

February 15, 2012

ALL AGREEMENT STATES

REVISION OF THE CHRONOLOGY OF NUCLEAR REGULATORY COMMISSION (NRC) AMENDMENTS INCLUDING SUMMARY OF CHANGE DOCUMENT FOR THE CHANGE OF COMPATIBILITY OF 10 CFR 31.5 AND 31.6 IN THE WITHDRAWAL OF PROPOSED RULE AND CLOSURE OF PETITION FOR RULEMAKING: ORGANIZATION OF AGREEMENT STATES AND FLORIDA DEPARTMENT OF HEALTH, BUREAU OF RADIATION CONTROL. [RATS ID 2012-1] (FSME-12-016)

Purpose: To provide the Agreement States with the Chronology of the U.S. Nuclear Regulatory Commission (NRC) Amendments including the addition, RATS ID 2012-1, Change of Compatibility of 10 CFR 31.5 and 31.6 (effective date 1/25/2012) and the Summary of Change Document.

Background: NRC is closing a petition for rulemaking (PRM-31-5) submitted by the Organization of Agreement States, Inc. (OAS). The petition requested that the NRC amend its regulations to strengthen the regulation of radioactive materials by requiring a specific license for higher-activity devices that are currently available under a general license, and change the compatibility designation of applicable regulations from Compatibility Category B to Compatibility Category C. The petition also addresses a request filed by the Florida Department of Health, Bureau of Radiation Control, to change the compatibility category of 10 CFR 31.5 from Category B to Category C. In response to the petition, the NRC developed a proposed rule that would have changed the compatibility of the applicable regulations, and would have limited the quantity of byproduct material contained in a generally-licensed device to below one-tenth of the International Atomic Energy Agency (IAEA) Category 3 thresholds. After further review, the NRC has decided to withdraw the proposed rule but changed the compatibility designation of the applicable regulations from Compatibility Category B to Compatibility Category C.

Discussion: The withdrawal of proposed rule and closure of petition for rulemaking, published on January 25, 2012, is posted in the *Federal Register*, 77 FR 3640, and can be accessed through this website: <http://www.gpo.gov/fdsys/pkg/FR-2012-01-25/pdf/2012-1523.pdf>.

The chronology is enclosed in its entirety and includes RATS ID: 2012-1, as maintained by the Office of Federal and State Materials and Environmental Management Programs. The chronology is for your use to plan rulemaking actions that are needed to satisfy the compatibility and health and safety category designations of the NRC regulations. This document will also be used by the Integrated Materials Performance Evaluation Program teams during upcoming program reviews. In addition, a summary of change document for the January 25, 2012 compatibility changes has been enclosed with this letter. These summaries are for your use to identify the changes to the compatibility categories associated with 10 CFR 31.5 and 31.6. Please note that there is no text changes associated with RATS ID: 2012-1.

The original text changes to 10 CFR 31.5 and 31.6 are associated with RATS ID: 2001-1, *Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32*, (65 FR 79162) which was due for adoption by Agreement States no later than February 16, 2004. As noted in FSME Letter 07-087, issued September 20, 2007, NRC was holding compatibility determinations in this area in abeyance until such time as a final rule and the Agreement State implementation date became effective or other resolution to the petition for rulemaking occurred. NRC staff continued to review Agreement State general license device proposed and final rules but held any compatibility determination in abeyance on those rules if the Agreement State's rules met the essential elements of the NRC's rule, even if the Agreement State's rules were more restrictive than the NRC's rule.

Agreement States who have adopted the requirements of RATS ID 2001-1 without any comments do not need to resubmit their regulations unless they plan on making changes to any of the previously reviewed regulations. NRC staff will self initiate changes to the Agreement State's State Regulation Status (SRS) Data Sheet with the information linking the RATS ID 2012-1 to RATS ID 2001-1.

Agreement States without the general license device rule in 10 CFR 31.5 and 31.6 or with a general license device rule less restrictive than the NRC rules will be expected to adopt compatible regulations no later than January 25, 2015. For Agreement States that have general license device regulations more restrictive than NRC's requirements, we request that the State resubmit their equivalent provisions for 10 CFR 31.5 and 31.6 for NRC to review the provision against the revised Compatibility Category C determination. We request that both proposed regulations and final regulations be provided to us for review in accordance with FSME Procedure SA-201, "Review of State Regulatory Requirements".

If you have any questions regarding this correspondence, please contact me or the individual named below.

POINT OF CONTACT: Kathleen Schneider INTERNET: Kathleen.Schneider@NRC.GOV
TELEPHONE: (301) 415-2320 FAX: (301) 415-3502

/RA/

Brian J. McDermott, Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Chronology of NRC Amendments
2. Summary of Change Document

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OFFICE	FSME/MSSA/ASPB	FSME/MSSA/ASPB	FSME/MSSA:DD	FSME/MSSA:D
NAME	KSchneider	DWhite	PHenderson	BMcDermott
DATE	02/7/12	02/7/12	02/9/12	02/15/12

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Chronology of NRC Amendments

NRC Chronology Identification	FR Notice Number (State Implementation Due Date)	RATS ID
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
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
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4
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
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards - Part 40	59 FR 28220; (7/1/97)	1994-2
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
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3

NRC Chronology Identification	FR Notice Number (State Implementation Due Date)	RATS ID
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
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
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
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4
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
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6
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, 71, 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
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4

NRC Chronology Identification	FR Notice Number (State Implementation Due Date)	RATS ID
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 32, 35, 36 and 39	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
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1
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
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1
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
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)	70 FR 72128 (12/01/2005)	2005-3
Minor Amendments -Parts 20, 30,32, 35, 40, 70	71 FR 15005 (03/27/09)	2006-1

NRC Chronology Identification	FR Notice Number (State Implementation Due Date)	RATS ID
National Source Tracking System - Serialization Requirements Part 32 (with reference to Part 20 Appendix E)	71 FR 65685 (02/06/07)	2006-2
National Source Tracking System Part 20	71 FR 65685 (01/31/09 Cat I and Cat II)	2006-3
Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35	72 FR 45147, 54207 (10/29/10)	2007-1
Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, and 150	72 FR 58473 (12/17/10)	2007-2
Requirements for Expanded Definition of Byproduct Material Parts - 20, 30, 31, 32, 33, 35, 61, and 150	72 FR 55864, 73 FR 42672 (11/30/10)	2007-3
Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material (Order EA-07-305)	72 FR 70901 (06/05/08)	2007-4
Occupational Dose Records, Labeling Containers, and the Total Effective Dose Equivalent Parts – 19 and 20	72 FR 68043, 72233 (02/15/11)	2008-1
Medical Use of Byproduct Material—Authorized User Clarification, Part 35	74 FR 33901 (09/28/12)	2009-1
Decommissioning Planning, Parts 20, 30, 40, and 70	76 FR 35512 (12/17/2015)	2011-1
Licenses, Certifications, and Approvals for Materials Licensees, Parts 30, 36, 39, 40, 51, 70, and 150	76 FR 56951 (11/14/2014)	2011-2
Change of Compatibility of 10 CFR 31.5 and 31.6 in the Withdrawal of Proposed Rule and Closure of Petition For Rulemaking: Organization of Agreement States and Florida Department of Health, Bureau of Radiation Control	77 FR 3640 (01/25/2015)	2012-1

Change of Compatibility of 10 CFR 31.5 and 31.6
in the Withdrawal of Proposed Rule and Closure of Petition For Rulemaking:
Organization of Agreement States and Florida Department of Health, Bureau of Radiation Control
(77 FR 3640, Published January 25, 2012) RATS ID: 2012-1 Effective: 1/25/2012
Date Due for State Adoption 1/25/2015

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§31.5	Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere		C*** (***please note 10 CFR 31.5 was changed from Compatibility Category B to Compatibility Category C)	NO TEXT CHANGE TO 10 CFR 31.5. Text for 10CFR 31.5 can be found in <i>Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material</i> , (65 FR 79162, Published December 18, 2000) RATS ID: 2001-1, Effective: 2/16/01.			
§31.6	General license to install devices generally licensed in § 31.5		C*** (***please note 10 CFR 31.6 was changed from Compatibility Category B to Compatibility Category C)	NO TEXT CHANGE TO 10 CFR 31.6. Text for 10CFR 31.6 can be found in <i>Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material</i> , (65 FR 79162, Published December 18, 2000) RATS ID: 2001-1, Effective: 2/16/01.			