

August 13, 2003

Mr. Roland G. Fletcher
Environmental Program Manager III
Radiological Health Program
Air and Radiation Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 750
Baltimore, MD 21230-1724

Dear Mr. Fletcher:

We have reviewed the proposed changes to the Maryland regulations (Supplement 12), to the Code of Maryland Regulations (COMAR) 26.12.01.01, for the Control of Ionizing Radiation (1994), received by our office on July 3, 2003. Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to Maryland's radiation control rules that incorporated the amendments identified on the States Regulation Status Data Sheet (SRS). These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Parts 20, 34, 35, 36 and 39 and the requirements of the five amendments identified in the enclosed SRS. We discussed our review of the regulations with Raymond Manley on August 12, 2003.

As a result of our review, we have five comments. 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. Please provide a final amended version of your rules showing the location of any changes made in response to our comments. If there are any comments which the State believes are in error, the State should identify the sections of their regulations that meet the designated compatibility category. Please note that we have limited our review to regulations required for compatibility and/or health and safety, but have determined that if these regulations are adopted, incorporating our comments and 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 reviewed the proposed changes of Supplement 8 to the Code of Maryland Regulations (COMAR) 26.12.01.01, for the Control of Ionizing Radiation, sent to the NRC on July 1, 2001. Due to a clerical error, the NRC letter was not sent to you following our review. As a result of our review of Supplement 8, we had no comments.

The SRS Data Sheet summarizes our knowledge of the status of other Maryland regulations, as indicated. 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 website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

Mr. Roland G. Fletcher

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August 13, 2003

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 Mr. Duncan White at (610) 337-5042 or e-mail, ADW@NRC.GOV.

Sincerely,

/RA by J.M. Piccone/

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 Mr. Duncan White at (610) 337-5042 or e-mail, ADW@NRC.GOV.

Sincerely,

/RA by J.M. Piccone/

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

Enclosures:
As stated

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OFFICE	RSAO/RI	STP	OGC	STP
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DATE	08/ 1/03*	08/4/03*	08/12/03*	08/13/03*

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STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	D.101.a	20.1101(b)	1998-5	H&S	<p>Radiation Protection Programs</p> <p>The State's regulation does not meet the essential objectives of the NRC regulations in that they refer to "exposures" instead of "doses".</p> <p>The State needs to change the wording of their rule to achieve compatibility.</p>
2	G.58.a.2	35.641	1998-5	H&S	<p>Radiation surveys for teletherapy facilities</p> <p>The State's regulation does not meet the essential objectives of the NRC regulations in that they refer to "radiation levels" instead of "radiation dose rates".</p> <p>The State needs to change the wording of their regulations to achieve compatibility.</p>
3	G.60	35.643	1998-5	H&S	<p>Modification of teletherapy unit or room before beginning a treatment program</p> <p>The State's regulation does not meet the essential objectives of the NRC regulations in that the State regulation refers to 1) "an individual in an unrestricted area" instead of an "Individual member of the public"; and 2) "levels of radiation" instead of "dose".</p> <p>The State needs to change the wording of their regulations to achieve compatibility.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	D.3.	20.1003	1999-3	B	<p>Definitions</p> <p>The State's proposed regulations do not include the definitions "tight-fitting facepiece" and "user seal check (fit check)".</p> <p>The State needs to include these definitions to meet compatibility</p>
5	W.501.c.	39.77	2000-1	C	<p>Notification of incidents and lost sources; abandonment procedures for irretrievable sources</p> <p>The State's regulations did not meet the essential objectives of the 30 day report since it omitted the information required in 39.77(d)(9).</p> <p>The State needs to include all of the information in 39.77 to achieve compatibility.</p>

STATE REGULATION STATUS

State: Maryland
(Five amendments reviewed are identified by a ★
t the beginning of each equivalent NRC regulation.)

Tracking Ticket Number: 3-174
Date: August 13, 2003

NRC Chronology Identification	FR Notice (State Due Date)	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	N 9/9/95	10/95
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 2/28/97	10/95
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 4/15/98	10/95
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 9/9/95	10/95
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 10/19/95	10/95
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 3/20/97	12/96
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 required ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 8/8/00	6/98
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 8/8/00	11/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 11/3/97	11/97
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F	N 12/28/97	11/98

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 8/8/00	6/14/99
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 8/8/00	6/14/99
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 8/8/00	6/14/99
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 8/8/00	6/14/99
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 8/8/00	2/7/00
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 8/8/00	2/7/00
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	P	N 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	P	N 8/1/01	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML021120426	N 5/10/02 ML021340513	4/1/02
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 ML021120426	N 5/10/02 ML021340513	4/1/02
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML021120426	N 5/10/02 ML021340513	4/1/02
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 8/1/01	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	P	N 8/1/01	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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	P ML032020410	N 8/13/03 ML032250128	
★ Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	P ML032020410	Y 8/13/03 ML032250128	
★ Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML032020410	N 8/13/03 ML032250128	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not required 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	P ML032020410	Y 8/13/03 ML032250128	
★ Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML032020410	Y 8/13/03 ML032250128	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			
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			
Medical Use of Byproduct Material-Parts 20, 32, 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. 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