

July 31, 2003

Ms. Barbara Romanowsky, Administrator
Office of Environmental Assessment
Department of Environmental Quality
602 N. 5th, P.O. Box 4313
Baton Rouge, LA 70821-4313

Dear Ms. Romanowsky:

We have reviewed the proposed regulation amendments to the Louisiana Administrative Code, Title 33, Part XV, *Radiation Protection*, RP032, received by our office on June 24, 2003. Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to Louisiana Administrative Code that incorporated the amendments identified on the States Regulation Status Data Sheet (SRS). These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Parts 20, 34, 36 and 39 and the requirements of the 3 amendments identified in the enclosed SRS. We discussed our review of the regulations with Sharon Parker on July 31, 2003.

As a result of our review, we have seven comments and one editorial suggestion. In regard to comment number 4, we recognize that Louisiana rules are written based on the wording in the Suggested State Regulations (SSR). This wording does not adequately reflect the wording of 10 CFR 39.35 (b); and, as a result, the NRC is in the process of discussing this SSR section with the Conference of Radiation Control Program Directors (CRCPD). This section of the SSR and the Louisiana State rules will have to be changed to capture the essential objectives of 10 CFR 39.35 (b). 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 comments. 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 Louisiana 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>. In addition, 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 PM Larkins for J.M. Piccone/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Sincerely,
IRA by PM Larkins for JM Piccone
Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures: As stated

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OFFICE	STP		STP		OGC		STP	
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DATE	07/03/03*		07/03/03*		07/29/03*		07/09/03*	

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

STATE SECTION		NRC Section	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	442.A.4.d & 442.A.4.e	20.1703 (f)	1999-3	D H&S	<p>USE OF INDIVIDUAL RESPIRATORY PROTECTION</p> <p>This section defines the minimum respiratory protection program expected of any licensee who assigns or permits the use of respirators to limit intake. The State organization placed these provisions under the requirements for a written policy statement which does not achieve the same objective.</p> <p>The State needs to establish these requirements for the licensee prior to assigning or permitting the use of respirators and not just a requirement for a written policy statement to achieve compatibility.</p>
2	442.A.4.d & 442.A.4.e	20.1703 (f)	1999-3	D H&S	<p>USE OF INDIVIDUAL RESPIRATORY PROTECTION</p> <p>This section defines the minimum respiratory protection program expected of any licensee who assigns or permits the use of respirators to limit intake. The last sentence of 20.1703(f) on sufficient number of standby rescue persons is missing.</p> <p>The State needs to include all of the section as it appears in 20.1703(f) to achieve compatibility.</p>

STATE SECTION		NRC Section	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	2004 and 2051.D	39.15	2000-1	C	<p>AGREEMENT WITH WELL OWNER OR OPERATOR</p> <p>This section defines the minimum written requirements with the well owner or operator prior to performing well logging. The State has placed the notification aspects of these requirements in 2051.D, but did not revise 2004, to reflect the changes needed. The reference in 2004 is incorrect and the information in 2051.D is incomplete.</p> <p>The State needs to include all of the requirements of 39.15 and correct the cross reference to meet compatibility.</p>
4	2014.B	39.35(b)	2000-1	C	<p>LEAK TESTING OF SEALED SOURCES</p> <p>This section defines the methods of wipe testing of sealed sources. The State proposes that only those specifically authorized by NRC or an Agreement State may perform tests where NRC requires an approved leak test kit or method approved by the appropriate regulator.</p> <p>The State needs to use text equivalent to 39.35 (b) which requires Commission or Agreement State approved leak test kits or methods, not just qualified individuals, to achieve compatibility.</p>
5	2017.A and 2017.E	39.41	2000-1	B	<p>DESIGN AND PERFORMANCE CRITERIA FOR SOURCES</p> <p>This section defines minimum design and performance criteria for sources. The State has added 2017.E to include the new requirements and retained the existing language in 2017.A. The regulation is confusing and duplicative with the different dates and different requirements.</p> <p>The State needs to revise 2017.A and 2017.E to ensure that all of the requirements of 39.41 are met in order to achieve compatibility.</p>

STATE SECTION		NRC Section	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	2017.E.3	39.41(f)	2000-1	B	<p>DESIGN AND PERFORMANCE CRITERIA FOR SOURCES</p> <p>The State regulations require that Energy Compensation Sources (ECS) must be registered with the State and do not allow ECS to be registered with NRC or other Agreement States.</p> <p>The State needs to require registration of ECS with NRC or other Agreement States to meet the requirements for compatibility in 39.41 (f)</p>
7	2017.F.2	39.53(b)	2000-1	C	<p>ENERGY COMPENSATION SOURCE</p> <p>This section lists the sections that apply to ECS applications without a surface casing for fresh water aquifers. The State reference to the equivalent to 39.15 is missing and the State makes reference to the equivalent of 39.41(Subsection E to 2017) which should not be referenced.</p> <p>The State needs to include the equivalent reference to 39.15 and remove the equivalent State reference to 39.41 listed in 39.53(b) to achieve compatibility.</p>

EDITORIAL SUGGESTION ON PROPOSED LOUISIANA REGULATIONS

1. The State added to 544.B, the compatible Part 34, Radiography regulations text to exclude ECS from leak testing. ECS are not used by radiographers and may confuse licensees. This should be deleted from the proposed regulation.

STATE REGULATION STATUS

State: Louisiana

[Three amendment reviewed are identified by a ★
at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number:3-150

Date: July 31, 2003

NRC Chronology Identification	FR Notice (State Due Date)	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			6/94
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	P	N 10/15/98	6/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			6/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			11/98
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			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	P	N 4/4/97	
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	P	N 4/4/97	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	F	N 1/6/99	Not required ³ 11/98
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 1/6/99	11/98
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	N 1/6/99	11/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 1/6/99	10/96
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F	N 1/6/99	11/98
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 1/6/99	9/97

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Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/6/99	11/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/6/99	11/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/6/99	11/98
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F ML020280299	N 2/15/02 ML020460125	5/20/00
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	P	N 6/29/00	5/20/00
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F ML011510385	N 11/15/01 ML013100191	
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 ML011510385	N 11/15/01 ML013100191	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 1/6/99	11/98
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	F ML020280299	Y 2/15/02 ML020460125	8/20/01
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML011510385	N 11/15/01 ML013100191	12/20/00
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/6/99	11/98
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML011510385	N 11/15/01 ML013100191	12/20/00
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	P ML010460171	Y 4/13/01 ML011060084	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20	63 FR 39477; 63 FR 45393;	1998-5	F	Y 11/15/01	12/20/00

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	(10/26/01)		ML011510385	ML013100191	
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 ML022280310	N 7/31/03 ML032120609	
★ Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML031760392	Y 7/31/03 ML032120609	
★ New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML031760392	Y 7/31/03 ML032120609	
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; 4/24/05	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