

June 14, 2004

Mr. Robert Owen, Chief
Bureau of Radiation Protection
Ohio Department of Health
P. O. Box 118
Columbus, OH 43216-0118

Dear Mr. Owen:

We have reviewed the final revisions to the Ohio regulations in Ohio Rule 3701: 1-38, "*General Radiation Protection Standards for Sources of Radiation*", Rule 3701: 1-40 "*Licensing Requirements for By-Product and Accelerator Produced Radioactive Materials*", Rule 3701: 1-46 "*General Licenses and Licenses for Manufacturing and Distribution*", and Rule 3701: 1-48, "*Radioactive Material Standards - Industrial Radiographers*", received by this office on April 30, 2004. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) regulations in 10 CFR Part 20, 30, 31, 32, 34 and 150 and the requirements of the 6 amendments identified in the enclosed States Regulation Status Data Sheet (SRS). We discussed our review of the regulations with Michael Snee on June 9, 2004.

As a result of our review, we have three 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, Ohio should identify the section 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.

The SRS Data Sheet summarizes our knowledge of other Ohio 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 Web Site: <http://www.hsr.doh.gov/nrc/rulemaking.htm>.

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 Patricia Eng at (301) 415-7206 or PLE@NRC.GOV.

Sincerely,

IRA By K.N. Schneider For

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

Enclosure:
As stated

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Distribution:

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***See previous concurrence.**

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OFFICE	STP		STP		OGC		STP:DD	
NAME	PLEng*		JGZabko*		SATreby*		JMPiccone*	
DATE	05/18/04*		06/01/04 *		06/07/04		06/14/04	

ML041670402

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

Number	State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1	N/A	20.2203	1997-1	C	<p><u>REPORTS OF EXPOSURES, RADIATION LEVELS, AND CONCENTRATIONS OF RADIOACTIVE MATERIAL EXCEEDING THE CONSTRAINTS OR LIMITS</u></p> <p>The State did not include the new paragraphs (a)(2)(vi) and did not revise paragraph (b)(1)(iv).</p> <p>The State needs to include these changes in order to meet the essential objectives of the regulation.</p>
2	3701:1-38-19H	20.2006	1998-6	B	<p><u>TRANSFER FOR DISPOSAL AND MANIFESTS</u></p> <p>State's proposed regulations do not include the phrase, "and transfer this recorded manifest information to the intended consignee in accordance with" in paragraph (b).</p> <p>The State needs to include the phrase, "and transfer this recorded manifest information to the intended consignee in accordance with"</p>
3	3701: 1-46-31 A	32.51a(d)	2001-1	B	<p><u>SAME: CONDITIONS OF LICENSES (BYPRODUCT MATERIAL CONTAINED IN DEVICES FOR USE UNDER §31.5; REQUIREMENTS FOR LICENSE TO MANUFACTURE; OR INITIALLY TRANSFER/CONDITIONS OF LICENSES)</u></p> <p>The State did not include paragraph (d) in their proposed regulations.</p> <p>The State needs to revise their regulations to include the labeling requirements for transferred devices.</p>

STATE REGULATION STATUS

State: OHIO
[Six Amendments reviewed are identified by a ★
at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 4-105
Date: June 14, 2004

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	F ML040920160	N 4/14/04 ML041060011	7/22/01 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 ⁵
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F ML023250117	N 1/19/03 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	F ML040920160	N 4/14/04 ML041060011	7/22/01 ⁵

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML023250117	N 1/9/03 ML030060349	10/20/025
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML040920160	N 4/14/04 ML041060011	7/22/01 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 28723 (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	F ML041240504	Y 6/14/04 ML041670402	07/26/01
★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 ML041240504	N 6/14/04 ML041670402	11/27/02
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 28948; (6/27/00)	1997-5	F ML023250117	N 1/9/03 ML030060349	10/20/02 ⁵
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (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	F ML041240504	N 6/14/04 ML041670402	10/18/02
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
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML041240504	N 6/14/04 ML041670402	10/18/02
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

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★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment- Part 20	63 FR 50127; (11/20/01)	1998-6	F ML041240504	Y 6/14/04 ML041670402	7/26/01
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	F ML040920160	N 4/14/04 ML041060011	7/22/01 ⁵
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications- Part 39	65 FR 20337; (5/17/03)	2000-1	F ML012500049	N 1/9/03 ML030060349	10/20/02
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F ML023250117	N 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 ML041240504	Y 6/14/04 ML041670402	10/18/02
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			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			

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.