

August 31, 2006

Cynthia Sanders, Acting Manager
Radioactive Materials Program
Department of Natural Resources
4220 International Parkway, Suite 100
Atlanta, GA 30354

Dear Ms. Sanders:

By letter dated June 26, 2002, we sent you the results of our review of the final changes to the Georgia regulations which were submitted to the NRC by letter dated May 21, 2002. 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 General License (GL) amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The review we conducted omitted a specific review of Sections 10 CFR Parts 31.5 and 31.6. The text of these sections was not revised by the GL amendment, but the compatibility designations were changed from Compatibility Categories C and D respectively, to Category B.

As noted in All Agreement States letter STP-05-072, dated September 28, 2005, NRC staff will continue to review Agreement State GL Device proposed and final rules but will hold in abeyance any determination on those rules and compatibility of those rules, if the Agreement State has the essential elements of the NRC's rule and is more restrictive than the NRC's rule. For Agreement States without a GL Device rule or a GL Device rule less restrictive than the NRC rules, the staff will factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during Integrated Materials Performance Evaluation Program (IMPEP) reviews.

We discussed our re-review of the GL Amendment with you on August 21, 2006. Although we had no comments for the 2001-1 amendment stated in the June 26, 2002 letter, as a result of our re-review against the Compatibility Category B designation, we have seven comments that have been identified in the enclosure. Comments 1, 5, 6, 7 indicate that the State's regulations are more restrictive than the NRC's regulations, and there is no corrective action required for this comment at this point. However, Comments 2, 3 and 4 indicate that the State's regulations are less restrictive than the NRC's regulations, and they need to be addressed in the State's future rulemaking process. We request that when a final amended version of Georgia regulations are adopted and published in response to our comments, that 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 note that we have limited our review to regulations required for compatibility and/or health and safety. The SRS Data Sheet summarizes our knowledge of the status of other Georgia 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.hsr.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 Ms. Monica Orendi at (301) 415-3938 or by e-mail at MLO1@nrc.gov.

Sincerely,

Dennis K. Rathbun, 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 Ms. Monica Orendi at (301) 415-3938 or by e-mail at ML01@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF(6-16) DCD (SP06)
PDR (YES_✓)

Response to Incoming Document: ML021540172
DWhite, SMinnick, RSAO , AJones, ASPO, SLai, BUilton, Georgia File
Document Name:E:\Filenet\ML062410009.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

SUNSI Review Complete

Publicly Available Non-Publicly Available
 Non-Sensitive Sensitive

OFFICE	STP		OGC		STP:DD	
NAME	SLai		STreby		KNSchneider for DKRathbun	
DATE	6/1/06*		6/19/06*		8/31/06*	

ML062410009

OFFICIAL RECORD COPY

MLPkg.ML062410010

COMPATIBILITY COMMENTS ON GEORGIA FINAL REGULATIONS

	STATE SECTION	NRC SECTION	RATS ID	CATE GORY	SUBJECT and COMMENTS
1	391-3-17-.02(6)(c)2.	31.5(b)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Georgia has omitted the phrase “or initially transferred” after “and labeled in accordance with the specifications contained.” in 391-3-17-.02(6)(c)2.</p> <p>Geogia’s rule has the essential elements of the NRC, but is more restrictive than the NRC’s GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>
2	391-3-17-.02(6)(c)3.(iv)	31.5(c)(4)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Georgia regulations require records of tests for leakage of radioactive material, records of tests of on/off mechanism and indicator records for transferring or disposing the devices to be maintained for only 1 year, while the NRC’s regulations require these records to be retained for 3 years.</p> <p>Georgia needs to revise the record retention period in 391-3-17-.02(6)(c)3.(iv) to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(4).</p>

	STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	N/A	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>Georgia has omitted the provision of 10 CFR 31.5(c)(7) regarding the export of the device containing byproduct material. Omitting this provision also caused a missing reference to 10 CFR 31.5(c)(7) in 391-3-17-.02(6)(c)3.(vii).</p> <p>Georgia needs to adopt the provision to 391-3-17-.02(6)(c)3. and add the equivalent reference to 391-3-17-.02(6)(c)3.(vii) to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(7) and 10 CFR 31.5(c)(8).</p>
4	N/A	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>Georgia has omitted the requirement of 10 CFR 31.5(c)(11), regarding general license response to information requests within 30 calendar days.</p> <p>Georgia needs to adopt the requirements of 10 CFR(c)(11) to Compatibility Category B designation assigned to 10 CFR 31.5(c)(11).</p>
5	391-3-17-.02(6)(c)3.(xi)(I)	31.5(c)(13)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Georgia requires registration of an extra element, cadmium-109 in 391-3-17-.02(6)(c)3.(xi)(I). Therefore, Georgia's rule is more restrictive than the NRC's.</p> <p>Georgia's rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>

	STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	N/A	31.5(c)(13)(iv)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Georgia has omitted the provisions 10 CFR 31.5(c)(13)(iv), regarding the applicability of the registration requirements for the GL devices licensed by an Agreement State or by the NRC, that are used in Rhode Island for less than 180 days.</p> <p>Georgia's rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State petition and State of Florida's request on compatibility changes for the GL rule.</p>
7	391-3-17-.02(6)(c)3.(xii)	31.5(c)(14)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Georgia has omitted the sentence "For a portable device, a report of address change is only required for a change in the device's primary place of storage."</p> <p>Georgia's rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State petition and State of Florida's request on compatibility changes for the GL rule.</p>

STATE REGULATION STATUS

State: Georgia

[1 Amendment reviewed identified by a ★
at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 6-16

Date: August 31, 2006

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / License Condition (LC) 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		5/22/91
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 1/27/98	
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			3/16/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F		3/16/94
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			3/16/94
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			3/16/94
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	F	N 9/25/98	Not required ³ 5/6/97
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 9/25/98	10/24/94
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 9/25/98	10/24/94
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 9/25/98	10/24/94
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	N 9/25/98	3/16/94

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / License Condition (LC) ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 3/16/94	3/16/94
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 9/25/98	5/6/97
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 9/25/98	5/6/97
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 9/25/98	5/6/97
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 9/25/98	5/6/97
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 ML021540172	N 6/26/02 ML021790295	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML021540172	N 6/26/02 ML021790295	
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 ML021540172	N 6/26/02 ML021790295	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML021540172	N 6/26/02 ML021790295	
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 ML021540172	N 6/26/02 ML021790295	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML021540172	N 6/26/02 ML021790295	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML021540172	N 6/26/02 ML021790295	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML021540172	N 6/26/02 ML021790295	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / License Condition (LC) ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (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	F ML021540172	N 6/26/02 ML021790295	
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 ML021540172	Y 6/26/02 ML021790295	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML021540172	N 6/26/02 ML021790295	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1	F ML021540172	N 6/26/02 ML021790295	
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 ML021540172	Y 6/26/02 ML021790295	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML021540172	N 6/26/02 ML021790295	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML021540172	N 6/26/02 ML021790295	
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ⁷ ML021540172	Y 8/31/06 ML062410009	
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	F ML032100723	N 07/31/03 ML032160015	
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			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			

Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; 71 FR 1926 (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090)⁶	70 FR 72128; (12/1/05)	2005-3	LC ML052720127	N 10/4/05 ML052780005	
Minor Amendments - Parts 20, 30, 32, 35, 40, and 70	71 FR 15005 (3/27/06)	2006-1			

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
6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090.
7. A re-review was completed on this item due to change in compatibility of 31.5 and 31.6. More information can be found in the All Agreement States letter STP 05-072.