



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

May 23, 2016

Joel Munday, Acting Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
T8-E18
Washington, D.C. 20555-0001

Dear Mr. Munday:

Enclosed is a copy of the final revision to the *Colorado Rules and Regulations Pertaining to Radiation Control*, 6 CCR 1007-1, Part 17, *Transportation of Radioactive Material*. The final rule became effective on August 14, 2014.

The final changes to Part 17 address specific comments made by NRC in its letters to Colorado dated November 3, 2015, April 13, 2015, and June 10, 2014 and are identified in Table 1 of Attachment 1. Changes to the rule as a result of the October 15, 2007 correspondence are identified in Table 2 of Attachment 1. Table 3 of Attachment 1 identifies Regulatory Action Tracking System (RATS) items for RATS 2012-2, 2012-3 and 2013-1 due for state adoption in 2015-2016 and which were incorporated into the final Part 17 rule in 2014. In addition to these changes, several minor changes were necessary to address renumbering of the rule, correction of cross-references, and align the footnotes of the Appendix with the appropriate table(s). Refer to the attached strikeout draft rule and side-margin notes in the attached final draft rule for further information.

With this correspondence we have included a final as published copy of regulatory part 17. Additionally a redline draft rule as presented to and adopted by the Colorado Board of Health on June 18, 2014 is also included.

Please note that the final rules (Code of Colorado Regulations) may also be viewed electronically on the Colorado Secretary of State website at:

<http://www.sos.state.co.us/CCR/NumericalDeptList.do#1000>

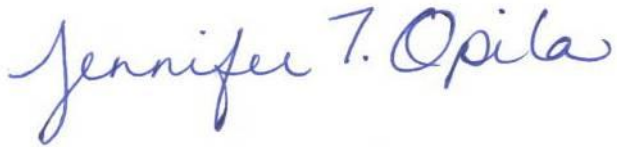
(select CCR 1007 for Hazardous Materials and Waste Management Division).

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

Colorado recognizes that the requirements of NRC RATS 2015-3 and 2015-5 have not yet been incorporated into this Colorado rule. These newer NRC requirements were issued subsequent to completion of the most recent Part 17 rulemaking in 2014. Colorado intends to initiate a rulemaking process in 2017 to address the requirements of RATS 2015-3 and 2015-5.

If you have any questions, please feel free to contact me at 303-692-3403 or James Jarvis of my staff at 303-692-3454 or james.jarvis@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer T. Opila". The signature is written in a cursive style with a large initial "J".

Jennifer T. Opila, MPA
Radiation Program Manager

Enclosures:

Attachment 1 (4 pages);
Colorado Part 17 draft rule (Draft 2, dated 06/02/2014); and
Colorado Part 17 final published rule.

Submitted to NRC via email to AgreementStateRegs.Resource@NRC.gov and Michele.Beardsley@NRC.gov on May 23, 2016

Attachment 1
 Joel Munday, Acting Deputy Director
 U.S. Nuclear Regulatory Commission
 May 23, 2016

Table 1. Part 17 regulatory changes addressing NRC comments (applicable to Colorado Part 17) in NRC letters dated November 3, 2015, April 13, 2015, and June 10, 2014.

CFR Cross-reference	State Section	Description/purpose of proposed change
§71.97(b) [RATS 2013-1] [RATS 2012-2] [RATS 2004-1]	Part 17, Section 17.11.3	<p>The requirements of 71.97(b) have been incorporated into Section 17.11.3 of Colorado’s Part 17 rule.</p> <p><i>Discussion: In correspondence dated November 3, 2015, NRC stated that Colorado did not submit the equivalent regulation to 71.97. The April 13, 2015 NRC correspondence indicated that Colorado omitted 71.97(b) from its regulations in 71.11.3. We believe NRC is incorrect in regard to these comments. Colorado provided the requirements of 71.97, including subsection (b) in the draft rule submitted to NRC on March 12, 2014.</i></p> <p><i>Additionally, in NRC correspondence dated June 10, 2014 (specific to review of the proposed draft for Part 17), NRC directed Colorado to remove references to “irradiated reactor fuel” from the title of section 17.11, and other provisions of the section. NRC indicated that Colorado does not have the regulatory authority for irradiated reactor fuel under the 274b agreement. As a result of this NRC request, Colorado rule deleted the phrase “irradiated reactor fuel”.</i></p> <p><i>(NRC did not request that the “irradiated reactor fuel” phrase be reinstated in the rule in correspondence after June 10, 2014 and therefore the 17.11 section title and 17.11 subsections will differ from NRC language.)</i></p> <p>References: NRC Letter dated 11/03/15, Item #2; NRC Letter dated 04/13/15, Item #4; NRC Letter dated 06/10/14, Item #1;</p>

§71.97(c) [RATS 2004-1] [RATS 2012-2]	Part 17, Section 17.11.4.1(3)	The provision pertaining to submitting notification in writing was changed to reflect notification of the Colorado Department of Public Health and Environment (the Department) rather than NRC. Reference: NRC Letter dated 06/10/14, Item #2;

Table 2. Part 17 regulatory changes addressing NRC comments in letter dated October 15, 2007.

CFR Cross-reference	State Section	Description/purpose of proposed change
§71.4	Part 17, Section 17.2.2 (Definitions)	As requested by NRC, the final rule adds a phrase to the definition of LSA-I. Reference: NRC Letter dated 10/15/07, Item #1
§71.13	Part 17, Section 17.4.4	As requested by NRC, the final rule adds the 71.13 provision pertaining to an exemption for licensed physicians transporting licensed materials. Reference: NRC Letter dated 10/15/07, Item #2
§71.21(d)(2)	Part 17, Section 17.8.1.2	Language was incorporated into the final rule, consistent with the requirements of 10 CFR 71.21(d)(2). References to CFR 71 subparts were incorporated to ensure these provisions apply under the appropriate circumstances. Reference: NRC Letter dated 10/15/07, Item #3
§71.47(c), (d)	Part 17, Sections 17.15.11, 17.15.12	Language was added pertaining to exclusive use shipments, consistent with federal rule. Reference: NRC Letter dated 10/15/07, Item #4
§71.97	Part 17, Section 17.11.4.3	Address was updated. Reference: NRC Letter dated 10/15/07, Item #5
§71.105(a), (c), (d) - 71.137	Part 17, Section 17.10.2	<i>Colorado believes that the current language of 17.10.2.1(1) which references the quality assurance requirements of 71.101 through 71.137, already addresses this comment by NRC as it effectively requires adherence to all quality assurance requirements in 71 CFR, including those of 71.105(a), (c), and (d) through 71.137.</i> <i>17.10.3 also requires the licensee to obtain NRC approval of its quality assurance program. It is presumed that such an approval would include evaluation for compliance with the provisions of 71.105(a), (c), (d) through 71.137.</i> Reference: NRC Letter dated 10/15/07, Item #6
10 CFR 71 Appendix A, IV(a)	Part 17, Appendix 17A, 17A4.1	The typographical error in equation was corrected, consistent with federal rule. Reference: NRC Letter dated 10/15/07, Item #7

Table 3. Part 17 regulatory changes addressing NRC Regulatory Action Tracking System (RATS) Items.

RATs ID	CFR Title	State Section(s)
	2012-2 RATS ITEM(S)	
2012-2 (Item #1)	10 CFR Part 71.4	Part 17, Section 17.2.2 Definition for “Indian tribe” added.
2012-2 (Item #2)	10 CFR Part 71.4	Part 17, Section 17.2.2 Definition for “Tribal official” added.
2012-2 (Item #3)	10 CFR Part 71.97(a)(1) 10 CFR Part 71.97(a)(2)	Part 17, Sections 17.11.1, 17.11.2. Modified language consistent with federal rule pertaining to notifications of advance shipment of irradiated reactor fuel and nuclear waste. Modified language consistent with federal rule pertaining to notifications of recognized Tribes.
2012-2 (Item #4)	10 CFR Part 71.97(c)	Part 17, Section 17.11.4 Modified language consistent with federal rule pertaining to procedures for submitting advance notification.
2012-2 (Item #5)	10 CFR Part 71.97(c)(3)	Part 17, Section 17.11.4.3 Modified language consistent with federal rule pertaining to notification methods and timelines.
2012-2 (Item #6)	10 CFR Part 71.97(d)	Part 17, Section 17.11.5 Added/modified language pertaining to information to be furnished in advance notification of certain radioactive materials shipments, consistent with federal rule.
2012-2 (Item #7)	10 CFR Part 71.97(e)	Part 17, Section 17.11.6 Added/modified language pertaining to revision notice requirements for certain radioactive materials shipments, consistent with federal rule.
2012-2 (Item #8)	10 CFR Part 71.97(f)	Part 17, Section 17.11.7 Added/modified language pertaining to cancellation notice requirements for certain radioactive materials shipments, consistent with federal rule.

	2012-3 RATS ITEM(S)	
2012-3 (Item #5)	10 CFR Part 71, Appendix A, Table A-1	<p>Part 17, Appendix 17A, Table 17A1 (Part 4 of 4) Table value was adjusted for Te-132 consistent with Part 71.</p> <p>Added footnote pertaining to A1, and A2, consistent with federal rule.</p> <p><i>Note: The values for Bi-205, Cm-248, and Eu-150 specified in this RATS item are currently consistent with NRC rule and did not require modification.</i></p>
	2013-1 RATS ITEM [This item was incorporated into the final rule prior to the 03/19/16 due date for state adoption.]	
2013-1	10 CFR Part 71.97(b)	<p>Part 17, Section 17.11.3</p> <p>Added/modified language pertaining to advance notification consistent with 71.97(b).**</p> <p>**Also see Table 1 notes pertaining to 10 CFR 71.97 and Section 17.11 included with this correspondence.</p>