

October 23, 2006

Jeff Meyers, Administrator
Emergency & Radiological Services Division
Department of Environmental Quality
P.O. Box 4313
Baton Rouge, LA 70821-4313

Dear Mr Meyers:

We have reviewed the final revision to the Louisiana regulations Title 33 Part XV, received by our office by e-mail on August 31, 2006. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 34, 39, 40, and 70 and the requirements of the four amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Sharon Parker on October 23, 2006.

As a result of our review, we have four 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. We have determined that if these regulations are revised, 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 you revise your regulations to address our comments, 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 location of any changes made by Louisiana, in response to our comments and provide a copy to the Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.

The SRS Data Sheet summarizes our knowledge of the status of other Louisiana 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\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 Bill Rautzen at (301) 415-7206 or by e-mail at wrr@nrc.gov.

Sincerely,

IRA By Scott W. Moore

Scott W. Moore, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosures:
As stated

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Enclosures: As stated

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DATE	10/12/06*	10/12/06*	10/17/06*	10/23/06*

COMPATIBILITY COMMENTS ON LOUISIANA FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	2004 and 2051.D	39.15	2000-1	C	<p>AGREEMENT WITH WELL OWNER OR OPERATOR (This comment remains from the letter from Josie Piccone, NRC, dated 8/26/04)</p> <p>This section defines the minimum written requirements with the well owner or operator prior to performing well logging. The State has placed the notification aspects of these requirements in 2051.D, but did not revise 2004, to reflect the changes needed. The reference in 2004 is incorrect and the information in 2051.D is incomplete.</p> <p>Louisiana needs to include all of the requirements of 39.15 and correct the cross reference in their regulations to meet the Compatibility Category C designation assigned to Section 10 CFR 39.15.</p>
2	2017.A and 2017.E	39.41	2000-1	B	<p>DESIGN AND PERFORMANCE CRITERIA FOR SOURCES (This comment remains from an STP letter dated 8/26/04)</p> <p>This section defines minimum design and performance criteria for sources. The State has added 2017.E to include the new requirements and retained the existing language in 2017.A. The regulation is confusing and duplicative with the different dates and different requirements.</p> <p>Louisiana needs to revise 2017.A and 2017.E to meet the Compatibility Category B designation assigned to Section 10 CFR 39.41.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	2017.F.2	39.53(b)	2000-1	C	<p>ENERGY COMPENSATION SOURCE (This comment remains from an STP letter dated 8/26/04)</p> <p>This section lists the sections that apply to Energy Compensation Sources (ECS) applications without a surface casing for fresh water aquifers. The State reference to the equivalent to 39.15 is missing and the State makes reference to the equivalent of 39.41(Subsection E to 2017) which should not be referenced.</p> <p>Louisiana needs to include the equivalent reference to 39.15 and remove the equivalent State reference to 39.41 listed in 39.53(b) to meet the Compatibility Category C designation assigned to Section 10 CFR 39.53(b).</p>
4	2017.E.3	39.41(f)	2000-1	B	<p>DESIGN AND PERFORMANCE CRITERIA FOR SOURCES (This comment remains from an STP letter dated 8/26/04)</p> <p>The State regulations require that ECS must be registered with the State and do not allow ECS to be registered with NRC or other Agreement States.</p> <p>Louisiana needs to allow registration of ECS with NRC or other Agreement States in 2017.E.3 to meet the Compatibility Category B designation assigned to Section 10 CFR 39.41(f).</p>

STATE REGULATION STATUS

State: Louisiana

[4 Amendments reviewed identified by a ★
the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 6-248

Date: October 23, 2006

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / License Condition (LC) ML # ⁵	NRC Review / Y, N ² / Date /ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			6/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	P	N 10/15/98	6/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			6/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			11/98
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	N 4/4/97	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618;(none)	1994-1			Not required ³ 11/98
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 1/6/99	11/98
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	N 1/6/99	11/98

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 1/6/99	10/96
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F	N 1/6/99	11/98
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 1/6/99	9/97
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/6/99	11/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/6/99	11/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/6/99	11/98
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F ML020280299	N 2/15/02 ML020460125	5/20/00
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	P	N 6/29/00	5/20/00
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML011510385	N 11/15/01 ML013100191	
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 ML011510385	N 11/15/01 ML013100191	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 1/6/99	11/98
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F ML020280299	Y 2/15/02 ML020460125	8/20/01
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML011510385	N 11/15/01 ML013100191	12/20/00
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/6/99	11/98
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML011510385	N 11/15/01 ML013100191	12/20/00

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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
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML062480284	N 10/23/06 ML062960278	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML011510385	Y 11/15/01 ML013100191	12/20/00
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML062480284	N 10/23/06 ML062960278	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not required ³
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
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML061720127	N 7/27/06 ML062120471	5/20/06
★Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML062480284	Y 10/23/06 ML062960278	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML041880305	N 8/26/04 ML042390322	
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML061720127	Y 7/27/06 ML062120471	5/20/06
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1	P ML051080512	N 8/18/05 ML052310429	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249;(10/24/05)	2002-2	F ML061720127	N 7/27/06 ML062120471	5/20/06

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★Financial Assurance for Materials Licensees- Parts 30, 40, 70	68 FR 57327 (12/03/06)	2003-1	F ML062480284	N 10/23/06 ML062960278	
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; 71 FR 1926 (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128; (12/1/05)	2005-3	LC ML052900105	N 10/20/05 ML052930327	
Minor Amendments - Part 20,30,32,35,40 and 70	71FR15005 (03/27/09)	2006-1			

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 these regulations are not required for purposes of 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 ML Number
6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090.