



COLORADO

Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

January 24, 2018

Kevin Williams, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
T8-E18
Washington, D.C. 20555-0001

Dear Mr. Williams:

Enclosed are copies of the final revisions to the Colorado *Rules and Regulations Pertaining to Radiation Control*, 6 CCR 1007-1, Part 1, *General Provisions*; and 6 CCR 1007-1, Part 17, *Transportation of Radioactive Material*. The revisions were adopted by the Colorado Board of Health on September 20, 2017 and became effective November 14, 2017. Also enclosed are the draft/redline regulations as presented to the Board of Health at the time of adoption. All final Colorado regulations may also be found online via our website at: <https://www.colorado.gov/cdphe/radregs>

The final regulatory changes correspond to the following equivalent amendments to NRC's regulations.

<u>Rats ID</u>	<u>Title</u>	<u>State Section</u>
• 2015-3	Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements	6 CCR 1007-1 Part 1 6 CCR 1007-1 Part 17
• 2015-5	Miscellaneous Corrections	6 CCR 1007-1 Part 17 6 CCR 1007-1 Part 22*

Attachment 1 summarizes the applicable changes to these rules for RATS 2015-3, and Attachment 2 summarizes the applicable changes to these rules for RATS 2015-5.

The following is 1 issue that we would like NRC to address:

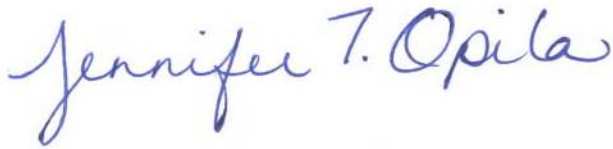
1. Colorado previously submitted its final Part 22* rule (equivalent to 10 CFR 37) to address 37.77(a)(1) in RATS 2015-5. However, it appears that the SRS Data Sheet dated August 18, 2017 did not acknowledge this. Please refer to Attachment 2 for further details pertaining to this issue. We respectfully request that NRC evaluate this further as Colorado believes the provision was addressed adequately in a prior submission.

We believe that these final regulations address the necessary RATS items and satisfy the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Programs (FSME) Procedure SA-200.



If you have any questions, please feel free to contact me at 303-692-3403 or James Jarvis at 303-692-3454 or james.jarvis@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer T. Opila". The signature is written in a cursive, flowing style.

Jennifer T. Opila, MPA
Radiation Program Manager

Enclosures:

Colorado Part 1 final rule (effective 11/14/17); Colorado Part 17 final rule (effective 11/14/17)
Colorado Part 1 draft rule (Draft C, dated 02/27/17) as presented to the Colorado Board of Health
Colorado Part 17 draft rule (Draft G, dated 08/14/17) as presented to the Colorado Board of Health

Cc: Michelle Beardsley, Senior Project Manager, Office of Federal and State Materials and
Environmental Management Programs, U.S. Nuclear Regulatory Commission
(via email January 24, 2018)

SUMMARY OF FINAL RULE CHANGES TO COLORADO PART 17 AND PART 1 RULES TO ADDRESS NRC RATS 2015-3.

RATS 2015-3		
AFFECTED CFR SECTION	CFR TITLE	STATE SECTION
§ 71.4 New	Definition: Contamination	Part 17, Section 17.2 Definition for "Contamination" incorporated into Colorado rule, consistent with 71.4.
§ 71.4 Revised	Definition: Criticality Safety Index (CSI)	Part 17, Section 17.2 Definition for "Criticality Safety Index (CSI)" updated in Colorado rule. The updated definition also addresses comments of NRC in the correspondence dated April 6, 2017.
§ 71.4 Revised	Definition: Low Specific Activity (LSA) material	Part 17, Section 17.2 Definition for "Low Specific Activity" updated in Colorado rule. ***NOTE: The last provisions of <u>current</u> part 17 LSA-III definition have been deleted as these are included in 10 CFR 71.77 which is now referenced in the revised LSA-III definition of Part 17.
§ 71.4 Revised	Definition: Special form radioactive material	Part 1, Section 1.2 Definition for "Special form radioactive material" updated in Colorado Part 1 rule.
§ 71.4 Revised	Definition: Uranium - natural, depleted, enriched	Part 17, Section 17.2 Definition for "uranium - natural, depleted, enriched" added to Colorado rule.
§ 71.14(a)(1) - (a)(3) Revised, New	Exemption for low-level materials	Part 17, Sections 17.4.2.1, 17.4.2.2, and 17.4.2.3 Language updated/added for consistency with the CFR.
§ 71.15(d) Revised	Exemption from classification as fissile material	Section 17.4.3 of the current in effect/final Part 17 rule incorporates a reference to 10 CFR 71.15 for certain exceptions and therefore this RATS item provision is current through incorporation by reference.
§ 71.17 Revised, Removal of Brackets on Compatibility Category.	General license: NRC approved package	Part 17, Sections 17.7.1 through 17.7.5 - Language was updated/added for consistency with the CFR. As requested in NRC correspondence dated April 6, 2017, applicable references to NRC were changed to instead reference the Department; language was modified to clarify that NRC issues the Certificate of Compliance; and references to CO regulations were modified to reference the CFR rather than potentially duplicate requirements.

§ 71.21 Revised, Removal of Brackets on Compatibility Category	General license: Use of foreign approved package	Part 17, Sections 17.8.1 through 17.8.4 Language updated/added for consistency with the CFR. As requested in NRC correspondence dated April 6, 2017: applicable references to NRC have been changed to instead refer to the Department; and portions of Section 17.10 have been rescinded so as not to have duplicate requirements with the CFRs.
§71.85(a) - (c) Revised, Compatibility Change	Preliminary determinations	Part 17, Section 17.14 Due to a change in compatibility, the applicable provisions equivalent to 71.85(a) through (c) have been <u>removed</u> from Colorado rule.
§ 71.85(d) New	Preliminary determinations	Part 17, Section 17.14 Language added for consistency with the CFR as required by RATS 2015-3.
§ 71.91(a) Revised, Compatibility Change	Records	Section 17.17 of the current in effect/final Part 17 rule already incorporated a cross- reference to 17.4 which parallels the change to 71.91. Therefore this RATS provision in Colorado rule was already consistent with the CFR.
§ 71.91(b) Compatibility Change	Records	This provision did not appear in the prior Colorado rule and therefore no change was necessary as a result of the change in compatibility.
§ 71.91(c) and (d) Compatibility Change	Records	Part 17, Section 17.17.2 and 17.17.3 Language updated/added for consistency with the CFR. As requested in NRC correspondence dated April 6, 2017, language referencing the “certificate holder” and “applicant for a COC” are deleted from 17.17.2 and 17.17.3.
§ 71.101(a) Revised, Compatibility Change	Quality assurance requirements	Part 17, Section 17.10.1 This RATS provision is addressed through the addition of a provision equivalent to 71.101(a) but with deferral to 10 CFR 71.101 for specific requirements rather than Colorado rule. As discussed in NRC correspondence dated April 6, 2017, section 17.10 has been significantly amended to rescind Colorado regulation and instead defer to 10 CFR 71.101 for the applicable requirements.

§ 71.101(b) and (c)(1) Compatibility Change	Quality assurance requirements	<p>Part 17, Section 17.10.1</p> <p>This RATS provision is addressed through incorporation by reference to 10 CFR 71.101 in 17.10.1.</p> <p>As discussed in NRC correspondence dated April 6, 2017, section 17.10 has been significantly amended to rescind Colorado regulation and instead defer to 10 CFR 71.101 for the applicable requirements.</p>
§ 71.101(g) Compatibility Note Revised	Quality assurance requirements	<p>Part 17, Section 17.10.2</p> <p>This RATS provision is addressed through the addition of a provision equivalent to 71.101(g) in 17.10.2.</p> <p>As identified in NRC correspondence dated April 6, 2017, the added provision in 17.10.2 adds reference to Colorado rules equivalent to 10 CFR 34.31(b).</p>
§ 71.103(a) Revised, Compatibility Change	Quality assurance organization	<p>Part 17, Section 17.10.1</p> <p>This RATS provision is addressed through incorporation by reference to 10 CFR 71.103 in revised Section 17.10.</p>
§ 71.103(b) Compatibility Note Revised	Quality assurance organization	<p>Part 17, Section 17.10.1</p> <p>This RATS provision is addressed through incorporation by reference to 10 CFR 71.103 in revised Section 17.10.</p>
§ 71.106 New	Changes to quality assurance program	<p>Part 17, Section 17.10.1</p> <p>This RATS provision is addressed through incorporation by reference to 10 CFR 71.103 in revised Section 17.10.</p>
§ 71.135 Revised, Compatibility Change	Quality assurance records	<p>Part 17, Section 17.10.1</p> <p>This RATS provision is addressed through incorporation by reference to 10 CFR 71.135 in revised Section 17.10.</p>
Appendix A Revised	Determination of A1 and A2	<p>Part 17, Appendix 17A</p> <p>Provisions have been renumbered/revised consistent with the CFR.</p>
Appendix A, Table A-1 Revised	A1 and A2 Values for Radionuclides	<p>Part 17, Appendix 17A, Table 17A1</p> <p>Values have been added/updated for Kr-79, Cf-252, Ir-192, Kr-81, and Mo-99 consistent with the CFR.</p> <p>Footnotes to table have been updated, consistent with the CFR.</p>

Appendix A, Table A-2 Revised	Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides.	Part 17, Appendix 17A, Table 17A2 Values have been added/updated for Kr-79, Kr-81, and Te-121m consistent with the CFR. As identified in NRC correspondence dated April 6, 2017, a correction to footnote "d" of Table A-2 was made.
Appendix A, Table A-3 Revised	General Values for A1 and A2	Part 17, Appendix 17A, Table 17A3 Values have been added/updated for Kr-79, Kr-81, and Te-121m consistent with the CFR.

SUMMARY OF CHANGES TO COLORADO RULES TO ADDRESS NRC RATS 2015-5.

RATS 2015-5		
AFFECTED CFR SECTION	CFR TITLE	STATE SECTION
§ 19.17(a)	Inspections not warranted; informal review	<p>Colorado does not use the phrase "Office of Information Services" in its regulations.</p> <p>The change to 10 CFR 19.17(a) is not applicable to Colorado Rule since the CFR change modifies language that pertains to submission of documents to an organization within NRC which is not applicable to agreement states since, under current state regulation, such documents are required to be submitted to the state.</p> <p>NRC may want to consider amending the compatibility category for the applicable portions of 19.17(a) or add additional clarifying information to RATS 2015-5.</p>
10 CFR Part 20 Amended	Standards for protection against radiation	<p>Colorado does not use the phrase "Office of Information Services" in its Part 4 regulation.</p> <p>Additionally, the change to 10 CFR 20 in 20.1007 and Appendix G are not applicable to Colorado Rule since the CFR change modifies language that pertains to methods for submission of documents to an organization within NRC which is not applicable to agreement states since, under current state regulation, such documents are required to be submitted to the state.</p> <p>NRC may want to consider amending the compatibility category for the applicable portions of 10 CFR 20.1007 or add additional clarifying information to RATS 2015-5.</p>
10 CFR Part 37 Amended	Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	<p>This requirement was previously incorporated into Colorado Part 22 rule.</p> <p>The requirements of 10 CFR 37.27(c)(1) were incorporated through amendments to Colorado's final Part 22 rule (effective 06/30/17) which were previously accepted by NRC (See NRC letter dated 08/07/27).</p>
§ 37.77(a)(1)	Advance notification of shipment of category 1 quantities of radioactive material	<p>This requirement was previously incorporated into Colorado Part 22 rule.</p> <p>***NOTE: Although this provision was previously addressed in a submission from Colorado to NRC in a letter dated July 21, 2017 (ML17207A208), NRC did not appear to properly give credit for its completion on</p>

		<p>Colorado's SRS Data Sheet dated August 18, 2017. Colorado requests that NRC review the previously submitted rule package to address this omission.</p> <p>The requirements of 10 CFR 37.77(a)(1) were incorporated into Colorado's final Part 22 rule (effective 06/30/17) as previously submitted to NRC.</p>
10 CFR Part 61 Amended	Licensing Requirements for Land Disposal of Radioactive Waste	Colorado did not make this change in Part 14 because the words 'tribe', 'tribal' and 'tribes' does not appear in this regulatory part.
§ 71.4, <i>Indian Tribe</i>	Definitions	<p>Part 17, Section 17.2.2</p> <p>Spelling of "Indian Tribe" has been updated consistent with federal rule.</p>
§ 71.97(c)(3)(ii) Revised	Advance notification of shipment of irradiated reactor fuel and nuclear waste	<p>Part 17, Section 17.11.4.3</p> <p>Language updated/added for consistency with the CFR.</p>