

August 31, 2006

Bernard Bevill, Section Chief
Arkansas Department of Health & Human Services
Division of Health
Radiation Control Section
P.O. Box 1437, Slot H-30
Little Rock, AR 72203-1437

Dear Mr. Bevill:

By letter dated July 12, 2005, we sent you the results of our review of the proposed changes to the Arkansas regulations which were submitted to the NRC by letter dated June 7, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 31, and 32, and the requirements of the General License (GL) amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. The review we conducted omitted a specific review of Sections 10 CFR Parts 31.5 and 31.6. The text of these sections was not revised by the GL amendment, but the compatibility designations were changed from Compatibility Categories C and D respectively, to Category B.

As noted in All Agreement States letter STP-05-072, dated September 28, 2005, NRC staff will continue to review Agreement State GL Device proposed and final rules but will hold in abeyance any determination on those rules and compatibility of those rules, if the Agreement State has the essential elements of the NRC's rule and is more restrictive than the NRC's rule. For Agreement States without a GL Device rule or a GL Device rule less restrictive than the NRC rules, the staff will factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during Integrated Materials Performance Evaluation Program (IMPEP) reviews.

We discussed our re-review of the GL Amendment with you on August 21, 2006. Although we had only one comment for the 2001-1 amendment stated in the July 12, 2005 letter, as a result of our re-review against the Compatibility Category B designation, we have two additional comments that have been identified in the enclosure. We determined that Arkansas' GL amendment is less restrictive than the NRC's rule. We request that when a final amended version of Arkansas regulations are adopted and published in response to our comments, that a copy of the "as published" regulations be provided to us for review as requested in STP Procedure SA-201, Review of State Regulatory Requirements.

Please note that we have limited our review to regulations required for compatibility and/or health and safety. The SRS Data Sheet summarizes our knowledge of the status of other Arkansas 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.hsrdo.org/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 Ms. Monica Orendi at (301) 415-3938 or by e-mail at MOL1@nrc.gov.

Sincerely,

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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 Ms. Monica Orendi at (301) 415-3938 or by e-mail at MLO1@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF(6-16) DCD (SP08)

PDR (YES_✓)

Response to Incoming Document: ML051640435

LMcLean, RSAO; AMauer, ASPO; SLai, BUSilton, Ohio File

Document Name:E:\Filenet\ML062400180.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

SISP Review Complete

☒ Publicly Available ☐ Non-Publicly Available

☒ Non-Sensitive ☐ Sensitive

OFFICE	STP		OGC		STP:DD	
NAME	SLai		STreby		KNSchneider for	DKRathbun
DATE	4/06/06*		4/26/06*		8/31/06*	

ML062400180

OFFICIAL RECORD COPY

MLPKG.062400190

COMMENTS ON PROPOSED ARKANSAS REGULATIONS

NRC SECTION	STATE SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
31.5(c)(7)	N/A	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Arkansas has omitted the requirements in 10 CFR 31.5(c)(7) regarding the export of a device containing byproduct material.</p> <p>Arkansas needs to adopt the requirements to its regulations to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(7).</p>
31.5(d)	RH-402.b.4	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Arkansas has omitted the phrase “or import” from their provision compared to the NRC’s regulations.</p> <p>Arkansas needs to add this phrase in RH-402.b.4 to meet the Compatibility Category B designation assigned to 10 CFR 31.5(d).</p>

STATE REGULATION STATUS

State: Arkansas

**[One Amendment reviewed identified by a ★
at the beginning of the equivalent NRC requirement.]**

Tracking Ticket Number: 6-16

Date: August 31, 2006

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ License Condition (LC) / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843 (1/10/94)	1991-1	F ML031270002	N 04/30/03 ML031220523	01/01/97
ASNT Certification of Radiographers-Part 34	56 FR 11504 (none)	1991-2	F ML031270002	N 04/30/03 ML031220523	
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 ML031270002	N 04/30/2003 ML031220523	01/01/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980 (10/15/94)	1991-4	F ML031270002	N 04/30/03 ML031220523	01/01/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104 (1/27/95)	1992-1	F ML031270002	N 04/30/03 ML031220523	01/01/97
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	F ML031270002	Y 04/30/03 ML031220523	01/01/97
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715 (7/1/96)	1993-2			Not applicable SECY-95-112 ³
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886 (7/22/96)	1993-3	F ML031270002	Y 04/30/03 ML031220523	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 Arkansas
Timeliness in Decommissioning Material Facilities- Parts 30, 40, 70	59 FR 36026 (8/15/97)	1994-3	F ML031270002	N 04/30/03 ML031220523	01/01/97

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ License Condition (LC) / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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 ML031270002	Y 04/30/03 ML031220523	01/01/97
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900 (3/13/98)	1995-2	F ML031270002	N 04/30/03 ML031220523	01/01/97
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649 60 FR 25983 (3/1/98)	1995-3	F ML031270002	N 04/30/03 ML031220523	01/01/97
Performance Requirements for Radiography Equipment- Part 34	60 FR 28323 (6/30/98)	1995-4	F ML031270002	N 04/30/03 ML031220523	07/01/02
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038 (8/14/98)	1995-5	F ML031270002	Y 04/30/03 ML031220523	07/01/02
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235 (11/24/98)	1995-6	F ML031270002	N 04/30/03 ML031220523	07/01/02
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623 (10/20/98)	1995-7	F ML031270002	N 04/30/03 ML031220523	07/01/02
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248 61 FR 28723 (4/1/99)	1996-1	F ML031270002	Y 04/30/03 ML031220523	07/01/02
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	F ML031270002	N 04/30/03 ML031220523	07/01/02
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120 (1/9/00)	1997-1	F ML031270002	N 04/30/03 ML031220523	07/01/02
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 ML031270002	N 04/30/03 ML031220523	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120 (5/29/00)	1997-3	F ML031270002	N 04/30/03 ML031220523	07/01/02
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907 (none)	1997-4			Not required ³

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ License Condition (LC) / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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 ML031270002	N 04/30/03 ML031220523	07/01/02
Radiological Criteria for License Termination- Parts 20, 30, 40, 70	62 FR 39058 (8/20/00)	1997-6	F ML031270002	N 04/30/03 ML031220523	07/01/02
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634 (1/02/01)	1997-7	F ML031270002	N 04/30/03 ML031220523	07/01/02
Deliberate Misconduct by Unlicensed Persons- Parts 30, 40, 61, 70, 150	63 FR 1890 63 FR 13773 (2/12/01)	1998-1	F ML031270002	N 04/30/03 ML031220523	07/01/02
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 ML051640435	N 07/12/05 ML051940125	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477 63 FR 45393 (10/26/01)	1998-5	F ML031270002	Y 04/30/03 ML031220523	07/01/02
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127 (11/20/01)	1998-6	F ML031270002	Y 04/30/03 ML031220523	07/01/02
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506 (6/11/02)	1999-1			Not applicable to Arkansas
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 ML051640435	Y 07/12/05 ML051940125	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39	65 FR20337 (5/17/03)	2000-1	P ML051640435	N 07/12/05 ML051940125	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ License Condition (LC) / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	P ML051640435	N 07/12/05 ML051940125	
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material- Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ⁷ ML051640435	Y 8/31/06 ML062400180	
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML051640435	N 07/12/05 ML051940125	
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (10/24/05)	2002-2	P ML051640435	Y 07/12/05 ML051940125	
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1	P ML051640435	N 07/12/05 ML051940125	
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1	P ML051640435	N 07/12/05 ML051940125	
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; 71 FR 1926 (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128; (12/1/05)	2005-3	LC ML052510171	N 09/9/05 ML052520313	
Minor Amendments Part 20, 30, 32, 35, 40, and 70	71 FR 15005 (3/27/09)	2006-1			

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 a State is not required to have this item for 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 Tracking number
6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA.
7. A re-review was completed on this item due to change in compatibility of 31.5 and 31.6. More information can be found in the All Agreement States letter STP 05-072.

