

January 9, 2003

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 final regulations in Chapters 3701:1-48, "Radioactive Material Standards - Industrial Radiographers," 3701:1-52, "Radioactive Material Standards - Irradiators," and 3701:1-49 "Radioactive Material Standards - Well Logging," received by this office on November 14, 2002. The effective date for the three final regulations is October 20, 2002. The final regulations will replace the referenced NRC regulations currently in place. The final regulations 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 Parts 34, 36 and 39. We discussed our review of the regulations with Mike Snee, of your staff, on January 2, 2003.

As a result of our review, we have one comment and four editorial suggestions identified in the enclosure. These changes may be incorporated during the next scheduled State revision of these rules. Please note that we have limited our review to regulations required for compatibility and/or health and safety. However, we have determined that if your 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 comments are incorporated into your 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 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.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 Kevin Hsueh of my staff at (301) 415-2598 or E-mail KPH@NRC.GOV.

Sincerely,

WRA BY JOSEPHINE M. PICCONE

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

Enclosures:
As stated

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IRA BY JOSEPHINE M. PICCONE
Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures: As stated

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ML030060349

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

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-48-01 (C)	34.3	1997-5	B	<p>Definition of “Certifying Entity”</p> <p>The definition is missing a portion regarding an Agreement State being a certifying entity.</p> <p>“means an independent certifying organization meeting the requirements in appendix A of rule 3701:1-48-16...<u>or an Agreement State meeting the requirements in appendix A, parts II and III of rule 3701:1-48-16.</u></p> <p>The State needs to include this part of the definition.</p>

Editorial Suggestions

1. In 1-48-23(K)(3), the last sentence is the same as that in (K)(2) and should be deleted.
2. In 1-52-16(B)(6), the seismic requirements should be in 10 CFR 36.39(j) instead of 10 CFR 39.39(j).
3. In 1-48-05(E), the paragraph, “Notwithstanding paragraph (A)(1) of this rule, equipment used in industrial radiographic operations must meet the requirements as specified in 10 C.F.R. 34.20 (e) as specified in appendix A to this rule, if...” should be changed to “Notwithstanding paragraph (A)(1) of this rule, equipment used in industrial radiographic operations need not comply with the requirement specified in 10 C.F.R. 34.20 (e) as specified in appendix A to this rule, if...”
4. In 1-52-16, the State refers to an Appendix “A”. There is no appendix “A” to this section. There is an attached section, which is a copy of the NRC rules with highlighted sections, but it is not labeled as Appendix “A”. It is suggested that the State edit this material to create an appendix A that contains all of the information the State intends to use.

STATE REGULATION STATUS

State: Ohio

**Eight amendments reviewed are identified by a ★
at the beginning of the equivalent NRC regulation.**

Tracking Ticket Number: 2-274

Date: January 9, 2002

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁴	NRC Review / Y, N² / Date / ML #⁴	Final State Regulation¹ (Effective Date)
★ Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML023250117	N 1/9/03 ML030060349	10/20/02
★ ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	F ML023250117	N 1/9/03 ML030060349	10/20/02
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 ⁵
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 ⁶
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	F ML023250117	N 1/9/03 ML030060349	10/20/02
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			10/9/98 ⁶
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			10/9/98 ⁶
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			10/9/98 ⁵
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 ⁵
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 ⁵
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 ⁵
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 ⁵

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★ Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML023250117	N 1/9/03 ML030060349	10/20/02
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 ⁵
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 ⁵
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			10/9/98 ⁵
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	P ML010380259 ML010870344	Y 9/25/01 ML012710319	10/9/98 ⁵
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 ⁶
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 ⁵
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 ⁵
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 ⁵
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			10/9/98 ⁵
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			10/9/98 ⁶
★ 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 ML023250117	Y 1/9/03 ML030060349	10/20/02
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6			10/9/98 ⁵
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 ⁵
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 ⁵
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 ⁶
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			10/9/98 ⁶

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★ Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML023250117	N 1/9/03 ML030060349	10/20/02
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 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 ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524 (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	F ML023250117	N 1/9/03 ML030060349	10/20/02
★ New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML023250117	Y 1/9/03 ML030060349	10/20/02
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material -Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML030090557	N 1/9/03 ML030220061	
Revision of the Skin Dose Limit -Part 20	67 FR 16298; 4/5/05	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; 4/24/05	2002-2			

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.
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.