

March 5, 2001

Alice Hamilton Rogers, P.E., Section Manager
UIC and Radioactive Waste Section
Texas Natural Resource Conservation Commission
P.O. Box 13087, MC-131
Austin, TX 78711-3087

Dear Ms. Rogers:

As requested by your letter dated January 10, 2001, we have reviewed the proposed regulations to the Texas Administrative Code, 30 TAC 336, Radioactive Substance Rules, relating to Respiratory Protection and Controls to Restrict Internal Exposures; Minor Corrections, Clarifying Changes, and a Minor Policy Change; and Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials. The proposed regulations are in response to the three amendments identified in the enclosed Regulation Assessment Tracking System (RATS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 20. We also discussed our review of the regulations with Dr. Hygie Reynolds on February 6, 2001.

As a result of our review, we have no comments. 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 a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted without 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 Regulations* (November 10, 1998), please highlight the final changes and send one copy in a computer readable format, if possible.

We have also summarized on the RATS Data Sheet our knowledge of the status of other Texas regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the RATS Data Sheet.

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 Linda McLean of the Region IV staff at 817-860-8116 or mlm1@nrc.gov.

Sincerely,

/RA/

Janet R. Schlueter, Acting Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

Alice Hamilton Rogers

Distribution:

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DCD (SP08)

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Texas File

Response to Incoming: ML010180338

*See previous concurrence.

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| OFFICE | RIV/RSOA | | STP | | OGC | | STP:DD | | | |
| NAME | MLMcLean:gd:kk/gd | | SNSalomon | | SATreby | | JRSchlueter | | | |
| DATE | 02/08/01* | | 02/08/01* | | 02/28/01* | | 02/08/01* 03/05/01 | | | |

STP-AG-27

REGULATION ASSESSMENT TRACKING SYSTEM
RATS DATA SHEET

State: Texas Natural Resources Conservation Commission
Three proposed amendments (undated) reviewed are identified
by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 1-10

Date: March 5, 2001

| NRC Chronology Identification | FR Notice (State Due Date) | RATS ID | Proposed/ Final- Comment (Y/N) ¹ | NRC Review Date | Final State Regulation ² (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 | | | |
| Safety Requirements for Radiographic Equipment-Part 34 | 55 FR 843 (1/10/94) | 1991-1 | | | TX DOH responsibility |
| ASNT Certification of Radiographers-Part 34 | 56 FR 11504 (none) | 1991-2 | | | Not required ³ |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980 (10/15/94) | 1991-4 | F-N | 1/7/98 | 6/5/97 |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104 (1/27/95) | 1992-1 | | | TX DOH responsibility |
| 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 ⁴ |
| Definition of Land Disposal and Waste Site QA Program-Part 61 | 58 FR 33886 (7/22/96) | 1993-3 | F-N | 1/7/98 | 6/5/97 |
| Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40 | 58 FR 39628 (10/25/96) | 1993-1 | F-N | 1/7/98 | 6/5/97 |
| Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70 | 58 FR 68726 59 FR 1618 (none) | 1994-1 | F-N | 1/7/98 | 6/5/97 Not required ³ |

| NRC Chronology Identification | FR Notice (State Due Date) | RATS ID | Proposed/ Final- Comment (Y/N)¹ | NRC Review Date | Final State Regulation² (Effective Date) |
|---|---|--------------------|---|--------------------------------|--|
| Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40 | 59 FR 28220 (7/1/97) | 1994-2 | F-N | 1/7/98 | 6/5/97 |
| Timeliness in Decommissioning Material Facilities- Parts 30, 40, 70 | 59 FR 36026 (8/15/97) | 1994-3 | F-N | 1/7/98 | 6/5/97 |
| 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 | | | TX DOH responsibility |
| Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20 | 60 FR 7900 (3/13/98) | 1995-2 | F-N | 1/7/98 | 6/5/97 |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649 60 FR 25983 (3/1/98) | 1995-3 | F-N | 1/7/98 | 6/5/97 |
| Performance Requirements for Radiography Equipment- Part 34 | 60 FR 28323 (6/30/98) | 1995-4 | | | TX DOH responsibility |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038 (8/14/98) | 1995-5 | F-N | 1/7/98 | 6/5/97 |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235 (11/24/98) | 1995-6 | F-N | 1/7/98 | 6/5/97 |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623 (10/20/98) | 1995-7 | | | TX DOH responsibility |
| 10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71 | 60 FR 50248 61 FR 28723 (4/1/99) | 1996-1 | | | TX DOH responsibility |
| 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-N | 1/7/98 | 6/5/97 |
| *Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20 | 61 FR 65120 (1/9/00) | 1997-1 | P-N P-N | 1/4/98 3/5/01 | |
| Fissile Material Shipments and Exemptions-Part 71 | 62 FR 5907 (none) | 1997-4 | | | Not required ³ |
| Recognition of Agreement State Licenses in Areas | 62 FR 1662 | 1997-2 | | | |

| NRC Chronology Identification | FR Notice (State Due Date) | RATS ID | Proposed/ Final- Comment (Y/N)¹ | NRC Review Date | Final State Regulation² (Effective Date) |
|--|---|--------------------|---|--------------------------------|--|
| Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150 | (2/27/00) | | | | |
| Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35 | 62 FR 4120 (5/29/00) | 1997-3 | | | TX DOH responsibility |
| 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 | | | TX DOH responsibility |
| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39058 (8/20/00) | 1997-6 | P-N | 1/4/98 | |
| Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30 | 62 FR 63634 (1/02/01) | 1997-7 | | | TX DOH responsibility |
| Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150 | 63 FR 1890 63 FR 13773 (2/12/01) | 1998-1 | | | |
| 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 | | | TX DOH responsibility |
| *Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36 | 63 FR 39477 63 FR 45393 (10/26/01) | 1998-5 | P-N | 3/5/01 | |
| Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20 | 63 FR 50127 (11/20/01) | 1998-6 | | | |
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506 (6/11/02) | 1999-1 | | | |
| 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 |

| NRC Chronology Identification | FR Notice (State Due Date) | RATS ID | Proposed/ Final- Comment (Y/N)¹ | NRC Review Date | Final State Regulation² (Effective Date) |
|--|---|--------------------|---|--------------------------------|--|
| *Respiratory Protection and Controls to Restrict Internal Exposure - Part 20 | 64 FR 54543 64 FR 55525 (2/2/03) | 1999-3 | P-N | 3/5/01 | |
| Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39 | 65 FR 20337 (5/17/03) | 2000-1 | | | TX DOH responsibility |

1. (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.
2. Or other generic Legally Binding Requirement.
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.