

January 3, 2002

Mr. Roger L. Suppes, Chief
Bureau of Radiation Protection
Ohio Department of Health
P. O. Box 118
Columbus, OH 43266-0118

Dear Mr. Suppes:

As requested, we have reviewed the proposed regulations in Ohio Rule 3701:1-49, "Well Logging," dated August 30, 2001. The proposed regulations will replace the referenced NRC regulations currently in place. The proposed regulations also are in response to the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 39. We discussed our review of the regulations with Mike Snee on October 18, 2001.

As a result of our review, we have eight 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 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 incorporating the comments and without other significant change, they would meet the compatibility and health and safety categories established in 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 any changes and send one hard copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Ohio regulations. 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 Web Site: <http://www.hsrdo.org/nrc/rulemaking.htm>

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me or James Lynch at (630) 829-9661 or JLL2@NRC.GOV.

Sincerely,

/RA/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF (1-178)

SDroggitis

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DSollenberger,ASPO

Ohio File

DCD (SP07) PDR (YES_✓)

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DATE	10/22/01		11/03/01		01/03/02		11/15/01 01/03/02			

STP-AG-31

**COMMENTS ON PROPOSED OHIO REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-49-01 (B)	39.2	2000-1	B	<p>Definition of "Field Station"</p> <p>The definition is missing several words.</p> <p>"...equipment is dispatched <u>to temporary job sites</u>." These words should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-49-01 (Q)	39.2	2000-1	B	<p>Definition of "Tritium Neutron Generator Target Source"</p> <p>The definition is missing several words.</p> <p>"...within a neutron generator tube <u>to produce neutrons</u> for use in well logging." These words should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-49-10 (A)	39.41(a)	2000-1	B	<p>Design and Performance Criteria for Sources</p> <p>A word is missing from this paragraph.</p> <p>"...in well logging <u>applications</u> if the sealed source:..." This word should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-49-10 (C)	39.41(c)	2000-1	B	<p>Design and Performance Criteria for Sources</p> <p>A word is missing from this paragraph.</p> <p>“...if it meets the oil-well logging requirements of...” This word should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-49-10 (F)	39.42(f)	2000-1	B	<p>Design and Performance Criteria for Sources</p> <p>A reference is missing from this paragraph.</p> <p>The NRC regulation references 10 CFR 32.210 “Registration of Product Information. A reference to the equivalent Ohio rule, 3701: 1-46-49, should be added to meet the compatibility requirement.</p> <p>Compatibility Category B requires adoption of program elements essentially identical to those of NRC.</p>
1-49-15	39.51	2000-1	C	<p>Use of a Sealed Source in a Well Without a Surface Casing</p> <p>The scope of the statement needs to be narrowed in reference to NARM licensing State authority to only NARM material, as in 1-49-11(e).</p>
1-49-19 (L)	39.63(l)	2000-1	C	<p>Operating and Emergency Procedures</p> <p>This paragraph references Chapter 3701: 38.</p> <p>The correct reference appears to be Rule 3701: 1-38-23 and should be added to meet the compatibility requirement.</p> <p>This appears to be an error in the draft rule.</p>

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
1-49-24 (A)	39.73(a)	2000-1	C	<p>Documents and Records Required at Field Stations</p> <p>This paragraph does not require a licensee to maintain a field station copy of the Ohio well-logging rules. The comparable NRC regulation requires that licensees maintain a copy of 10 CFR 39 at field stations.</p> <p>This appears to be an error in the draft rule.</p>

STATE REGULATION STATUS

State: Ohio

**One amendment reviewed is identified by a ★
at the beginning of each equivalent NRC regulation.**

Tracking Ticket Number: 1-178

Date: January 3, 2002

NRC Chronology Identification	FR Notice (Date Due for State Implementation))	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁴	NRC Review / Y, N ² / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			10/9/98 ⁶
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 ML003772297 ML010330197	Y 5/14/01 ML011360572	10/9/98 ⁵
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	P	Y 7/26/00	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			10/9/98 ⁶
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	Y 7/26/00	10/9/98
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			10/9/98 ⁶
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			10/9/98 ⁶
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			10/9/98 ⁶
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			10/9/98 ⁵
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P	N 7/26/00	10/9/98 ⁵
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	P ML012340364	Y 12/11/01 ML013510454	10/9/98 ⁵
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P ML003772297 ML010330197	N 5/14/01 ML011360572	10/9/98 ⁵
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P ML003772297 ML010330197	Y 5/14/01 ML011360572	10/9/98 ⁵

NRC Chronology Identification	FR Notice (Date Due for State Implementation))	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁴	NRC Review / Y, N² / Date / ML #⁴	Final State Regulation¹ (Effective Date)
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			10/9/98 ⁵
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML003772297 ML010330197	Y 5/14/01 ML011360572	10/9/98 ⁵
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 7/26/00	10/9/98 ⁵
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			10/9/98 ⁵
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 ML010380259 ML010870344	Y 9/25/01 ML012710319	10/9/98 ⁵
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			10/9/98 ⁶
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	N 7/26/00	10/9/98 ⁵
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	P ML003772297 ML010330197	N 5/14/01 ML011360572	10/9/98 ⁵
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	P	N 7/26/00	10/9/98 ⁵
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			10/9/98 ⁵
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			10/9/98 ⁶
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	P	N 7/26/00	10/9/98 ⁵
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			10/9/98 ⁵
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	P	N 7/26/00	10/9/98 ⁵
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML010380259 ML010870344	N 12/12/01 ML013530072	10/9/98 ⁵
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			10/9/98 ⁶
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			10/9/98 ⁶

NRC Chronology Identification	FR Notice (Date Due for State Implementation))	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁴	NRC Review / Y, N ² / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			10/9/98 ⁵
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			10/9/98 ⁵
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML003772297 ML010330197	N 5/14/01 ML011360572	
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
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3	P ML003772297 ML010330197	Y 5/14/01 ML011360572	
★Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML012500049	Y 1/3/02 ML020080345	
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. ADAMS ML Number
5. Ohio became an Agreement State effective 08/31/99. The State incorporated NRC regulations by reference 10/9/98 and therefore, these regulations were found compatible.
6. Although these items are not required for purposes of compatibility, the State incorporated NRC regulations by reference on 10/9/98 which included these items.