

January 14, 2002

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 Rule 3701:1-48, "Industrial Radiography," dated August 30, 2001. The proposed regulations will replace the referenced NRC regulations currently in place. The proposed regulations also are in response to the amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 34. We discussed our review of the regulations with Marcia Howard and Mike Snee on November 14, 2001 and January 3, 2002.

As a result of our review, we have eight comments and one suggested editorial change 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 hard copy to STP.

The (SRS) Data Sheet 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 SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the STP Web Site: <http://www.hsrdoh.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 James Lynch at (630) 829-9661 or JLL2@NRC.GOV.

Sincerely,

/RA/

Paul H. Lohaus, Director  
Office of State and Tribal Programs

Enclosures:  
As stated

Roger L. Suppes

January 14, 2002

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DATE	11/14/01	11/28/01	01/03/02	01/14/02	

ML020170450

STP-AG-31

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

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-48-01 (B)	34.3	1997-5	B	<p>Definition of "Associated Equipment"</p> <p>The definition is missing parentheses around the word "drive."</p> <p>"...control tube, control (<u>drive</u>) cable, removable source stop..." These parentheses should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-48-01 (J)	34.3	1997-5	B	<p>Definition of "Guide Tube (Projection Sheath)"</p> <p>The definition is missing an example.</p> <p>"...flexible or rigid tube (<u>i.e., "J" tube</u>) for guiding the source assembly..." This example should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-48-06	34.21	1997-5	B	<p>Limits on External Radiation Levels from Storage Containers and Source Changers</p> <p>A sentence was added to the rule.</p> <p>"Material must be stored in accordance with Rule 3701: 1-38-17 of the Administrative Code." This sentence should be deleted to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-48-09 (E)	34.27(e)	1997-5	C	<p>Leak Testing and Replacement of Sealed Sources</p> <p>The essential objective of this regulation is to test exposure devices for depleted uranium contamination and remove from service those devices which fail the leak test criteria.</p> <p>The requirement to remove an exposure device from use, if <b>any</b> depleted uranium contamination is identified, conflicts with the 0.005 microcurie limit in NRC regulations. This quantity should be added to meet the compatibility requirement.</p> <p>Compatibility Category C requires adoption of the essential objectives of program elements to avoid conflicts, duplications or gaps.</p>
1-48-16 (A)	34.43(a)(1)	1997-5	B	<p>Training</p> <p>A reference to the certifying entity criteria is missing from this paragraph.</p> <p>...certified through a radiographer certification program by a certifying entity <u>in accordance with the criteria specified in Appendix A of this part.</u> This reference should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-48-16 (E)	34.43(e)	1997-5	B	<p>Training</p> <p>A term was changed in this paragraph.</p> <p>The term <u>designee</u> was replaced by <u>other qualified individual</u>. These terms have different meanings. This sentence should be changed to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-48-19 & 1-48-23 (K) (3)	34.47	2000-2	C	<p>Personnel Monitoring</p> <p>Ohio Rules 3701:1-48-19, and 3701:1-48-23(K)(3) do not refer to a “personnel dosimeter that is processed and evaluated by an accredited NVLAP processor” as per 34.47</p> <p>The essential elements of the amendment need to be incorporated into Ohio’s rule</p>
Deleted	Appendix A	1997-5	B	<p>Appendix A to Part 34 - Radiographer Certification</p> <p>This Appendix was deleted from the Ohio rules. It should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>

## Editorial Comments

1. In 148-20(b) - The use of the words: "The licenced radiographer must show that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment...." may allow greater leeway or interpretation than the equivalent 10 CFR 34.49(b) requirement, "The survey must determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment" in regards to survey requirements. The survey requirements are the focus of this section and the 34.49(b) requirement makes the point clearer than 148-20(b). It is suggested that the State consider this change.

STATE REGULATION STATUS

**State:** Ohio

Six amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.

Tracking Ticket Number: 1-177

Date: January 14, 2002

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>4</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>4</sup>	Final State Regulation <sup>1</sup> (Effective Date)
★ Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	P ML012500056	N 1/14/02 ML020170450	
★ ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	P ML012500056	N 1/14/02 ML020170450	10/9/98 <sup>6</sup>
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	10/9/98 <sup>5</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			10/9/98 <sup>6</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	10/9/98
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			10/9/98 <sup>6</sup>
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			10/9/98 <sup>6</sup>
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			10/9/98 <sup>6</sup>
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			10/9/98 <sup>5</sup>
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P	N 7/26/00	10/9/98 <sup>5</sup>

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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	P ML012340364	Y 12/11/01 ML013510454	10/9/98 <sup>5</sup>
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	10/9/98 <sup>5</sup>
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	Y 5/14/01 ML011360572	10/9/98 <sup>5</sup>
★ Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML012500056	N 1/14/02 ML020170450	10/9/98 <sup>5</sup>
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	10/9/98 <sup>5</sup>
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 7/26/00	10/9/98 <sup>5</sup>
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			10/9/98 <sup>5</sup>
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 ML010380259 ML010870344	Y 9/25/01 ML012710319	10/9/98 <sup>5</sup>
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			10/9/98 <sup>6</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	10/9/98 <sup>5</sup>
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	10/9/98 <sup>5</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	10/9/98 <sup>5</sup>
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			10/9/98 <sup>5</sup>

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Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			10/9/98 <sup>6</sup>
★ 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 ML012500056	Y 1/14/02 ML020170450	10/9/98 <sup>5</sup>
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			10/9/98 <sup>5</sup>
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	10/9/98 <sup>5</sup>
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML010380259 ML010870344	N 12/12/01 ML013530072	10/9/98 <sup>5</sup>
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			10/9/98 <sup>6</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			10/9/98 <sup>6</sup>
★ Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML012500056	N 1/14/02 ML020170450	10/9/98 <sup>5</sup>
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			10/9/98 <sup>5</sup>
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	P ML012500049	Y 1/3/02 ML020080345	

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★ New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	P ML012500056	Y 1/14/02 ML020170450	

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
5. Ohio became an Agreement State effective 08/31/99. The State incorporated NRC regulations by reference 10/9/98 and therefore, these regulations were found compatible.
6. Although these items are not required for purposes of compatibility, the State incorporated NRC regulations by reference on 10/9/98 which included these items.