

June 27, 2003

Mr. Aubrey Godwin, Director
Arizona Radiation Regulatory Agency
4814 South 40th Street
Phoenix, AZ 85040

Dear Mr. Godwin:

As requested, we have reviewed the proposed amendments to the Arizona regulations contained in rule packages RMP-0054 and RMP-0056, including the existing supporting areas in the entire Arizona Administrative Code, dated June 30, 2001. The rules were received by our office on May 21, 2003. In addition, we reviewed your responses to our letter, dated May 31, 2002, which contained our initial comments on the Arizona Administrative Code. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) regulations in 10 CFR Parts 20 and 34 and the requirements of the four amendments identified in the enclosed States Regulation Status Data Sheet (SRS). We discussed our review of the regulations with Daniel Kuhl on June 26, 2003.

As a result of our review, we have 7 comments on the amendments contained in RMP-0054 and RMP-0056. We also reviewed your response to our May 31, 2002 letter and found that 4 of our comments were not addressed. These comments are listed for you in a separate labeled table. In addition, in your response to our letter, you state that some of our comments will be covered in an upcoming rule package RMP-0057. In order to close out those comments, we request that you provide a copy of RMP-0057 showing the location of any of the changes that were made in response to our comments. 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. Please provide a final amended version of your rules showing the location of any changes made in response to our 7 comments from this letter, and the 4 comments from our May 31, 2002 letter. If there are any comments which the State believes are in error, the State should identify the section of their regulations that meet the designated compatibility category. Please note that we have limited our review to regulations required for compatibility and/or health and safety, but have determined that if these regulations are adopted, incorporating our comments and 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.

The SRS Data Sheet summarizes our knowledge of the status of other Arizona 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 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 John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

/RA BY SCOTT FLANDERS FOR/
Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Mr. Aubrey Godwin, Director
Arizona Radiation Regulatory Agency
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Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:

As stated

Distribution:

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Arizona File

DCD (SP08) PDR (YES)

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OFFICE	STP		OGC		STP	
NAME	Jzabko		Streby		JMPiccone (SFlanders for)	
DATE	06/12 /03*		06/26/03*		06/27/03*	

ML031810812

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

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	None	34.3	1997-5	B	Definitions: Certifying Entity The State has omitted this definition The State needs to include this definition to meet compatibility.
2	None	34.3	1997-5	B	Definitions: Guide tube The State has omitted this definition The State needs to include this definition to meet compatibility.
3	None	34.3	1997-5	B	Definitions: Independent certifying organization The State has omitted this definition The State needs to include this definition to meet compatibility.
4	None	34.3	1997-5	B	Definitions: Radiographer certification The State has omitted this definition The State needs to include this definition to meet compatibility.
5	None	34.3	1997-5	B	Definitions: S-tube The State has omitted this definition The State needs to include this definition to meet compatibility.
6	None	34.35	1997-5	B	Labeling, storage, and transportation The State has omitted all of the requirements of section 34.35 The State needs to include these requirements to meet compatibility.
7	None	34.47	1997-5	C	Personnel monitoring The State has omitted the requirement for pocket dosimeters to be processed by a NVLAP accredited processor, as it appears in 34.47 (a) and (a) (3) The State needs to include this requirement to meet compatibility.

**COMMENTS ON ARIZONA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES
NOT ADDRESSED FROM NRC LETTER DATED MAY 31, 2002**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	R 12-1-319(H)(1)(a)	20.1405(a)(1)	1999-3	C	<p>Public Notification and Public Participation</p> <p>The State did not address the requirement to notify and solicit comments from "any Indian Nation or other indigenous people that have treaty or statutory rights"</p> <p>The State needs to include this statement in this section to meet compatibility.</p>
2	R12-1-425(A)	20.1703(h)	1999-3	D H/S	<p>Use of individual respiratory protection equipment</p> <p>The State section did not address a requirement that licensees must ensure that no object, material or substance are present between the skin and the respirator as required by 20.1703(h).</p> <p>The State needs to include these requirements to maintain adequacy.</p>
3	R 12-1-425(A)(3)(C)	20.1703(c)	1999-3	D H/S	<p>Use of individual respiratory protection equipment</p> <p>The State did not adopt certain requirements for a respiratory protection plan as required in 10 CFR 20.1703(c). Also They failed to include fit testing frequency and failed to adopt, the parenthetical explanation in the following statement "Testing of respirators for operability (<u>user seal check for face sealing devices and functional checks for others</u>) immediately prior to each use.</p> <p>The State needs to include all of the requirements of section 20.1703 (c) to meet compatibility.</p>
4	R12-1-503	34.35(c)	1997-5	B	<p>Labeling, storage, and transportation</p> <p>The State section did not address requirements in 34.35(c) specifying that "licensees shall store licensed material in a manner which will minimize danger from explosion or fire."</p> <p>The State needs to add this requirement to achieve compatibility.</p>

STATE REGULATION STATUS

State: Arizona

[Four amendments reviewed are identified by a ★ at the beginning of the equivalent NRC regulation.]

Tracking Ticket Number: 3-127

Date: June 27, 2003

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / 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			8/10/94
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	F P	N 9/22/97 N 10/5/00	8/10/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			6/13/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	P	N 1/15/99	License Condition
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2	P	N 1/15/99	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			License Condition
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
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to AZ
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
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	N 1/15/99	

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2			License Condition
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	P	Y 10/5/00	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5			
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6			
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P	N 10/5/00	
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1			
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			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1			
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			
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P	N 1/15/99	
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	P ML031420790	Y 06/27/03 ML031810812	
★ Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	P ML031420790	N 06/27/03 ML031810812	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7			
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;	1998-3			Not required ³

NRC Chronology Identification	FR Notice (Due Date for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
	(none)				
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			
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 ³
★ Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	P ML031420790	Y 06/27/03 ML031810812	
★ Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML031420790	N 06/27/03 ML031810812	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1			
Revision of the Skin Dose Limit -Part 20	67 FR 16298; 4/5/05	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; 10/24/05	2002-2			

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