituted for NRC.</p>
§575 D.	34.41(a)	1997-5	B	<p>Training and Testing</p> <p>§575 was promulgated October 1987, and amended June 1994, September 1994, September 1997, and November 2000. 575 D. requires, in part, that a licensee shall provide, as a minimum, two-person crews at temporary job sites. 10 CFR 34.31(a) requires two-person crews at all locations except permanent radiographic installations. As a result, the State regulations do not meet the compatibility category with respect to the two-man rule.</p> <p>§575 D. should be amended to be essentially identical to 10 CFR 34.41(a).</p>
None	34.41(b)	1997-5	B	<p>A requirement was omitted that all radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized.</p> <p>The missing requirement must be adopted to meet the compatibility category with respect to 10 CFR 34.41(b).</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
None	34.41(c)	1997-5	B	<p>A requirement that a licensee may conduct lay-barge, off-shore platform, or underwater radiography only if procedures are approved was omitted.</p> <p>The missing requirement must be adopted to meet the compatibility category with respect to 10 CFR 34.41(c).</p>

STATE REGULATION STATUS

State: Louisiana

[2 proposed amendments (2/5/01) reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 1-43

Date: April 13, 2001

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 P P	Y 8/14/97 Y 3/5/98 N 10/15/98	10/93 6/94
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			6/94
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			6/95
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			6/95 11/98
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	P	N 4/4/97	Not applicable SECY-95-112 ⁴
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	N 4/4/97	
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 1/6/99	Not required ³ 11/98
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to LA
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 1/6/99	11/98
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	N 1/6/99	11/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 1/6/99	10/96
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	N 1/6/99	11/98

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)
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 1/6/99	9/97
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/6/99	11/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/6/99	11/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/6/99	11/98
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P	Y 6/29/00	6/20/00
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	P	N 6/29/00	5/20/00
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	P	N 8/15/00	
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	P	N 8/15/00	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 1/6/99	11/98
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948; (6/27/00)	1997-5	P ML010460171	Y 4/13/01 ML011060084	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	P	N 8/15/00	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/6/99	11/98
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P	N 8/15/00	
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	P ML010460171	Y 4/13/01 ML011060084	
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	N 8/15/00	

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)
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
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 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			

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