

May 17, 2007

Robert W. Goff, Director  
Division of Radiological Health  
State Department of Health  
3150 Lawson Street, P.O. Box 1700  
Jackson, MS 39215-1700

Dear Mr. Goff:

We have reviewed the final revision to the Mississippi regulations, Title 15, Part III, Subpart 78, "General Licenses - Radioactive Material Other Than Source Material", received by our office on March 22, 2007. 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 Jimmy Carson on May 17, 2007.

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.

As a result of our review, we have 18 comments that have been identified in the enclosure. All of these comments are less restrictive than NRC's GL Rule and will need to be addressed by Mississippi in a future rulemaking. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Mississippi, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The SRS Data Sheet summarizes our knowledge of the status of other Mississippi 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 FSME website: <http://www.hsrdr.gov/nrc/rulemaking.htm>.

Director Robert W. Goff

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May 17, 2007

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 Kathleen Schneider at 301-415-2320 (email: [kxs@nrc.gov](mailto:kxs@nrc.gov)) or Jonathan Rivera at 301-415-5810 (email: [jxr4@nrc.gov](mailto:jxr4@nrc.gov)).

Sincerely,

**IRA By\**

Scott W. Moore, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management 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 Kathleen Schneider at 301-415-2320 (email: kxs@nrc.gov) or Jonathan Rivera at 301-415-5810 (email: jxr4@nrc.gov).

Sincerely,

**IRA Byl**

Scott W. Moore, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures: As stated

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**COMPATIBILITY COMMENTS ON MISSISSIPPI FINAL REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	300.06 (4)(b)	31.5 (b)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi left out the words “initially transferred” after “...which have been manufactured...” in its regulation 300.06(4)(b). MS also omits 10 CFR 31.5(b)(2) from its regulations.</p> <p>Mississippi needs to add “initially transferred” as stated under 31.5(b)(1) to 300.06(4)(b) and needs to add a section equivalent to 10 CFR 31.5(b)(2) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(b).</p>
2	300.06 (4)(c)(v)	31.5 (c)(5)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi is missing the statement “...in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring...” after the words “a report containing a brief description....”</p> <p>Mississippi needs to add the above phrase to 300.06(4)(c)(v) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(5).</p>
3	N/A	31.5 (c)(7)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits a section equivalent to 10 CFR 31.5(c)(7).</p> <p>Although Mississippi does not have the authority to authorize export of any radioactive materials as per the Agreement between the State and the NRC, Mississippi still needs to add a section equivalent to 10 CFR 31.5(c)(7) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(7).</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	300.06 (4)(c)(vii)	31.5 (c)(8)	2001-1	<p data-bbox="1015 142 1453 212"><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p data-bbox="1015 247 1511 348">Mississippi is missing a reference to a section equivalent to 10 CFR 31.5(c)(7) in 10 CFR 31.5(c)(8).</p> <p data-bbox="1015 384 1479 548">Mississippi is missing an equivalent statement to "...or part 30 of this chapter that authorizes waste collection..." as stated under 31.5(c)(8)(i).</p> <p data-bbox="1015 583 1507 716">Mississippi is missing the reporting of "serial number", "license number", and "date of transfer" under 31.5(c)(8)(ii)(A), (B), and (C).</p> <p data-bbox="1015 751 1422 821">Mississippi omits an equivalent section to 31.5(c)(8)(iii).</p> <p data-bbox="1015 856 1511 1052">Mississippi adds the sentence "No report is required...to obtain a replacement device" to 300.06(4)(c)(vii), which is not included in 31.5(c)(8). This sentence needs to be removed.</p> <p data-bbox="1015 1087 1500 1251">Mississippi needs to make the changes indicated above to 300.06(4)(c)(vii) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(8).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5	300.06 (4)(c)(viii)	31.5 (c)(9)(i) and (ii)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>300.06(4)(c)(viii)(i) is missing references to regulations in which copies need to be provided (specifically equivalent regulations to 10 CFR 20.2201, and 20.2202 which are 400.52 and 400.53).</p> <p>300.06(4)(c)(viii)(i) is missing the reporting of “serial number” and “responsible individual... to have knowledge of and authority to take actions....” under 31.5(c)(9)(i)(B) and (D). In regards to responsible individual, State only requires reporting of an individual “who may constitute a point of contact.”</p> <p>300.06(4)(c)(viii)(ii) is missing the words “...by an intermediate person....” present under 31.5(c)(9)(ii).</p> <p>Mississippi needs to make the above changes to 300.06(4)(c)(viii) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(5).</p>
6	N/A	31.5 (c)(11)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits an equivalent section to 10 CFR 31.5(c)(11).</p> <p>Mississippi needs to add a section equivalent to 10 CFR 31.5(c)(11) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(11).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
7	N/A	31.5 (c)(12)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits an equivalent section to 10 CFR 31.5(c)(12).</p> <p>Mississippi needs to add a section equivalent to 10 CFR 31.5(c)(12) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(12).</p>
8	N/A	31.5 (c)(13)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits an equivalent section to 10 CFR 31.5(c)(13).</p> <p>Mississippi needs to add a section equivalent to 10 CFR 31.5(c)(13) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(13).</p>
9	N/A	31.5 (c) (14)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits an equivalent section to 10 CFR 31.5(c)(14).</p> <p>Mississippi needs to add a section equivalent to 10 CFR 31.5(c)(14) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(14).</p>
10	N/A	31.5 (c)(15)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi omits an equivalent section to 10 CFR 31.5(c)(15).</p> <p>Mississippi needs to add a section equivalent to 10 CFR 31.5(c)(15) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(15).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
11	300.06 (4)(d)	31.5 (d)	2001-1	B	<p><b>Certain detecting, measuring, gauging, or controlling devices</b></p> <p>Mississippi is missing the words “..or import of....” in its regulation.</p> <p>Mississippi needs to add the above phrase to its regulation 300.06(4)(d) in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(d).</p>
12	300.26 (2)	31.6	2001-1	B	<p><b>General license to install devices generally licensed</b></p> <p>Mississippi does not cite the correct section of their regulations that is applicable our § 31.5. Specifically MS lists 300.06(a) and instead it should be 300.06(4)(a).</p> <p>Mississippi needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 31.6.</p>
13	N/A	32.51 (a)(4) and (5)	2001-1	B	<p><b>Byproduct material contained in devices for use under Sec. 31.5</b></p> <p>Mississippi omits an equivalent section to 10 CFR 32.51(a)(4) and (5).</p> <p>Mississippi needs to add a section equivalent to 32.51(a)(4) and (5) to meet the Compatibility Category B designation assigned to 10 CFR 32.51 (a)(4) and (5).</p>
14	N/A	32.51a(a)	2001-1	B	<p><b>Conditions of licenses</b></p> <p>Mississippi omits an equivalent section to 10 CFR 32.51a(a) from their regulations.</p> <p>Mississippi needs to add an equivalent section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51a(a).</p>



STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
15	N/A	32.51a(b)	2001-1	B	<p><b>Conditions of licenses</b></p> <p>Mississippi omits an equivalent section to 10 CFR 32.51a(b) from their regulations.</p> <p>Mississippi needs to add an equivalent section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51a(b).</p>
16	N/A	32.52 (a)	2001-1	B	<p><b>Material transfer reports and records</b></p> <p>Mississippi omits regulations equivalent to 10 CFR 32.52(a).</p> <p>Mississippi needs to add an equivalent section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.52(a).</p>
17	N/A	32.52 (b)	2001-1	B	<p><b>Material transfer reports and records</b></p> <p>Mississippi omits regulations equivalent to 10 CFR 32.52(b).</p> <p>Mississippi needs to add an equivalent section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.52(b).</p>
18	N/A	32.52 (c)	2001-1	B	<p><b>Material transfer reports and records</b></p> <p>Mississippi omits regulations equivalent to 10 CFR 32.52(c).</p> <p>Mississippi needs to add an equivalent section in order to meet the Compatibility Category B designation assigned to 10 CFR 32.52(c).</p>

**STATE REGULATION STATUS**

Tracking Ticket Number: 7-32

Date: May 17, 2007

State: MISSISSIPPI

[1 Amendment reviewed is identified by a ★ at the beginning of each equivalent NRC regulation]

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / License Condition (LC) ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	P ML010590507	N 11/16/01 ML013230431	10/12/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			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	P ML010590507	N 11/16/01 ML013230431	8/4/93
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	P ML010590507	N 11/16/01 ML013230431	10/12/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	P ML010590507	N 11/16/01 ML013230431	10/12/94
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			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	P ML010590507	N 11/16/01 ML013230431	7/10/96
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	P ML010590507	N 11/16/01 ML013230431	7/10/96
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	P ML010590507	N 11/16/01 ML013230431	7/10/96
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to MS
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P ML010590507	N 11/16/01 ML013230431	7/10/96
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			
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P ML010590507	N 11/16/01 ML013230431	7/10/96

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Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P ML010590507	N 11/16/01 ML013230431	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML010590507	N 11/16/01 ML013230431	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML010590507	N 11/16/01 ML013230431	7/10/96
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P ML010590507	N 11/16/01 ML013230431	7/10/96
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	P ML010590507	Y 11/16/01 ML013230431	
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	P ML010590507	N 11/16/01 ML013230431	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	P ML010590507	N 11/16/01 ML013230431	
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 ML010590507	N 11/16/01 ML013230431	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P ML010590507	N 11/16/01 ML013230431	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
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	P ML010590507	N 11/16/01 ML013230431	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	P ML010590507	N 11/16/01 ML013230431	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	P ML010590507	N 11/16/01 ML013230431	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML010590507	N 11/16/01 ML013230431	

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Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML010590507	Y 11/16/01 ML013230431	
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 ML010590507	N 11/16/01 ML013230431	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML010590507	N 11/16/01 ML013230431	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not required <sup>3</sup>
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	P ML010590507	N 11/16/01 ML013230431	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML040290385	N 02/03/04 ML040340553	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML040290385	N 02/03/04 ML040340553	
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML070850831	Y 05/17/07 ML071370197	
Revision of the Skin Dose Limit -Part 20	67 FR 16298; (4/5/05)	2002-1	F ML051380417	N 06/15/05 ML051660091	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (10/24/05)	2002-2	F ML051380417	N 06/15/05 ML051660091	
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) <sup>7</sup>	70 FR 72128; (12/1/05)	2005-3	LC	N 11/07 /05	

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			ML053110130	ML053120172	
Minor Amendments - Parts 20, 30, 32, 35, 40, and 70	71 FR 15005 (3/27/09)	2006-1			
National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E	71 FR 65685 (2/6/07)	2006-2			
National Source Tracking System - Part 20	71 FR 65865 (11/15/07) & (11/30/07)	2006-3			

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 the regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1.Time From For Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number.
6. The Final State Regulation (Effective Date) of some regulations may be the date of adoption with the effective date occurring 31 days after adoption according to Washington statute.
7. 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.