

January 3, 2013

Stephen Tarlton, Manager
Radiation Control Program
Hazardous Materials and Waste Management Division
Colorado Department of Public Health
4300 Cherry Creek Drive
Denver, CO 80246-1530

Dear Mr. Tarlton:

We have reviewed the proposed changes to the Colorado Rules and Regulations Pertaining to Radiation Control, 6CCR 1007-1, Part 4, Standards for Protection Against Radiation, received by our office on November 5, 2012. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 33, 35, 40, 61, 70, 150 and the requirements of the six amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with James Jarvis on January 2, 2013.

As a result of our review, we have eight 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 Colorado 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 Colorado regulations. However, we have determined that if the proposed regulations that we reviewed 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 Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

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 FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, 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 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://nrc-stp.ornl.gov/rulemaking.html>.

S. Tarlton

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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, State Regulation Review Coordinator at 301-415-2320 (kathleen.schneider@nrc.gov) or Michelle Beardsley at 610-337-6942 (michelle.beardsley@nrc.gov).

Sincerely,

/RA/

Pamela J. Henderson, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Compatibility Comments
2. Colorado SRS Data Sheet

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NAME	MBeardsley <i>via email</i>	KSchneider	BJones	DWhite	PHenderson
DATE	11/13/12	12/05/12	12/27/12	01/03 /13	01/03/13

ML12324A234

OFFICIAL RECORD COPY

Package ML12324A224

COMPATIBILITY COMMENTS ON COLORADO PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	4.17.1	20.1501(a)	2011-1	H&S	<p>General provisions</p> <p>Colorado omits the essential objective of 20.1501(a)(2) in that this regulation specifically references “residual” radioactivity and its potential hazards not just quantities of “radioactive material” as stated in 4.17.1.2 (2).</p> <p>Colorado needs to indicate that the required surveys are to detect “residual” radioactivity and its potential hazards in order to meet the Compatibility Category H&S designation assigned to 10 CFR 20.1501(a)(2).</p>
2	N/A	30.34(b)	2011-1	C	<p>Terms and conditions of licenses</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 30.34(b) for review.</p> <p>Colorado needs to provide for review above equivalent regulation in order to meet the Compatibility Category C designation assigned to 10 CFR 30.34(b).</p>
3	N/A	30.35(e)	2011-1	H&S	<p>Financial Assurance and recordkeeping for decommissioning</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 30.35(e) for review.</p> <p>Colorado needs to provide for review above equivalent regulation that meet the essential objectives of 30.35(e) in order to meet the Compatibility Category H&S designation assigned to 10 CFR 30.35(e).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	N/A	40.36(d)	2011-1	H&S	<p>Financial Assurance and recordkeeping for decommissioning</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 40.36(d) for review.</p> <p>Colorado needs to provide for review above equivalent regulation that meets the essential objectives of 40.36(d) in order to meet the Compatibility Category H&S designation assigned to 10 CFR 40.36(d).</p>
5	N/A	40.46	2011-1	C	<p>Inalienability of licenses.</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 40.46 for review.</p> <p>Colorado needs to provide for review above equivalent regulation in order to meet the Compatibility Category C designation assigned to 10 CFR 40.46.</p>
6	N/A	Appendix A to Part 40	2011-1	C	<p>Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 40 Appendix A for review.</p> <p>Colorado needs to provide for review above equivalent regulation in order to meet the Compatibility Category C designation assigned to 10 CFR 40 Appendix A.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
7	N/A	70.25(e)	2011-1	H&S	<p>Financial Assurance and recordkeeping for decommissioning.</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 70.25(e) for review.</p> <p>Colorado needs to provide for review above equivalent regulation that meets the essential objectives of 70.25(e) in order to meet the Compatibility Category H&S designation assigned to 10 CFR 70.25(e).</p>
8	N/A	70.36	2011-1	C	<p>Inalienability of licenses</p> <p>Colorado did not submit their equivalent regulation to 10 CFR 70.36 for review.</p> <p>Colorado needs to provide for review above equivalent regulation in order to meet the Compatibility Category C designation assigned to 10 CFR 70.36.</p>

STATE REGULATION STATUS

State: Colorado

Tracking Ticket Number: 12-33
Date: January 3, 2013

[6 amendment(s) reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (★ Superceded by 1997-5)	01/10/1994	Final	Comments 05/29/1997	Colorado has adopted Final Regulations equivalent to RATS ID 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (★ Superceded by 1997-5)	none	Not Required	Not Required	Colorado has adopted Final Regulations equivalent to RATS ID 1997-5.
1991-3	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	01/01/1994	Final	No Comments 08/18/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980	10/15/1994	Final	Comments 05/29/1997	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (★ Superceded by 2002-2)	01/27/1995	Not Required	Not Required	Colorado has adopted Final Regulations equivalent with RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Final	No Comments 06/14/2000	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final	No Comments 05/29/1997	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Final ML043290167	No Comments 01/05/2005 ML050050164	
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Final	No Comments 06/14/2000	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Final ML043290167	No Comments 01/05/2005 ML050050164	
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997	Final	No Comments 06/14/2000	
1995-1	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	01/01/1998	Final	No Comments 06/14/2000	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final	No Comments 06/14/2000	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML043290167	No Comments 01/05/2005 ML050050164	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Final	No Comments 06/14/2000	Colorado has adopted Final Regulations equivalent to RATS ID 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML080770375	No Comments 05/02/2008 ML081221012	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final ML043290167	No Comments 01/05/2005 ML050050164	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superceded by 2002-2 and 2005-2)	10/20/1998	Final ML043290167	No Comments 01/05/2005 ML050050164	Colorado has adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1)	04/01/1999	Final	No Comments 03/22/2001	Colorado has adopted Final Regulations equivalent to RATS ID 2004-1.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final ML043290167	No Comments 01/05/2005 ML050050164	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final	No Comments 08/08/2000	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final	No Comments 06/14/2000	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final	No Comments 06/14/2000	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1)	02/10/2000	Not Required	Not Required	Colorado has adopted Final Regulations equivalent to RATS ID 2004-1. (See STP-97-078)
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final	No Comments 08/08/2000	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final	No Comments 07/13/1999	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final	No Comments 06/14/2000	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML010380248	No Comments 09/17/2001 ML012630207	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Colorado has adopted Final Regulations equivalent to RATS ID: 2002-2.
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final	No Comments 08/08/2000	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML043290167	No Comments 01/05/2005 ML050050164	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML042440167	No Comments 01/05/2005 ML050050164	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Final ML020320440	No Comments 03/28/2002 ML020880468	
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML043290167	No Comments 01/05/2005 ML050050164	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML051580379	No Comments 07/11/2005 ML051930014	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML043290167	No Comments 01/05/2005 ML050050164	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML043290167	Comments 08/31/2006 ML062400296	
2002-1	Revision of the Skin Dose Limit Part 20	04/05/2005	Final ML043290167	No Comments 01/05/2005	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
	67 FR 16298			ML050050164	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML 051580379	No Comments 07/11/2005 ML051930014	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML043290167	No Comments 01/05/2005 ML050050164	
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML072620303	Comments 10/15/2007 ML072900374	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML052010436	No Comments 08/05/2005 ML052220212	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML051580379	No Comments 07/11/2005 ML051930014	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML052580384	No Comments 09/19/2005 ML052630557	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML121150500 Final ML121150470	No Comments 06/21/2012 ML12150A112 Comments 06/28/2012 ML12177A030	Part 35 only Parts 20, 30, 32 only

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
*2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Proposed ML12341A110	No Comments 01/03/2013 ML12324A224	Colorado does not have any licensees subject to these regulations. (See SECY-95-112)
*2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	License Condition ML082730235 Proposed ML12341A110	No Comments 10/21/2008 ML082880091 No Comments 01/03/2013 ML12324A224	Part 20 only
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML121150500	Comments 06/21/2012 ML12150A112	Part 35 only
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Final ML121150470	Comments 06/28/2012 ML12177A030	
*2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML121150500 Final ML121150470 Proposed ML12341A110	No Comments 06/21/2012 ML12150A112 Comments 06/28/2012 ML12177A030 No Comments 01/03/2013 ML12324A224	Part 35 only Requirements of Part 20 have not yet been reviewed. Part 20 only

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML081070079	No Comments 05/13/2008 ML081260713	
*2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Proposed ML100960326 Proposed ML12341A110	Comments 05/04/2010 ML101040019 No Comments 01/03/2013 ML12324A224	Part 20 only
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML121150500	Comments 06/21/2012 ML12150A112	
*2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Proposed ML12341A110	Comments 01/03/2013 ML12324A224	Part 20 only
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014			
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015			
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71	08/10/2015			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
	77 FR 34194				
2012-3	Technical Corrections Part 30, 34, 40 and 70 77 FR 39899	08/06/2015			
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015			
N/A	10 CFR 20.1003	N/A	Final ML093020612	Comments 12/29/2009 ML093360435	
N/A	10 CFR Part 40	N/A	Final ML121150470	Comments 06/28/2012 ML12177A030	
N/A	Legislation	N/A	Final ML111080623	Comments 10/24/2011 ML112630034	
N/A	10 CFR Part 34.20, 34.35 and 34.43	N/A	R ¹ ML12184A282	Comments 08/15/2012 ML12212A179	
*N/A	10 CFR Part 20.10, 20.1403(a), 20.1901 and 20.2104	N/A	Proposed ML12341A110	No Comments 01/03/2013 ML12324A224	

¹ R means proposed revision to a final rule