

July 12, 2005

Mr. Bernard Bevill, Work Unit Leader
4815 West Markham St.
Little Rock, Arkansas 72205-3867

Dear Mr. Bevill:

We have reviewed the proposed changes to the Arkansas Rules and Regulations for Control of Sources of Ionizing Radiation, received by our office on June 10, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 31, 32, 34 and 35 and the requirements of the nine amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on July 11, 2005.

As a result of our review, we have five 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 Arkansas 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 Arkansas regulations. However, we have determined that if your proposed regulations 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 State and Tribal Programs (STP) Procedure SA-200.

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 STP Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Arkansas 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 STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

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 me, or Jenny Tobin at (301)415-2328 or by e-mail at jct1@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Dennis Rathbun, Deputy Director
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Enclosures: As stated

SISP Review Complete

- : Publicly Available Non-Publicly Available
- : Non-Sensitive Sensitive

Distribution:

DIR RF[5-167] DCD (SP08) PDR(YES_T) Response to Incoming Document: **ML051640435**
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DATE	06/23/05*		06/23/05*		07/07/05*		07/12/05*	

ML051940125

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COMPATIBILITY COMMENTS ON ARKANSAS PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	RH-2790	20.1705	1999-3	B	<p>Application for use of higher assigned protection factors</p> <p>Arkansas has omitted the requirements of subpart (H). This requirement addresses authorization for the use of higher assigned protection factors.</p> <p>Arkansas needs to add this paragraph to Appendix E to meet the Compatibility Category B designation assigned to Section 10 CFR 20.1705.</p>
2	RH-405e	32.51a(b)2-4	2001-1	B	<p>Same: Conditions of licenses.</p> <p>Arkansas has omitted the requirements of 10CFR 31.51a(b)(2-4). This requirement addresses the services of a specific licensee.</p> <p>Arkansas needs to add this paragraph to RH-405e to meet the Compatibility Category B designation assigned to Section 10 CFR 31.51a(b)(2-4).</p>
3	RH-405	32.74	2002-2	B	<p>Manufacture and distribution of sources or devices containing by-product material for medical use</p> <p>Arkansas has omitted requirements for the manufacture and distribution of sources or devices containing by-product material for medical use.</p> <p>Arkansas needs to adopt the objectives to meet the Compatibility Category B designation assigned to Section 10 CFR 32.74.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	RH-8315	35.50	2002-2	B	<p>Training for Radiation Safety Officer</p> <p>Arkansas has omitted the requirement of requiring work experience in the area of radiation dosimetry.</p> <p>Arkansas needs to adopt this requirement within RH-8315 to meet the Compatibility Category B designation assigned to Section 10 CFR 35.50.</p>
5	RH-8660	35.690(E) and (F)	2002-2	B	<p>Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units</p> <p>Arkansas has omitted the requirements 10 CFR 35.690(E) and (F) for training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.</p> <p>Arkansas needs to adopt these two sections to meet the Compatibility Category B designation assigned to Section 10 CFR 35.690.</p>

STATE REGULATION STATUS

State: Arkansas

Tracking Ticket Number: 5-167

[9 proposed amendments reviewed are identified by a i at the beginning of each equivalent NRC regulation.]

Date: July 12, 2005.

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ / Rule¹ / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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 ML031270002	(N)04/30/2003 ML031220523	
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843 (1/10/94)	1991-1	F ML031270002	(N) 04/30/03 ML031220523	
ASNT Certification of Radiographers-Part 34	56 FR 11504 (none)	1991-2	F ML031270002	(N) 04/30/03 ML031220523	
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980 (10/15/94)	1991-4	F ML031270002	(N) 04/30/03 ML031220523	
Quality Management Program and Misadministrations-Part 35	56 FR 34104 (1/27/95)	1992-1	F ML031270002	(N) 04/30/03 ML031220523	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566 (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715 (7/1/96)	1993-2			Not applicable SECY-95-112 ³
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886 (7/22/96)	1993-3	F ML031270002	(Y) 04/30/03 ML031220523	Not applicable SECY-95-112 ⁴
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628 (10/25/96)	1993-1	F ML031270002	(N) 04/30/03 ML031220523	
Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70	58 FR 68726 59 FR 1618 (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220 (7/1/97)	1994-2			Not applicable to Arkansas
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026 (8/15/97)	1994-3	F ML031270002	(N) 04/30/03 ML031220523	
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 ML031270002	(Y) 04/30/03 ML031220523	
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900 (3/13/98)	1995-2	F ML031270002	(N) 04/30/03 ML031220523	

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Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649 60 FR 25983 (3/1/98)	1995-3	F ML031270002	(N) 04/30/03 ML031220523	
Performance Requirements for Radiography Equipment- Part 34	60 FR 28323 (6/30/98)	1995-4	F ML031270002	(N) 04/30/03 ML031220523	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038 (8/14/98)	1995-5	F ML031270002	(Y) 04/30/03 ML031220523	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235 (11/24/98)	1995-6	F ML031270002	(N) 04/30/03 ML031220523	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623 (10/20/98)	1995-7	F ML031270002	(N) 04/30/03 ML031220523	
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248 61 FR 28723 (4/1/99)	1996-1	F ML031270002	(Y) 04/30/03 ML031220523	
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: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669 (6/17/99)	1996-3	F ML031270002	(N) 04/30/03 ML031220523	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120 (1/9/00)	1997-1	F ML031270002	(N) 04/30/03 ML031220523	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907 (none)	1997-4			Not required ³
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 ML031270002	(N) 04/30/03 ML031220523	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120 (5/29/00)	1997-3	F ML031270002	(N) 04/30/03 ML031220523	
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948 (6/27/00)	1997-5	F ML031270002	(N) 04/30/03 ML031220523	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058 (8/20/00)	1997-6	F ML031270002	(N) 04/30/03 ML031220523	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634 (1/02/01)	1997-7	F ML031270002	(N) 04/30/03 ML031220523	
Deliberate Misconduct by Unlicensed Persons- Parts 30, 40, 61, 70, 150	63 FR 1890 63 FR 13773 (2/12/01)	1998-1	F ML031270002	(N) 04/30/03 ML031220523	

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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
i Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059 (7/9/01)	1998-4	P ML051640435	N 07/12/05 ML051940125	
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 ML031270002	(Y) 04/30/03 ML031220523	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127 (11/20/01)	1998-6	F ML031270002	(Y)04/30/03 ML031220523	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506 (6/11/02)	1999-1			Not applicable to Arkansas
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
i Respiratory Protection and Controls to Restrict Internal Exposure - Part 20	64 FR 54543 64 FR 55525 (2/2/03)	1999-3	P ML051640435	Y 07/12/05 ML051940125	
i Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39	65 FR20337 (5/17/03)	2000-1	P ML051640435	N 07/12/05 ML051940125	
i New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	P ML051640435	N 07/12/05 ML051940125	
i Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material- Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML051640435	Y 07/12/05 ML051940125	
i Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML051640435	N 07/12/05 ML051940125	
i Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (10/24/05)	2002-2	P ML051640435	Y 07/12/05 ML051940125	
i Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1	P ML051640435	N 07/12/05 ML051940125	
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
i Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1	P ML051640435	N 07/12/05 ML051940125	

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Medical Use of Byproduct Material - Recognition of Speciality Boards - Part 35	70 FR 16336; (4/29/08)2005-2	2005-2			

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 a State is not required to have this item for 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 Tracking number