

April 25, 2002

Mr. Kirksey E. Whatley, Director
Office of Radiation Control
Alabama Department of Public Health
201 Monroe Street, P. O. Box 303017
Montgomery, Alabama 36130-3017

Dear Mr. Whatley:

As requested, we have reviewed the proposed and final Alabama regulations, Chapter 420-3-26, Radiation Protection Rules, Rule 420-3-26-.03, *Standards for Protection Against Radiation*, enclosed with your February 20, 2002 letter to Mr. Paul Lohaus and your April 17, 2002 e-mail to Ms. Josephine Piccone. Based on your April 17, 2002 e-mail, the final rules were approved and adopted by the State Committee of Public Health on April 17, 2002. The proposed and final regulations are in response to the amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. These amendments are identified in 64 FR 54543 and 64 FR 55524, covering 10 CFR Parts 20.1003 and 20.1701-20.1705. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 20. We also discussed our review of the regulations with you on March 15, 2002. The final regulations incorporated most of the comments discussed with you on March 15, 2002.

As a result of our review of the proposed regulations, we had two comments and three editorial suggestions. We have determined that the two comments have been incorporated into the final regulations and no further action is required. We have three editorial suggestions for incorporation into your regulations during the next revision (enclosed). Please note that we have limited our review to regulations required for compatibility and/or health and safety. However, we have determined that the Alabama regulations as adopted, incorporating the comments, meet the compatibility and health and safety categories established in Office of State and Tribal Programs (STP) Procedure SA-200.

The SRS Data Sheet summarizes our knowledge of the status of other Alabama regulations as indicated. This letter including the SRS Data Sheet is posted on the STP Web Site: <http://www.hsr.d.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 Ms. Patricia M. Larkins of my staff at (301) 415-2309.

Sincerely,

/RA/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Kirksey E. Whatley

Distribution:

DIR RF (2-46)
SDroggitis
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Alabama File

DCD (SP06) PDR (YES)

**Response to Incoming Documents: ML020650412, ML021090092
(Documents contained in Pkg. ML021150126)**

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML021160517.wpd

***See previous
concurrence.**

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Editorial Suggestions

1. The proposed change to State Regulation 420-3-26-.03 (24.4(c)(6)) contains a typographical error. The regulation as proposed states "a fit factor greater tan or equal to 500" and should be replaced with "a fit factor greater than or equal to 500."
2. The proposed change to State Regulation 420-3-26-.03 (24.4(g)) is missing an enclosing parenthesis after "(29 C.F.R. 1910.134(i)(1)(ii)(A) through (E))." The regulation should place an enclosing parenthesis following "through (E))."
3. Section 420-3-26-.03 (3), Table II, 26-.03 (3) "Mean Quality Factors, Q, and Fluence per Unit Dose Equivalent for Monoenergetic Neutrons," has been omitted from the definition for "Quality Factor" in this Section. However, an equivalent definition of "Quality Factor" with the two 10 CFR Tables (1004(b).1 and 1004(b).2) appears in AL rule Section 420-3-26-.01(13), *Units of Exposure and Dose*. For consistency, we suggest deleting the current Table I, "Quality Factors and Absorbed Dose Equivalencies," from Section 420-3-26-.03 (3) and replacing with a cross-reference to the compatible definition in Section 420-3-26-.01(13), *Units of Exposure and Dose*, that contains the equivalent Tables I and II.

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

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
Section 420-3-26-.03 (24.4) paragraph (c) (4) (viii)	20.1703	1993-3	D/H&S	Section 420-3-26-.03 (24.4) paragraph (c) (4) (viii) "Recordkeeping; and" has been omitted from page 39 of the State rule. The current paragraph (viii) should be changed to (vii). Incorporated into final rule. No further action necessary.
Section 430-3-26-24.4 (g)	20.1703 (6)(g)	1993-3	D/H&S	Paragraph (g)(3) and (4), a typographical error occurred; replace "10 ppp or less" and "100 ppp or less" with 10 ppm or less" and "1000 ppm or less." Incorporated into final rule. No further action necessary.

STATE REGULATION STATUS

State: ALABAMA

[One amendment reviewed is identified by a ★ at the beginning of the equivalent NRC regulation.]

Tracking Ticket Number: 2-46

Date: April 25, 2002

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 4/2/94	4/22/94
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 11/19/97	12/21/93
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 4/2/94	4/22/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 4/2/94	12/18/96
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 6/5/98	3/18/98
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 6/5/98	3/18/98
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 6/5/98	3/18/98

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to AL
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 6/5/98	3/18/98
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 6/5/98	3/18/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 6/5/98	3/18/98
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	N 6/5/98	3/18/98
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F		Superseded by 62 FR 28948 due 6/27/00
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 6/5/98	3/18/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 6/5/98	3/18/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 8/29/00	5/25/00
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	F	N 8/29/00	5/25/00
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	F	N 8/29/00	5/25/00

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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 8/29/00	5/25/00
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 8/29/00	5/25/00
Criteria for the Release of Individuals Administered Radioactive Material- Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 8/29/00	5/25/00
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F	N 8/29/00	5/25/00
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F	N 8/29/00	5/25/00
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 6/5/98	3/18/98
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML012130388	N 10/1/01 ML012780456	8/6/01
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	F	N 8/29/00	5/25/00
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	F	N 8/29/00	5/25/00
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F	N 8/29/00	5/25/00
Radiological Criteria for License Termination of Uranium Recovery Facilities- Part 40	64 FR 17506; (6/11/02)	1999-1			Not Applicable to AL

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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 55524 (2/2/03)	1999-3	P ML020650412 F ML021090092	Y 4/25/02 N 4/25/02 ML021160517	
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 63750; (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