

April 12, 2002

Ms. Patricia Gorman
Deputy Director
Conference of Radiation Control
Program Directors, Inc.
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. Gorman:

We have reviewed the draft copy of Part S to the Suggested State Regulations for the Control of Radiation (SSRCR), "Requirements for Financial Assurance." The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 30. We discussed our review of the regulations with Ken Weaver, State of Colorado, on September 24, November 8 and December 14, 2001.

As a result of our review, we have identified four comments and three editorial suggestions as enclosed. We also noted that Part S did not include the survey requirements of 10 CFR 30.35, 40.36 and 70.25. After discussion with Ken Weaver, we understand that these requirements will be included in a separate decommissioning SSRCR to be written at a later date. Under our current procedure, a finding that a 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 SSRCR regulation. However, we have determined that if your proposed SSRCR was 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 draft SSRCR is adopted and published as final, a copy of the "as published" SSRCR be provided to us for review. As requested in STP Procedure SA-201, *Review of State Regulations*, please highlight any changes and send one copy to STP in a computer readable format, if possible.

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 John Zabko of my staff at (301) 415-2308 or JGZ@NRC.GOV.

Sincerely,

/RA By Kathleen N. Schneider Acting for/
Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Patricia Gorman

April 12, 2002

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Editorial Suggestions

1. In Sec. S.2 (Scope). The categories of licensees are referenced as being in S.4.f. The correct reference is S.4.b.
2. In S.4.f, the phrase at the last part of the sentence “the licensee shall provide” should be moved to the beginning of the sentence.
3. In S.6(b)(vii), there is a reference to “S.6bii(2)(3)”; there is no such section in the draft Part S.

**COMMENTS ON PROPOSED PART S SUGGESTED STATE REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation or SSR	NRC Regulation or SSR	Category	Subject and Comments
S.10	Part 40 Appendix A	C	<p>This section does not contain a minimum amount of financial assurance as stated by Criterion 10 of Appendix A to 10 CFR 40, which could result in a lower amount of financial assurance than is required by Criterion 10. This criterion requires \$250,000 in 1978 dollars to be set aside for long term surveillance and control of uranium mill tailings.</p> <p>Section should be revised to include a minimum financial assurance for long term surveillance and control of uranium mill tailings.</p>
S.6.b.11 (2)	Part 30 Appendix B	None	<p>This section refers to “recognized” financial institutions. NRC regulations specify what constitutes an acceptable financial institution as one that is regulated and examined by a Federal or State agency.</p> <p>It is recommended that this section defines what is acceptable as a “recognized” financial institution.</p>

State Regulation or SSR	NRC Regulation or SSR	Category	Subject and Comments
S.11.a	40.36 (b)	None	<p>This section exempts persons possessing no more than 1000 times the quantity specified in C.4 Appendix A from financial assurance requirements. Appendix A lists both Thorium (natural) and Uranium (natural) with a quantity of 100 microcuries each. Thus, persons possessing less than 100 mCi of source material would be exempt. However, this section conflicts with S.4b (i) which specifies that each licensee authorized to possess and use greater than 10mCi of source material must provide financial assurance for decommissioning.</p> <p>It is suggested that S.4.b.(i) be revised to specify 10 mCi of Thorium (natural) and Uranium (natural) as the threshold for requiring financial assurance, as in 10CFR40.36 (b).</p>
S.11.b	30.35 (d)	D H/S	<p>There is no upper limit placed on the aggregate quantity of sealed sources a licensee may possess and still be eligible for an exemption.</p> <p>It is recommended that this section include an upper limit of 10^{10} times the quantity listed in Appendix A to Part S; this amount is consistent with 10 CFR 30.35 (d).</p>