

May 14, 2001

Mr. Roger L. Suppes, Chief  
Bureau of Radiation Protection  
Ohio Department of Health  
P. O. Box 118  
Columbus, OH 43266-0118

Dear Mr. Suppes:

As requested, we have reviewed the proposed regulations in Ohio Rules 3701: 1-38-01, 38-07, 38-08, 38-09, 38-10, 38-11, 38-12, 38-13, 38-14, 38-15, 38-16, 38-17, 38-18, 38-19, 38-20, 38-21, 38-22 and 38-23 dated November 21, 2000 and the revised proposed regulations in Rules 3701: 1-38-01, 38-12, 38-18 and 38-19 dated January 10, 2001. The proposed regulations are in response to the seven amendments identified in the enclosed State Regulation Status. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 19, 20, 21, 30, 34, 35, 36, 40, 71 and 150. We also discussed our review of the regulations with Robert Owen on January 8-10 and March 22, 2001.

As a result of our review, we have ten 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 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 any changes and send one copy in a computer readable format, if possible.

The State Regulation Status summarizes our knowledge of the status of other Ohio 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 Website: <http://www.hsrdo.org/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 James Lynch at (630) 829-9661 or JLL2@NRC.GOV.

Sincerely,

**/RA Lloyd A. Bolling Acting for/**  
Kathleen N. Schneider, Acting Deputy Director  
Office of State and Tribal Programs

Enclosures:  
As stated

Distribution:

DIR RF [0-279]

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DCD (SP07) PDR (YES\_✓)

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Ohio File

Response to incoming document: ML003772297; and Pkg: ML010330197

**DOCUMENT NAME: G:\SNS\State regs\OH\ohpropos.wpd**

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ML011360572

STP-AG-31

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

<b>State Regulation</b>	<b>NRC Regulation</b>	<b>RATS ID</b>	<b>Category</b>	<b>Subject and Comments</b>
1-38-01(A)(13)	20.1003	1999-3	B	<p>Definition: "air-purifying respirator"</p> <p>The definition is missing the word "ambient."</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-38-01(A)(37)	20.1003	1991-3	A	<p>Definition: "declared pregnant woman"</p> <p>The definition should be modified to read "the licensee" rather than "her employer."</p> <p>Compatibility Category A requires adoption of program elements essentially identical to those of NRC.</p>
1-38-01(A)(94)	20.1003	1991-3	A	<p>Definition: "minor"</p> <p>The definition should be modified to remove the statement "but excludes an embryo or fetus" to meet the Compatibility Category.</p>
1-38-01(A)(103)	20.1003	1995-5	A	<p>Definition: "occupational dose"</p> <p>The definition is missing "or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person."</p> <p>The definition needs completion to meet the Compatibility Category.</p>
1-38-01(A)(149)	71.4	N/A	B	<p>Definition: "special form radioactive material"</p> <p>The third subparagraph of the definition is missing references to special form encapsulations designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996.</p> <p>The definition needs completion to meet the Compatibility Category.</p>
1-38-12(A)(6)	20.1201(f)	1991-3	A	<p>Occupational dose limits for adults</p> <p>The phrase "during the current calendar year" should be removed as licensees may define the dose year differently as allowed by the definition of "year."</p> <p>The definition needs completion to meet the Compatibility Category.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-38-12(B)(1) and (4)	20.1202(a) and (d)	1991-3	A	<p>Compliance with requirements for summation of external and internal doses</p> <p>The language in the first paragraph should be modified to read as 20.1202(a), including the “only under” clause.</p> <p>The word “practicable” should be replaced with “practical” in the fourth paragraph.</p> <p>The definition needs completion to meet the Compatibility Category.</p>
1-38-12(H)	20.1208	1991-3	A	<p>Dose equivalent to an embryo/fetus</p> <p>References to “dose” should be changed to “dose equivalent.”</p> <p>The embryo/fetus dose summation paragraph should be modified to read as 10 CFR 20.1208(c) and (d).</p> <p>The definition needs completion to meet the Compatibility Category.</p>
1-38-19(D)(2) and (4)	20.2003(a)(2) and (4)	1991-3	C	<p>Disposal by release into sanitary sewerage</p> <p>The phrase “and other radioactive material” should be included in paragraphs (D)(2) and (D)(4) to meet the essential objective of the NRC program elements required by Compatibility Category C.</p>
1-38-19 Appendix A	Part 20 Appendix G	1995-3	B	<p>Requirements for transfer of radioactive waste for disposal at land disposal facilities and manifests.</p> <p>Certification</p> <p>The phrase “according to the applicable regulations of the Department of Transportation and...” should be added to the certification paragraph to meet the Compatibility Category.</p>

## STATE REGULATION STATUS

**State:** Ohio

Seven proposed amendments (11/21/00) reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.

Tracking Ticket Number: 0-279

Date: May 14, 2001

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (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	P ML003772297 ML010330197	Y 5/14/01 ML011360572	
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required <sup>3</sup>
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	P	Y 7/26/00	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			Not required <sup>3</sup>
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 <sup>4</sup>
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	Y 7/26/00	
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			Not required <sup>3</sup>
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P	N 7/26/00	
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			
★Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P ML003772297 ML010330197	N 5/14/01 ML011360572	

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★Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P ML003772297 ML010330197	N 5/14/01 ML011360572	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			
★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML003772297 ML010330197	Y 5/14/01 ML011360572	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 7/26/00	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1			
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required <sup>3</sup>
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	N 7/26/00	
★Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	P ML003772297 ML010330197	N 5/14/01 ML011360572	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
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 7/26/00	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			
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	N 7/26/00	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7	P	N 7/26/00	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P	Y 7/26/00	

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Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML003772297 ML010330197	N 5/14/01 ML011360572	
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 <sup>3</sup>
★Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3	P ML003772297 ML010330197	Y 5/14/01 ML011360572	
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