

August 18, 2005

Mr. Roland G. Fletcher, Manager III
Maryland Department of the Environment
Radiological Health Program
1800 Washington Boulevard
Baltimore, MD 21230

Dear Mr. Fletcher:

We have reviewed the proposed changes to the Maryland regulations Supplement 14 to the Maryland Radiological Health Program Rules (COMAR 26.12.01.01 "Regulations for the Control of Ionizing Radiation"), received by our office on June 21, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 31 and 32 and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Mr. Raymond E. Manley on July 5, 2005.

As a result of our review, we have three comments that have been identified in the enclosure. 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 the Maryland regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Maryland regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other 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.

As noted in the enclosure, the comments address Maryland's proposed regulations for generally licensed devices. Please note that we have a Petition For Rulemaking from the Organization of Agreement States (OAS) currently under review by NRC staff, and a request from OAS and the State of Florida to change the Compatibility Category assigned to sections of the GL rule. Staff is examining whether there may be need for additional guidance to Agreement States regarding the status of some Agreement State GL rules during the interim time the NRC will require to complete action on the Petition and request. We will correspond separately with you on this issue in the near future.

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 Regulatory Requirements," please highlight the final changes and provide a copy to STP.

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 Fletcher

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August 18, 2005

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 Lloyd Bolling of my staff at (301) 415-2327 or by email at LAB@NRC.GOV.

Sincerely,

IRA By K.N.Schneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Sincerely,

IRA By K.N.Schneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

SISP Review Complete

- : Publicly Available Non-Publicly Available
- : Non-Sensitive Sensitive

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DATE	07/21/05*		07/22/05*		08/15/05*		08/18/05*	

**COMPATIBILITY COMMENTS FOR
PROPOSED MARYLAND REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	(Omitted)	31.5(c)(7)	2001-1	B	<p>Certain Detecting, Measuring, Gauging, or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere</p> <p>Maryland has omitted the requirement of 10 CFR 31.5(c)(7) stating that export needs to be done in accordance to 10 CFR 110.</p> <p>Maryland needs to add this requirement to their rules to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(7).</p>
2	(Omitted)	31.5(c)(11)	2001-1	B	<p>Certain Detecting, Measuring, Gauging, or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere</p> <p>Maryland has omitted the requirements of 10 CFR 31.5(c)(11).</p> <p>Maryland needs to add this section to their rules to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(11).</p>
3	(Omitted)	31.6	2001-1	B	<p>General license to install devices generally licensed in § 31.5</p> <p>Maryland has omitted the requirements of 10 CFR 31.6.</p> <p>Maryland needs to add this section to their rules to meet the Compatibility Category B designation assigned to Section 10 CFR 31.6.</p>

STATE REGULATION STATUS

State: Maryland

Tracking
Ticket
Number:
5-186

(One amendment reviewed identified by a i

Date:
August 18,
2005

at the beginning of equivalent NRC regulation.)

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed / Final (F) Rule / ML
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	
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
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (½7/95)	1992-1	F
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30, 35	57 FR 45566; (none)	1992-2	
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1	
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2	
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F
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
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F
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
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2	
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed / Final (F) Rule / ML
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML05138
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 ML05138
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML02112
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4	
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 ML02112
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML02112
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML05138
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML05138
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2	
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3	
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML05110
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 ML05110
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML05110
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	
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML05110
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML05110
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML0508103
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML05181
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML05081
Medical Use of Byproduct Material-Parts 20, 32, 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	P ML05081
Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71	69 FR 3697; (10/01/07)	2004-1	
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed / Final (F) Rule / ML
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; (4/29/08)	2005-2	

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