

JUN - 7 1994

Mr. Dennis P. O'Dowd, Supervisor  
Radioactive Material Section  
Bureau of Radiological Health  
6 Hazen Drive  
Concord, NH 03301-6527

Dear Mr. O'Dowd:

We have reviewed the draft revisions to the New Hampshire Standards for Protection Against Radiation and the other rules submitted March 7, 1994. The rules were reviewed in comparison to the equivalent rules in the *Suggested State Regulations for the Control of Radiation (SSR)*, and the equivalent NRC regulations in Title 10 of the Code of Federal Regulations.

As a result of the review, we have a number of comments, as enclosed. Please note that we have not identified compatibility divisions for the comments on the rules as the Commission has not made a final determination of the compatibility requirements for the Part 20 rules. We understand that many of the other rules were previously adopted and only the numbering is being changed now; further revisions will be made at a later date. We recommend that the comments be incorporated at that time. Also, please note that where a reference to a section of the SSR is given in a comment, the equivalent rule in 10 CFR Part 20 could also be used for the reference.

If you have any questions regarding the comments or any of the rules reviewed, please contact me or Mr. Richard Blanton of my staff at (301) 504-2322.

Sincerely,

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Paul H. Lohaus, Deputy Director  
Office of State Programs

Enclosures:  
As stated

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## COMMENTS ON DRAFT RULES

New Hampshire, 1994

### Definitions

### Comment

#### 10 CFR Part 20

ALARA

The State definition omits the statement of considerations against which reasonability is to be judged. These provisions need to be inserted.

Member of the Public

We suggest either adding the words "except when the individual is receiving an occupational dose", or using the wording "means any individual except during any period in which the individual receives an occupational dose."

Survey

We recommend incorporating the second sentence of the SSR definition into the definition statement.

Year

We recommend incorporating the second sentence of the SSR definition into the definition statement.

#### 10 CFR Part 61

- NONE -

Adopt the definition of the term "stability" from Part M of the SSR.

### Regulations

#### 10 CFR Part 20

He-P 2094

Several submitted rules referenced this section, but a copy was not provided. The accuracy of the references could not be evaluated.

He-P 4003.09

There is a typographical error in Table 4003.1; the value for the quality factor of alpha particles, (etc) is shifted right into the unit dose equivalent column.

He-P 4020.07(e)

Typographical error in the table of weighting factors in Table 4020.1, a column misalignment.

He-P 4020.09(d)

Editorial comment, move the phrase "in order to make additional measurements basic to the assessments" down

to follow the words "up to 7 months."

- He-P 4022.01(c) Editorial comment, we recommend that after "All personnel dosimeters" and before the comma, you add "that require processing to determine the radiation dose and that are used by licensees and registrants to comply with He-P 4020.06, with other applicable provisions of these regulations, or with conditions specified in a license or registration".
- He-P 4022.03(f) Editorial comment, move the phrase "the presence of patients containing radioactive material, provided" from paragraph (1) up to just before the colon.
- He-P 4022.05 Typographical error, there are two subsections labeled "(b)." In the second subsection (b), paragraph (2), change the wording to emphasize that the additional controls must be installed before any failure of the control devices required by He-P 4022.05(c)(1) occurs.

#### 10 CFR Part 71

- He-P 4037.14(b) After the words "packaging has been" and before the word "approved", insert the words "fabricated in accordance with the design". NRC does not approve each individual packaging.
- He-P 4037.15(b)(9) Editorial comment, the reference to He-P 4037.15(h)(2) should be to He-P 4037.15(b)(11).
- He-P 4037.15(b)(11) Editorial comment, the reference to He-P 4037.15(h)(1) should be to Table 4037.3.
- He-P 4037.15(b)(13) Editorial comment, the reference to He-P 4037.15(i) should be to He-P 4037.15(b)(12).
- He-P 4037.16(b) Editorial comment, we recommend moving the word "only" to follow the word "air".
- Table 4037.7 Editorial comment, the footnote for the "\*" has been omitted.

#### 10 CFR Part 39

- He-P 4039.15(a)(1)c. Change the words "with respect to" to "specifically". In c.1., change to read "Equipment for handling sources of radiation". In c.2., change to read "Sources of radiation to be used".
- He-P 4039.16 Editorial comment, the text after the title is duplicated in subsection (b).

He-P 4039.17(d) Editorial comment, the reference to NVLAP should be to a processor who is a participant in NVLAP. Subsection (f) appears to be a duplication of subsection (e).

- NONE - A rule providing the requirements in 10 CFR 39.69 on contamination control is needed.

#### 10 CFR Part 61

He-P 4062.01(f) The requirement to identify "Class N" waste should be separated and clearly identified as a requirement when shipping within New Hampshire only, since other States do not use this classification.

He-P 4062.01(q)(1) After the word "operator;" and before the word "and" add:  
"a. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator.  
b. The returned copy of the manifest or equivalent documentation shall indicate any discrepancies between materials listed on the manifest and materials received;"

He-P 4060.02(u) Editorial comment, delete the word "rock" from just before the word "zone".

He-P 4060.02(y) Spelling error: "met" rather than "meet".

He-P 4060.06(b)(2) Add a paragraph requiring the submission of proposed minimum training and experience requirements for key personnel (see the second sentence of SSR M.6(b)(2)).

He-P 4060.06(b)(9)d.1 The list does not contain all of the elements in M.7(a), the missing items need to be added.

He-P 4060.08 The rules do not provide all of the requirements in M.11, particularly, the M.11(h) requirements for institutional control are missing. These need to be added.

He-P 4060.15(b)(2) Change to read in part: (underlines show the changes)  
" ... or analysis pertinent to the long-term containment of emplaced waste within the disposal site;"

- NONE - Adopt a rule to provide for the transfer of the license to the custodial government agency during the institutional period. See SSR M.16.

He-P 4060.17 The rules should provide for the transfer of the waste site license to the custodial government agency at the end of closure, rather than permit termination of the license before the institutional control period.

- He-P 4061.04(d)(2) Editorial comment, change "of" to "or."
- He-P 4061.07 Editorial comments, in Table 4061.1, the bottom three entries, columns 2 and 3 - change "8" to "gm." In 4061.07(h), change the last references to tables 4061.1 and 4061.2 to reference sections 4061.07(b) and 4061.07(e).
- He-P 4061.08(a) Add a subparagraph substantially similar to the following: "Wastes shall be packaged in conformance with the provisions of this section or conditions of the license issued to the site to which the waste will be shipped, whichever are more stringent." This is a matter of significance since it would apply to NH licensees shipping waste to sites in other States.
- He-P 4061.11(d) By allowing the site applicant to take credit for and rely on institutional controls for up to 150 years, the State rule is less protective than 10 CFR 61.59. This is because relying on institutional controls for a longer period increases institutional burden and could potentially reduce reliance on other barriers, such as facility design. Note that under 10 CFR 61.59, the State may allow for an institutional control period greater than 100 years. The State should not, however, allow the applicant to rely on or take credit for institutional controls for a period of time beyond 100 years.
- To clarify that the State can extend the institutional control period, we recommend that the word "program" be changed to the term "DPHS/BRH."
- He-P 4060.06(b)(6) The requirements of M.31(b) through M.31(h) need to be added to the State rule.
- He-P 4060.06(b)(8) The State rule requires the deposit of funds to the State general treasury. This would work if the site owner is the State government, but it is not clear that this would work if the site owner were a federal government agency.