

November 10, 2004

Mr. Aubrey Godwin, Director  
Arizona Radiation Regulatory Agency  
4814 South 40<sup>th</sup> Street  
Phoenix, AZ 85040

Dear Mr. Godwin:

As requested, we have reviewed the final amendments to the Arizona regulations contained in rule package RMP-0056. In addition, we reviewed your responses to our letters, dated November 20, 2003 and January 6, 2004, which contained comments on the Arizona Administrative Code final and proposed amendments respectively. The rules were received by our office on August 15, 2004. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) regulations in 10 CFR Parts 20, 34, 70, 71 and 150 and the requirements of the eleven amendments identified in the enclosed States Regulation Status Data Sheet (SRS). We discussed our review of the regulations with Dan Kuhl on November 9, 2004.

As a result of our review, we have eight comments and five editorial suggestions. The comments do not stem from the review of your submitted radiography rules, nor from your rule changes that resulted from our January 6, 2004 letter. These items have been sufficiently addressed and are closed, as you will note on the SRS Data Sheet attached to this letter. All of our comments stem from the two items listed on the first page of our November 20, 2003 letter. In that letter, we pointed out that your submitted regulations, at that time, did not contain an adequate amount of your Part 71 equivalent text to perform our review. For this review, we find that the rule text submitted to meet the compatibility requirements of 10 CFR Part 71 contained some omissions of required text. We understand that you have referenced 10 CFR Part 49 as part of your rules and have used the Agreement State letter found here: <http://www.hsr.d.gov/nrc/agstates/program/sp01029.pdf> to credit you with as many of the compatibility requirements as allowed, by referencing 10 CFR Part 49. However, the items listed in the attached chart are not covered by the referenced 10 CFR Part 49 sections and need to be incorporated into your rules.

If there are any comments which the State believes are in error, Arizona should identify the section of its' regulations that meet the designated compatibility category and resubmit those portions to the NRC. Please provide a final amended version of your rules, showing the location of any changes made, in response to our comments. 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 the status of other Arizona regulations, as indicated. Please let us know if you note any inaccuracies, or have any comments on the

Mr. Aubrey Godwin

-2-

November 10, 2004

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>.

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 John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

***IRA By K.N. Schneider For***

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

Enclosures:  
As stated

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>.

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 John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

**IRA By K.N. Schneider For**

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

Enclosures:  
As stated

Distribution:

DIR RF (4-229)  
LBolling ASPO  
Arizona File

DCD (SP08) PDR (YES)  
VCampbell, RIV  
Response to Incoming Document:ML042180325

DOCUMENT NAME: E:\Filenet\ML043200721.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	STP	STP	OGC	STP:DD
NAME	OSiurano	JZabko	STreby	KNS for JMPiccone
DATE	9/30/04* 11/09/04*	10/13/04* 11/09/04*	11/09/04*	11/10/04*

## ARIZONA REGULATIONS COMMENT CHART

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	R-12-1-1504	71.5 - Transportation of Licensed Material	1996-1	B	<p>Comment Generated:</p> <p>The State does not have an equivalent for the following rules:</p> <ul style="list-style-type: none"> <li>- § 71.5 (a)(1)(vii) - Requires licensees to note 49 CFR Part 107 (not adopted by the State)</li> <li>- § 71.5 (a)(2)(iv) - Requires licensees to note 49 CFR Parts 390 through 397 (not adopted by the State)</li> </ul> <p>The State needs to include equivalent rules to achieve compatibility.</p>
2		71.12 - General license: NRC- approved package	1996-1	B	<p>Comment Generated:</p> <p>The State does not have an equivalent rule.</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>
3		71.13 - Previously approved package	1996-1	B - Paragraphs (a) & (b)  NRC - Paragraphs (c) & (d)	<p>Comment Generated:</p> <p>The State does not have an equivalent rule.</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>
4		71.14 - General license: DOT specification container material	1996-1	B	<p>Comment Generated:</p> <p>The State does not have an equivalent rule.</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5		71.16 - General license: Use of foreign approved package	1996-1	B	<p>Comment Generated:</p> <p>The State does not have an equivalent rule.</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>
6		71.88 - Air Transportation of plutonium	1996-1	B	<p>Comment Generated:</p> <p>The State does not have an equivalent rule.</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>
7	R-12-1-1508	71.97 - Advance notification of shipment of irradiated reactor fuel and nuclear waste	1996-1	B	<p>Comments Generated:</p> <p>The State requires keeping the following records for 1 year:</p> <ul style="list-style-type: none"> <li>-notifications</li> <li>-cancellations</li> <li>-name of individuals contacted</li> </ul> <p>These should be kept for 3 years.</p> <p>The State needs to address this to achieve compatibility.</p> <p>The State has no equivalent for §71.97(b).</p> <p>The State needs to include an equivalent rule to achieve compatibility.</p>
8	R-12-1-102	150.3 (g) - Definition	NONE	C	<p>Comment Generated:</p> <p>The following definition is missing:</p> <p>“Person”</p> <p>The State has to adopt this definition to achieve compatibility.</p>

## Editorial Comments

1. Section R-12-1-324: The first sentence of this section the rule references AAC R-12-1-451 and R-12-1-452. The correct references should be AAC R-12-1-452 (C) and (D).
2. Section R-12-1-324 (1)(b): The correct reference should be AAC R-12-1-452 (D).
3. Section R-12-1-320 (D): There are two typos in the last sentence - ...controlling Federal Agency to determine if the job site is under exclusive Federal jurisdiction.
4. Section R-12-1-320 (F): The word **for** (first one) should be substituted by the word **from**: ...authorization shall be obtained **from** the State. In addition, the word **reciprocity** is misspelled.
5. Section R-12-1-1507: The State needs to be more specific. The correct reference should be to 10 CFR Part 71, **Subpart H**. This will address all requirements pertaining to the quality assurance program.

### General Comments:

1. The State has adopted 49 CFR Parts 171 to 189 by reference, which addresses many of the 10 CFR Part 71 requirements (see next comment).
2. The State should review All Agreement States letter STP-01-029, dated March 29, 2001, for a list of transportation requirements in 10 CFR Part 71 and 49 CFR that would allow State programs to maintain compatibility by adopting appropriate sections by reference. The letter also provides a list of transportation requirements in 10 CFR Part 71 that would not be addressed by adopting 49 CFR requirements by reference.

**STATE REGULATION STATUS**

**State: ARIZONA**

**[11 amendments reviewed are identified by a i at the beginning of the equivalent NRC regulation.]**

**Tracking Ticket Number: 4-229**

**Date: November 10, 2004**

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
i Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML042180385	N 11/10/04 ML043200721	8/10/94
i ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	F ML042180385	N 11/10/04 ML043200721	Not required <sup>3</sup>
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 P	N 9/22/97 N 10/5/00	8/10/94
i Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F ML042180385	N 11/10/04 ML043200721	6/13/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	P	N 1/15/99	License Condition
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2	P	N 1/15/99	Not required <sup>3</sup>
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			License Condition
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 <sup>4</sup>
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1			Not required <sup>3</sup>
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to AZ
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F ML	N 11/20/03 ML033240189	
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	N 1/15/99ML	
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2			License Condition
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983;	1995-3	P	Y 10/5/00	

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
	(3/1/98)				
i Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML042180385	N 11/10/04 ML043200721	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 11/20/03 ML033240189	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 11/20/03 ML033240189	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P	N 10/5/00	
i 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 ML042180385	Y 11/10/04 ML043200721	
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required <sup>3</sup>
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 11/20/03 ML033240189	
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 11/20/03 ML033240189	
i 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 ML042180385	N 11/10/04 ML043200721	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P	N 1/15/99	
i Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
i 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 ML042180385	N 11/10/04 ML043200721	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML032930364	N 11/06/03 ML033160544	
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 11/06/03 ML033160544	
i Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML042180385	N 11/10/04 ML043200721	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-	63 FR 29535;	1998-2			Not required <sup>3</sup>

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
Parts 30, 40, 70	(none)				
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
i Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML042180385	N 11/10/04 ML043200721	
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 11/20/03 ML033240189	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F	N 11/20/03 ML033240189	
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 <sup>3</sup>
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML032930364	N11/06/03 ML033160544	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML032930364	N11/06/03 ML033160544	
i New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML042180385	N 11/10/04 ML043200721	
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 16298; 4/5/05	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; 10/24/05	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1			
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			

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. 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