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March 11, 2013

Pamela J. Henderson, Deputy Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
T8-E24
Washington, D.C. 20555-0001

Dear Ms. Henderson:

Enclosed is a copy of the final revisions to the Arizona Regulations in Title 12: Natural Resources, Chapter 1: Radiation Regulatory Agency. The final rules are identified by line-in/line-out text (or similar identification) and correspond to the following equivalent amendments to NRC's regulations.

<u>Rats ID</u>	<u>Title</u>	<u>State Section</u>
• 2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material	See attached table
• 2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation	See attached table
• 2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements	See attached table

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

The following are issues that we would like the NRC to address:

1. Please review these rules in relation to RATS ID 2012-1 RATS ID 2012-1 deals with the compatibility change in 31.5 and 31.6

NRC offered two comments that were not enacted in this rulemaking package:

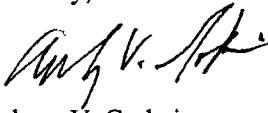
The first comment related to the request that Arizona eliminate the practice of providing a limited license to local cardiologists to possess nuclear medicine that directly pertains to their scope of practice. The NRC would like to require cardiologists to meet the same training requirements that other practitioners must follow to be authorized for a wider range of nuclear material. However, Arizona believes that this would provide a medical hardship to residents of this state that may not have adequate cardiological care due to this increased restriction on this

specialty. The agency believes that its existing practice best serves the public while ensuring that health and safety issues are still met. No action was taken based upon this comment.

The second comment was based upon a request to have Arizona allow an exemption for physicians to transport nuclear material within the state without meeting the packaging and transportation requirements. This exemption was thought to put the public health and safety of the citizens of Arizona as well as first responders that may be involved in an accident in significant risk. The exemption would make it possible for material to be transported in an unshielded or uncontained format and in the event of an accident the responders would be unaware of the danger due in part to lack of appropriate notification on the vehicle transporting the material. The agency continues to disagree with the NRC and believes that the health and safety of the citizens of Arizona are best served by requiring all that transport licensable quantities of nuclear material to meet all rules related to the safe transport of said material. No action was taken based upon this comment.

If you have any questions, please feel free to contact me at 602-2554845 ext. 222 or Jerry Perkins of my staff at 602-255-4845 ext 272 or jperkins@azrra.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aubrey V. Godwin". The signature is fluid and cursive, with the first name being the most prominent.

Aubrey V. Godwin

Enclosures:

As stated

COMPATIBILITY COMMENTS ON ARIZONA FINAL REGULATIONS from letter dated November 12, 2009

- Resolution by the State of Arizona

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	R12-1-306.B.1	31.5(a), 31.5(d)	2001-1	<p data-bbox="1013 344 1487 506">Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p data-bbox="1013 541 1487 667">The provisions of 10 CFR 31.5 (d) are missing in Arizona's regulations, and the corresponding cross reference to this information is missing in R12-1-306.B.1.</p> <p data-bbox="1013 703 1487 835">The phrase "a person such as" should be deleted. As written, the Arizona regulation could grant the general license to additional groups of licensees.</p> <p data-bbox="1013 871 1487 1003">Arizona needs to address the above changes to meet the Compatibility Category B designation assigned to 31.5(a) and 31.5(d).</p> <p data-bbox="1013 1039 1247 1073">Adopted by Arizona</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
2	R12-1-721	35.290	2002-2	B	<p>Training for imaging and localization studies</p> <p>Arizona regulations in section B allow cardiologists to be limited to nuclear cardiology if they cannot provide proof that he/she has participated in 700 hours of training and experience required by 10 CFR 35.290. 10 CFR 35.290 makes no such exception for cardiologists.</p> <p>Arizona needs to eliminate section B from R12-1-721 in order to meet the compatibility Category B requirements assigned to 10 CFR 35.290.</p> <p>Rejected by Arizona as it impacts the H&S of AZ citizens by impacting medical care opportunities in rural areas of the state.</p>
3	R12-1-1500	71.0(c)	2004-1	[B]	<p>Purpose and Scope</p> <p>Arizona omits an essentially identical provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to 10 CFR 71.0(c) in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.0(c).</p> <p>Adopted by Arizona</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	N/A	71.4	2004-1	[B]	<p>Definition Certificate Holder</p> <p>Arizona omits this definition from their regulations.</p> <p>Arizona needs to add an essentially identical definition in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.4 Definition Certificate holder.</p> <p>Adopted by Arizona</p>
5	N/A	71.4	2004-1	[B]	<p>Definition Certificate of Compliance</p> <p>Arizona omits this definition from their regulations.</p> <p>Arizona needs to add an essentially identical definition in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.4 Definition Certificate of Compliance.</p> <p>Adopted by Arizona</p>
6	N/A	71.13	2004-1	[B]	<p>Exemption of Physicians</p> <p>Arizona omits this section from their regulations.</p> <p>Arizona needs to add an essentially identical section to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.13.</p> <p>Rejected by Arizona as it impacts the H&S of AZ citizens by failing to protect citizens and first responders.</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
7	R12-1-1510C	71.22	2004-1	[B]	<p>General license: Fissile material</p> <p>Arizona's regulation is not essentially identical to 10 CFR 71.22. Specifically Arizona omits 71.22 (c), (d), & (e).</p> <p>Arizona needs to make R12-1-1510 C essentially identical to 10 CFR 71.22 in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.22.</p> <p>Adopted by Arizona</p>
8	N/A	71.23	2004-1	[B]	<p>General license: Plutonium/ Beryllium Special Form Material</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.23.</p> <p>Adopted by Arizona</p>
9	N/A	71.83	2004-1	[B]	<p>Assumptions as to Unknown Properties</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add this provision to their regulations in order to meet the Compatibility category [B] designation assigned to 10 CFR 71.83.</p> <p>Adopted by Arizona</p>
10	R12-1-1510B	71.85	2004-1	[B]	<p>Preliminary Determinations</p> <p>Arizona only references 10 CFR 71.85(c) in their regulations. Arizona needs to add provisions essentially identical to 10 CFR 71.85 (a) and (b).</p> <p>Arizona needs to make the above correction in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.85.</p> <p>Adopted by Arizona</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
11	N/A	71.87	2004-1	[B]	<p>Routine Determinations</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.87.</p> <p>Adopted by Arizona</p>
12	N/A	71.89	2004-1	[B]	<p>Opening Instructions</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.89.</p> <p>Adopted by Arizona</p>
13	R12-1-303A	30.14	2007-2	B	<p>Exempt Concentrations</p> <p>Arizona needs to list the correct subsections in R12-1-303A1. ("Except as provided in subsections...")</p> <p>Arizona omits essentially identical regulations to 10 CFR 30.14 (b) and (c).</p> <p>Arizona needs to remove "... a specific license issued under R12-1-311(A) or a general license prescribed in R12-1-320." from R12-1-303A2 and replace in with "...a license issued under 10 CFR 32.11.", since these licenses are under NRC's jurisdiction.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.14.</p> <p>Adopted by Arizona</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
14	R12-1-303B	30.15	2007-2	B	<p>Certain Items Containing Byproduct Material</p> <p>Arizona needs to remove R12-1-303B.1.b, d, f, and h.iv.</p> <p>Arizona needs to add an essentially identical regulation to 10 CFR 30.15(a)(7) to R12-1-303B.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.15.</p> <p>Adopted by Arizona</p>
15	R12-1-303B.2	N/A (was 30.16)	2007-2	N/A	<p>Resins containing scandium-46 and designed for sand consolidation in oil wells</p> <p>Arizona needs to remove R12-1-303 B.2.</p> <p>Arizona needs to remove the above regulation in order to be compatible with NRC regulations.</p> <p>Adopted by Arizona</p>
16	R12-1-303C	30.18	2007-2	B	<p>Exempt quantities</p> <p>Arizona needs to change R12-1-303 C.1 to reflect the correct subsections ("Except as provided in subsections ...").</p> <p>Arizona needs to add essentially identical regulations to 10 CFR 30.18 (b) and (e) to R12-1-303 C.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.18.</p> <p>Adopted by Arizona</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
17	R12-1-306B.1	31.5	2007-2	<p data-bbox="1011 205 1490 342">Certain Detecting, Measuring, Gauging, or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere</p> <p data-bbox="1011 373 1490 741">Arizona's regulation R12-1-306 B.1. should read "... incorporated by reference and available under R12-1-101, radioactive material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, ...".</p> <p data-bbox="1011 772 1490 898">Arizona needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5.</p> <p data-bbox="1011 930 1247 961">Adopted by Arizona</p>
18	R12-1-303A.2	32.13	2007-2	<p data-bbox="1011 1003 1425 1035">Same: Prohibition of Introduction</p> <p data-bbox="1011 1066 1490 1266">Arizona needs to remove "... a specific license issued under R12-1-311A or a general license prescribed in R12-1-320." And replace it with "... a license issued under 10 CFR 32.11.", since these licenses are under NRC's jurisdiction.</p> <p data-bbox="1011 1297 1490 1423">Arizona needs to make the above change in order to meet the Compatibility category C designation assigned to 10 CFR 32.13.</p> <p data-bbox="1011 1455 1247 1486">Adopted by Arizona</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
19	R12-1-303B.2	32.16	2007-2	NRC	<p>Certain Items Containing Byproduct Material: Records and Reports of Transfer</p> <p>Arizona incorporates 10 CFR 32.16 by reference. This section is designated to the NRC and should be removed from R12-1-303 B 2.</p> <p>Arizona needs to not incorporate 10 CFR 32.16 by reference in order to meet the Compatibility Category NRC designation assigned to 10 CFR 32.16.</p> <p>Adopted by Arizona</p>
20	R12-1-303B.2	32.17	2007-2	N/A	<p>Resins Containing Scandium-46 and Designed for Sand-Consolidation in Oil Wells: Requirements for License to Manufacture, or Initially Transfer for Sale or Distribution.</p> <p>NRC has removed 10 CFR 32.17 from its regulations, so in order to be compatible Arizona needs to remove all of R12-1-303 B 2 from their regulations.</p> <p>Arizona needs to remove all of R12-1-303 B 2 in order to be Compatible with NRC regulations.</p> <p>Adopted by Arizona</p>