

March 30, 2001

John A. Volpe, Ph.D., Manager  
Radiation Health and Toxic Agents Branch  
Cabinet for Health Services  
275 East Main Street  
Frankfort, KY 40621-0001

Dear Dr. Volpe:

We have reviewed the final Kentucky Administrative Regulations (KAR) amendments (effective February 2, 2001), which were provided to us for initial review via e-mail on January 19, 2001. The final regulations are in response to the 3 amendments identified in the enclosed State Regulation Status. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 30, 34, 71 and 150. We understand that the proposed regulations were not sent for comment prior to their adoption as final regulations. We discussed our review of the regulations with you on February 16, 2001.

As a result of the NRC review, we have identified one comment, as enclosed. This comment must be addressed to meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

The State Regulation Status summarizes our knowledge of other Kentucky regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the status. This letter including the status is posted on the STP web site:  
<http://www.hsrcd.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 Richard L. Woodruff of the Region II Office at 404-562-4704 or RLW@NRC.GOV.

Sincerely,

**/RA/**

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

Enclosures:  
As stated

John A. Volpe

March 30, 2001

Distribution:

DIR RF (1-11)

SDroggitis

BUsilton

LRakovan, ASPO

KY File

DCD (SP06)

PDR (YES✓)

Response to incoming documents: ML010780156

DOCUMENT NAME: C:\KY Woodruff 2-16-01.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RII		STP		OGC		STP:DD			
NAME	RWoodruff:gd		SNSalomon		STreby		Schlueter			
DATE	02/16/01		02/21/01		03/16/01		02/23/01 03/29/01			

ML010890409

STP-AG-11

COMMENTS ON FINAL KENTUCKY REGULATIONS  
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
Section 22 Subsection (2)	34.49(b)	1997-5	C	<p>Radiation Surveys and Survey Records</p> <p>The Kentucky regulation combines two sentences from 10 CFR 34.49(b) resulting in a change of emphasis when performing surveys. The NRC regulation requires a survey whenever the device or guide tube is approached. The result of the survey is to determine that the sealed source is in its shielded position before taking any further action. In contrast, the Kentucky regulation requires a survey if these items are approached to determine that the source was returned to its shielded position.</p> <p>We recommend that your one sentence be split into two sentences, as in the NRC regulation, or as proposed in the Suggested State Regulation, Section E21.b, to read as follows to meet the compatibility category:</p> <p>A survey with a radiation survey instrument shall be made after a radiographic exposure, of the radiographic exposure device and the guide tube, if approaching the device or guide tube. The result must determine that the sealed source has been returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment.</p>

## STATE REGULATION STATUS

**State: Kentucky**

**[Three final amendments (02/02/01) reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]**

**Tracking Ticket Number: 1-11**

**Date: March 30, 2001**

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (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 P	2/16/97 (N) 4/17/98 (N)	4/11/94
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	3/15/96 (N)	4/11/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required <sup>3</sup>
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	3/15/96 (N)	4/19/95
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	3/15/96 (N)	4/11/95
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			Not required <sup>3</sup>
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 <sup>4</sup>
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	3/15/96 (N)	4/19/95
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	3/15/96 (N)	Not required <sup>3</sup> 4/19/95
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not required <sup>3</sup>
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	4/17/98 (N)	8/20/97
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	F	4/17/98 (N)	8/20/97
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	4/17/98 (N)	1/14/97
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3			5/18/94

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			4/19/95
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F P	4/17/98 (Y) 4/17/98 (N)	11/14/97
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	6/21/00 (N)	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P	6/21/00 (Y)	
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required <sup>3</sup>
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	6/21/00 (N)	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F	4/17/98 (N)	11/14/97
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
*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 ML010780156	3/30/01 (N) ML010890409	2/2/01
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	4/17/98 (N)	11/14/97
*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 ML010780156	3/30/01 (Y) ML010890409	2/2/01
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	P	6/21/00 (N)	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7	F	4/17/98 (N)	11/14/97
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P	6/21/00 (N)	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
*Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML010780156	3/30/01 (N) ML010890409	2/2/01

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			
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 <sup>3</sup>
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			

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 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