

December 27, 2002

Mr. Jay Hyland, P.E., Manager
Radiation Control Program
Division of Health Engineering
10 State House Station
Augusta, ME 04333

Dear Mr. Hyland:

As requested in your October 30, 2002 letter, we have reviewed the proposed regulations that will become part of the State of Maine Rules Relating to Radiation Protection (Parts A, C, D, and G). The proposed regulations are in response to the two 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 Parts 20, 32 and 35. We also discussed our review of the regulations with Wayne Malloch of your office on November 15, 2002.

In your letter, you indicated that NRC had not reviewed Section C.6. of your regulations for the NRC amendment "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material" (RATS ID 2001-1). Our preliminary review of this section of your regulations for compatibility with this amendment indicated a number of omissions in your regulations. Due to the number of omissions, we have not completed our review and request that you revise this section of your regulations prior to resubmitting them to our office.

As a result of our review, we have five comments that have been identified in the enclosure. Those comments pertain to the rules submitted to meet the requirements of NRC amendment 2002-2. 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 the final changes and send one copy to STP.

The SRS Data Sheet summarizes our knowledge of other Maine 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.hsr.d.ornl.gov/nrc/rulemaking.htm>.

Jay Hyland

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December 27, 2002

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me or Duncan White of my staff at 610-337-5042 or ADW@NRC.GOV.

Sincerely,

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

Enclosures:
As stated

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me or Duncan White of my staff at 610-337-5042 or ADW@NRC.GOV.

Sincerely,

/RA by Mary Lynn Scott for/

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

Enclosures:
As stated

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OFFICE	RI/DNMS	STP	OGC	STP:DD
NAME	DWhite (via E-Mail)	JGZabko:kk	SATreby	JMPiccone (CMAupin for) (MLScott for)**
DATE	11/15/02*	11/22/02*	12/19/02*	11/22/02* 12/27/02**

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COMMENTS ON PROPOSED MAINE REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
A.2.A. (85)	20.1003	2002-2	A	<p>Definition of Public Dose</p> <p>The first sentence in the State's definition refers to dose received in licensee's controlled or restricted areas whereas NRC's definition does not include these areas.</p> <p>The State should use the essentially identical definition to meet the compatibility category.</p>
A.2.A. (126)	35.2	2002-2	B	<p>Definition of Sealed Source</p> <p>The State's definition specifies the design condition to prevent the dispersal of contamination.</p> <p>The State should use the essentially identical definition to meet the compatibility category.</p>
G.2, G.21	35.2	2002-2	B	<p>Definitions</p> <p>The State is missing the references to master materials licenses in their definitions of Authorized Medical Physicist, Authorized Nuclear Pharmacist, Authorized user, and Radiation Safety Officer and in the training requirements in G.21.</p> <p>The State needs add these references as per 35.2 to achieve compatibility.</p>
G.5	35.11(a)	2002-2	C	<p>License Required</p> <p>The State omits the word "prepare".</p> <p>The State needs to add the word prepare to achieve compatibility.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
G.18, G.19, G.20, G.190, G.290, G.390, G.490, G.590, G.690	Part 35 Subpart J	2002-2	B	<p>Training Requirements</p> <p>The State has tried to combine the new training and experience requirements of Part 35 with the old Part 35 Subpart J. They have used confusing language.</p> <p>It is suggested that the State reword this section to achieve compatibility. They should make it clear that they will allow both training requirements.</p>

STATE REGULATION STATUS

State: Maine

**[2 amendments reviewed are identified by a ★
at the beginning of each equivalent NRC regulation.]**

Tracking Ticket Number: 2-256

Date: December 27, 2002

NRC Chronology Identification	FR Notice (Date Due 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)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML012710492	N 12/11/01 ML013520336	8/1/01
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F ML012710492	Y 12/11/01 ML013520336	8/1/01
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML012710492	N 12/11/01 ML013520336	8/1/01
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			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			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴

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Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML012710492	N 12/11/01 ML013520336	8/1/01
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 11/24/99	8/26/99
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
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 ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
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 11/24/99	8/26/99

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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 ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML012710492	N 12/11/01 ML013520336	(LBR) 8/1/01
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F	N 11/24/99	8/26/99
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 11/24/99	8/26/99
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
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 ML012710492	N 12/11/01 ML013520336	8/1/01
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 ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02

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Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable SECY-95-112 ⁴
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	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/01
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML021830034/ ML021990480	N 8/27/02 ML022400454	8/1/02
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML012710492	N 12/11/01 ML013520336	8/1/01
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1			
★Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML023090488	N 12/27/02 ML023580098	
★Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	2002-2	P ML023090488	Y 12/27/02 ML023580098	

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