

September 17, 2001

Mr. Warren E. Jacobi, Program Manager
Radiation Services
Laboratory and Radiation Services Division
Colorado Department of Public Health and Environment
8100 Lowry Blvd.
Denver, CO 80230-6928

Dear Mr. Jacobi:

We have reviewed your letter dated January 19, 2001, wherein you stated that Colorado has reviewed its regulations, policies and statutory authority, and believe that the State has met the essential objectives of NRC's Deliberate Misconduct Rule without amending the Colorado regulations. We have reviewed RH 1.10 of the Colorado Rules and Regulations Pertaining to Radiation Control, effective May 30, 2000; Colorado Revised Statutes (C.R.S.) § 25-1-114(1)(a), effective 1984; and C.R.S. § 25-11-103(5) of the Colorado Radiation Control Act, effective 1964. The final regulations are in response to the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to equivalent NRC regulations in 10 CFR Parts 30.10, 40.10, 61.9b, 70.10, 71.11, and 150.2. We also discussed our review of the regulations with you on February 26, 2001.

As a result of our review, we have no comments. The Colorado deliberate misconduct rule is compatible provided that the unlicensed person who is the direct or indirect subject of the enforcement action taken in accordance with Colorado Rule RH 1.10 and RH 13 is afforded the opportunity to appeal the enforcement action to the State. 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 without 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 have also summarized on the SRS Data Sheet our knowledge of the status of the other Colorado regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the SRS Data Sheet.

If you have any questions regarding the comment, the compatibility and health and safety category, 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.

Sincerely,

/RA/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

Warren E. Jacobi

September 17, 2001

Distribution:

DIR RF 1-25

MLMcLean, RIV

DCD (SP08) PDR YES

SDroggitis

CHackney, RIV

BUilton

CMaupin, ASPO

Response to Incoming Document: ML010380248

Colorado File

DOCUMENT NAME: G:\JGZ\Colorado\1-25\Colorado letter 3-2001.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RIV	STP	OGC	STP:DD		
NAME	VHCampbell:pc:kk	JGZabko	STreby	FCCombs		
DATE	03/05/01	08/23/01	09/10/01	08/23/01		

ML012630207

STP-AG-5

STATE REGULATION STATUS

State: Colorado

[One final amendment (1/19/01) reviewed is identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 1-25

Date: September 17, 2001

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ / Rule / ML # ⁴	NRC Review / Y, N ² / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	Y 5/29/97	6/30/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	F	N 8/18/97	1/1/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	Y 5/29/97	11/1/94
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 ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	N 6/14/00	7/1/97
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 5/29/97	7/1/97
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	Y 5/29/97	7/1/97
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 6/14/00	7/1/97
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2	F	Y 5/29/97	12/30/97
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 6/14/00	7/1/97
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 6/14/00	9/30/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 6/14/00	1/1/98

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁴	NRC Review / Y, N ² / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	Y 6/20/97	1/1/97
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 6/14/00	3/30/98
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 6/14/00	3/30/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 10/16/96	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P	N 4/27/98	
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	F	N 3/22/01	7/31/98
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			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 8/8/00	12/30/99
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	F	N 6/14/00	11/30/98
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 6/14/00	3/30/98
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4	P	N 4/27/98	Not required 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	F	N 8/8/00	5/30/00
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	F	N 7/13/99	5/19/99
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 6/14/00	9/30/98
*Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML010380248	N 9/17/01 ML012630207	02/01/00
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

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁴	NRC Review / Y, N ² / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F	N 8/8/00	5/30/00
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			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1	P ML010730377	Y 8/28/01 ML012400290	
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. ADAMS ML Number.