

October 15, 2007

Mr. Joseph Vranka, Manager
Hazardous Materials and Waste Management Division
CO Department of Public Health and Environment
HMWMD-RAD-B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Dear Mr. Vranka:

We received your letter regarding the final State of Colorado's *Rules and Regulations Pertaining to Radiation Control Part 17* sent to us on July 25, 2007. These regulations correspond to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 71 and the requirements of regulation amendment RATs ID#2004-1. We discussed our review with Ken Weaver on October 12, 2007.

As a result of our review, we have seven 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. 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 Colorado, in response to our comments and provide a copy to FSME.

The SRS Data Sheet summarizes our knowledge of the status of other Colorado 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.hrsd.ornl.gov/nrc/rulemaking.htm>.

If you should have any questions please feel free to contact Kathleen Schneider at (301) 415-2320 (email: kxs@nrc.gov) or Stephen Salomon at (301) 415-2368 (email: sns@nrc.gov.)

Sincerely,

IRA By A.D. White For

Robert J. Lewis, 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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Enclosures: As stated

Distribution:

DIR RF 7-61

DCD (SP05)

RErickson, RSAO LMcLean, RSAO

DSollenberger, POC Wrautzen, POC

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| NAME | SSalomon | KSchneider | CCameron, Esq. | DWhite | RLewis |
| DATE | 09/20/2007* | 09/20/2007* | 10/09/2007* | 10/15/2007* | 10/15/2007* |

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COMPATIBILITY COMMENTS ON COLORADO FINAL REGULATIONS

Compatibility with IAEA Transportation Safety Standards

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|----------------------|--|--------------------|----------------|-----------------|--|
| 1 | 17.2.2 Low Specific Activity (1) LSA-1 (ii) | §71.4 | 2004-1 | [B] | <p>Definition: LSA-1</p> <p>Colorado has omitted provision (ii) Solid unirradiated natural uranium or depleted uranium or natural thorium of their solid or liquid compounds or mixtures.</p> <p>Colorado needs to adopt provision (ii) of LSA-1 to meet the Compatibility Category B designation assigned to Section 71.4.</p> |
| 2 | Omitted | §71.13 | 2004-1 | [B] | <p>Exemption of Physicians</p> <p>Colorado has omitted this provision to be consistent with requirements determined by the State Radiation Advisory Committee and Colorado State Board of Health re-affirmation.</p> <p>Colorado needs to adopt this requirement to meet the Compatibility Category B designation assigned to Section 71.13.</p> |
| 3 | 17.8.1(4) | §71.21(d)(2) | 2004-1 | [B] | <p>General license: Use of foreign approved package</p> <p>Colorado regulation 17.8.1.2 (4) omits the language specifying the applicable requirements correlating to Subparts A (General Provisions), G (Operating Controls and Procedures), and H (Quality Assurance) of 10 CFR 71.</p> <p>The Colorado regulations needs to include language that specifies the Colorado's equivalents to "Subparts A (General Provisions), G (Operating Controls and Procedures), and H (Quality Assurance)" to meet the Compatibility Category B designation assigned to Section 71.21(d)(2).</p> |

| <u>STATE SECTION</u> | | <u>NRC SECTION</u> | <u>RATS ID</u> | <u>CATEGORY</u> | <u>SUBJECT and COMMENTS</u> |
|----------------------|------------|-------------------------------|----------------|-----------------|---|
| 4 | 17.15 | §71.47 (c) and (d) | 2004-1 | [B] | <p>External radiation standards for all packages</p> <p>Colorado 17.15 omitted requirements for exclusive use shipments in §71.47 (c) and (d).</p> <p>Colorado needs to include the exclusive use requirements in their 17.15 to meet the Compatibility Category B designation assigned to Section 71.47(c) and (d).</p> |
| 5 | 17.11.1 | §71.97 | 2004-1 | B | <p>Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste</p> <p>Colorado 17.11.1 has the incorrect name of the office in NRC to obtain the list of contacts to notify in advance of shipments.</p> <p>Colorado needs to replace the “Office of State and Tribal Programs” with the “Office of Federal, State Materials and Environmental Management” to meet the Compatibility Category B designation assigned to Section 71.97.</p> |
| 6 | Omitted | §71.105 (a), (c)&(d) - 71.137 | 2004-1 | C | <p>Quality Assurance Program</p> <p>Colorado regulations omitted the quality assurance program requirements in 10 CFR 71.105 (a), (c) and (d) thru 71.137.</p> <p>Colorado needs to include the requirements for a quality assurance program to meet the Compatibility Category C designation assigned to Sections of 10 CFR 71.105(a), (c)&(d) thru 71.137.</p> |
| 7 | Appendix A | Appendix A | 2004-1 | [B] | <p>Determination of A₁ and A₂</p> <p>Colorado regulations omitted a “≤” in for the calculation of A₁ and A₂ in Appendix A.</p> <p>Colorado needs to add the “≤” in the equation to calculate A₁ and A₂ in Appendix A to meet the Compatibility Category [B] assigned to 10 CFR 71 Appendix A.</p> |

STATE REGULATION STATUS

State: Colorado

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

Tracking Ticket Number: 7-61

Date: October 15, 2007

| NRC Chronology Identification | FR Notice (Date Due for State Implementation) | 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) ⁶ |
|--|---|---------|---|---|---|
| Safety Requirements for Radiographic Equipment-Part 34 | 55 FR 843; (1/10/94) | 1991-1 | F | Y 5/29/97 | 6/30/94 |
| ANT 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 8/18/97 | 1/1/94 |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980; (10/15/94) | 1991-4 | F | Y 5/29/97 | 11/1/94 |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104; (1/27/95) | 1992-1 | | | superseded by 2002-2 |
| 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 | F | N 6/14/00 | 7/1/97 |
| Licensing and Radiation Safety Requirements for Irradiators-Part 36 | 58 FR 7715; (7/1/96) | 1993-2 | F | N 5/29/97 | 7/1/97 |
| Definition of Land Disposal and Waste Site QA Program-Part 61 | 58 FR 33886; (7/22/96) | 1993-3 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70 | 58 FR 68726; 59 FR 1618 (none) | 1994-1 | F | N 6/14/00 | 7/1/97 |
| Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40 | 59 FR 28220; (7/1/97) | 1994-2 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70 | 59 FR 36026; (8/15/97) | 1994-3 | F | N 6/14/00 | 7/1/97 |
| 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 6/14/00 | 9/30/98 |

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|---|---|------------|---|---|--|
| Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20 | 60 FR 7900; (3/13/98) | 1995-2 | F | N 6/14/00 | 1/1/98 |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649; 60 FR 25983 (3/1/98) | 1995-3 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Performance Requirements for Radiography Equipment-Part 34 | 60 FR 28323; (6/30/98) | 1995-4 | F | N 6/14/00 | 3/30/98 |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038; (8/14/98) | 1995-5 | F ML043290167 | Y 1/05/05 ML050050164 | 1/30/05 |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235; (11/24/98) | 1995-6 | F ML043290167 | Y 1/05/05 ML050050164 | 1/30/05 |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623; (10/20/98) | 1995-7 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| 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 3/22/01 | 7/31/98 |
| 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: Record keeping Requirements-Parts 20, 30, 40, 61, 70 | 61 FR 24669; (6/17/99) | 1996-3 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| 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 8/8/00 | 12/30/99 |
| 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 | N 6/14/00 | 11/30/98 |
| Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35 | 62 FR 4120; (5/29/00) | 1997-3 | F | N 6/14/00 | 3/30/98 |
| 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 | N 8/8/00 | 5/30/00 |
| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (8/20/00) | 1997-6 | F | N 7/13/99 | 5/19/99 |
| Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea-Part 30 | 62 FR 63634; (1/02/01) | 1997-7 | F | N 6/14/00 | 9/30/98 |

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|--|---|------------|---|---|--|
| Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150 | 63 FR 1890; 63 FR 13773 (2/12/01) | 1998-1 | F ML010380248 | N 9/17/01 ML012630207 | 2/01/00 |
| 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 | N 8/8/00 | 5/30/00 |
| 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 ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20 | 63 FR 50127; (11/20/01) | 1998-6 | F ML042440167 | N 1/05/05 ML050050164 | 1/30/05 |
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506; (6/11/02) | 1999-1 | F ML020320440 | N 3/28/02 ML020880468 | 11/20/01 |
| 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 ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39 | 65 FR 20337; (5/17/03) | 2000-1 | F ML051580379 | N 7/11/05 ML051930014 | 1/30/05 |
| New Dosimetry Technology-Parts 34, 36, 39 | 65 FR 63750; (1/8/04) | 2000-2 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32 | 65 FR 79162; (2/16/04) | 2001-1 | F ⁸ ML043290167 | Y 8/31/06 ML062400296 | 1/30/05 |
| Revision of the Skin Dose Limit -Part 20 | 67 FR 16298; (4/5/05) | 2002-1 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| Medical Use of Byproduct Material-Parts 20, 32, and 35 | 67 FR 20249; (10/24/05) | 2002-2 | F ML 051580379 | N 7/11/05 ML051930014 | 10/25/05 |

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|--|---|---------------------|---|---|--|
| Financial Assurance for Materials Licensees – Parts 30, 40, 70 | 68 FR 57327; (12/3/06) | 2003-1 | F ML043290167 | N 1/05/05 ML050050164 | 1/30/05 |
| ★Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71. | 69 FR 3697; (10/01/07) | 2004-1 | F ML072620303 | Y 10/15/07 ML072900374 | |
| Security Requirements for Portable Gauges Containing Byproduct Material - Part 30 | 70 FR 2001; (7/11/08) | 2005-1 | F ML052010436 | N 8/05/05 ML052220212 | 6/30/05 |
| Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35 | 70 FR 16336; 71 FR 1926 (4/29/08) | 2005-2 | F ML 051580379 | N 7/11/05 ML051930014 | 10/25/05 |
| Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁷ | 70 FR 72128; (12/1/05) | 2005-3 | LC ML052580384 | N 09/19/05 ML052630557 | |
| Minor Amendments - Part 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 ⁹ | | | |

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. The Final State Regulation (Effective Date) may reflect that by Colorado statute a regulation is effective, unless otherwise adopted by the Colorado Board of Health, 20 days after publication, which occurs on the 10th of the month following adoption, or the first business day thereafter.
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.
8. 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.
9. RATS ID 2006-3 will not be considered under the Non-Common Performance Indicator “Compatibility Requirements” for IMPEP reviews until such time as the National Source Tracking System is ready for use. Revisions in the implementation date for Agreement States will be provided to the States under separate correspondence and the SRS sheet will be revised as appropriate.

