Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure Approval

Review of State Regulatory Requirements
SA-201

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NOTE

These procedures were formerly issued by the Office of State and Tribal Programs (STP). Any changes to the procedure will be the responsibility of the FSME Procedure contact as of October 1, 2006. Copies of the FSME procedures will be available through the NRC website.

I. INTRODUCTION

This procedure describes the process for review and comment on proposed and final State regulations, other generic State legally binding requirements (LBR) and Suggested State Regulations (SSRs).

II. OBJECTIVES

A. To provide guidance for use by States and the Conference of Radiation Control Program Directors, Inc. (CRCPD) on preparation and submittal of proposed and final State regulations, other generic LBR (e.g., license conditions and orders), and SSRs, for the U.S. Nuclear Regulatory Commission (NRC) staff review.

B. To establish the procedures to be followed by NRC staff for review of State regulations or other generic LBR, and SSRs including the scope of review, staff responsibilities, timeliness, and products to be prepared and communicated to the State or CRCPD documenting the results of the review.

C. To provide guidance to NRC staff on the significance of differences between State regulations, other generic LBR, or SSRs and NRC regulations.

D. To meet the following performance objectives:

1. The acceptance review of incoming packages should be completed within three days of receipt in the State Agreements and Industrial Safety Branch (SAISB), Division of Materials Safety and State Agreements (DMSSA)

2. Packages that have been determined to be complete should be assigned to the reviewer within three days of the acceptance review and the State notified accordingly.

3. The regulation review should be completed within fourteen days of review assignment.

4. Any concurrence from other offices such as the Office of the General Counsel (OGC) should be completed within two weeks of the request for concurrence. In a case involving the concurrence of more than one other office, the process will be carried out concurrently.

5. A phone call will be made to the State before the final regulation review letter is sent to relay any comments resulting from the review.

6. A final comment letter will be sent to the State within 60-120 days from the receipt of a complete package from the State. The goal is to complete 85% of State regulation review packages within 60 days of receipt of a complete package, and 100% within 120 days of receipt of a complete package.

III. BACKGROUND

A. Each Agreement State has the responsibility to promulgate LBR that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. States generally fulfill that responsibility through promulgation of regulations. Each Agreement State possesses detailed knowledge of its own requirements, Agreement States are best able to determine that their regulations or other generic LBR are compatible with NRC regulations and where there are significant differences which could affect compatibility.

B. Agreement States, and all States seeking an Agreement with NRC, are requested to submit for NRC staff review, proposed amendments to their regulations or other proposed generic LBR. Such requests should usually be submitted when they are published for public comment.

C. Agreement States also are requested to submit final regulations or other final generic LBR for review. The requested submittal should include requirements satisfying the compatibility and health and safety (H&S) designations associated with equivalent regulations of the Commission.

D. To assist States in promulgating compatible regulations or other generic LBR within three years of the effective date of changes in NRC regulations, NRC staff prepares and publishes a *Chronology of NRC Amendments*. Included in the chronology is identification of each regulation, the specific sections modified or established by the regulation change, the effective date of the change, and the compatibility or health and safety designation. This information will also be found in the Regulation Toolbox on the FSME website.

IV. ROLES AND RESPONSIBILITIES

NOTE: In the following, the word, “regulations,” also refers to “other generic legally binding requirements,” “license conditions” and the SSRs. The word State also refers to the CRCPD.

A. The Director, DMSSA, has overall responsibility for the review and determination of the compatibility of State regulations.

B. The Deputy Director, DMSSA, is designated to receive State regulations and has primary responsibility for managing, including signing the NRC regulations review letter. This includes reviewer assignments, assignment of due dates, and changes to due dates. The Deputy Director also keeps State Regulation Review Coordinator (SRRC) and Regulation Review Assistant informed when an Agreement State regulation is received so the status of the review can be tracked through closure. The Deputy Director may designate the Branch Chief, State Agreements and Industrial Safety Branch (SAISB) or the SRRC to carry out these responsibilities including signing the regulations review letter for the Deputy Director as necessary.

C. The Branch Chief, SAISB is the first line supervisor for the SRRC and Regulation Review Assistant. The Branch Chief may be designated by the Deputy Director to carry out the Deputy Director's responsibilities, including reviewer assignments, signature authority for the regulation review letter as necessary.

D. The SRRC is responsible for overall review project management and assuring overall quality control of the review process. As part of this responsibility, the SRRC: (1) reviews proposed comment letters to help ensure technical and procedural consistency of reviews among reviewers and helps address potential delays or other issues associated with specific regulation reviews; and (2) maintains the *Chronology of NRC Amendments*. As designated by the Deputy Director and SAISB Branch Chief, the SRRC may also initially make reviewer assignment recommendations to the SAISB Branch Chief, assignment of due dates, and changes to due dates.

E. The Regional State Agreements Officer (RSAO) and FSME staff are responsible for conducting reviews of State regulations as assigned by management.

F. The Regulations Review Assistant is responsible for the administrative support for the regulation reviews. This includes all processing of incoming and outgoing correspondence information on the regulation review in the Action Item Tracking System and the Regulation Action Tracking System (RATS). Information from RATS is provided to the SRRC, reviewer and other staff as needed.

V. GUIDANCE

A. The States

1. States should submit and request NRC comments on both proposed and final regulations to the Deputy Division Director, DMSSA. States are encouraged to submit regulations electronically. In accordance with NRC procedures, all incoming regulations will be entered into the NRC's Agencywide Document Access and Management System (ADAMS).

2. Guidance for use by States is provided on the FSME website. Sample letters on the form, content, and process to be followed for preparation and submittal of proposed and final regulations to NRC staff for review can be downloaded from the FSME website for use by both the States and reviewers.

3. The State should submit regulations to the NRC at least 60 days prior to the date by which comments are needed by the State. Before a regulation review can commence, all of the required information needs to be supplied to DMSSA. The State, in its transmittal letter, is requested to:

    a. identify the specific regulation sections that are being changed using line-in/line-out text or equivalent format;

    b. identify which amendment(s) the State is submitting regulations to cover using the name and RATS ID number. Appendix A contains regulation submission guidance for NRC staff reviews. (Sample transmittal letters can be found in the Regulation Toolbox on the FSME website);

    c. indicate whether the proposed/final regulation satisfies the compatibility criteria of FSMEProcedure SA-200, *Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements*; and

    d. identify any significant difference between the State's regulation and the NRC equivalent regulation and the rationale for the difference.

4. LBR or license conditions that a State proposes to adopt to meet the requirements of an NRC rule, should be submitted for review using the

same procedures as a State regulation review. In its submittal letter the State should explain how the LBR or license condition meets the requirements of the NRC rule. States need only to submit license conditions for review that are intended to substitute for NRC rules. States should submit license conditions prior to implementation in the State. The use of LBR instead of promulgating a regulation amendment is documented on a State's State Regulation Status (SRS) sheet.

5. The sixty-day review period will begin following confirmation by the SRRC that all of the required information has been provided and the State has been notified electronically that the submission has been accepted for review. The States should be aware that missing information may lead to delays in the review. The States are encouraged to contact the SRRC prior to submitting a package for review to ensure all required items have been addressed.

B. Regulation Review Assistant

1. Tracks the status of regulation review packages from receipt through closure.

2. Conducts an administrative completeness review of incoming State transmittal letters and regulation packages within three days of a receipt of a review request.

3. Enters all information supplied by the State into ADAMS. If the State has not included the information requested in Section V.A.3, will contact the State Director or designee to request the missing information.

4. Once the finished review letter is signed by the Deputy Director DMSSA, enters the NRC review date into the enclosed State Regulation Status (SRS) Data Sheet for the amendments reviewed and enters the review results into the RATS database.

5. Transmits a copy of the final letter to the State with the results of the NRC review and closes the action in the tracking system. Updates ADAMS to reflect the final package changes.

C. Reviewer Assignment

1. The Deputy Director (or designee) will normally assign review of a regulation to the Regional State Agreement Officer (RSAO). If the RSAO is not available or able to meet the projected due date because of competing priority work assignments, the Deputy Director (or designee) will assign the review to other FSME staff or evaluate the use of contractor assistance. Reviews will normally be assigned within three days of receipt of a complete State package by Deputy Director (or designee). Reviews are generally to be completed within two weeks but allowances will be made for large regulation packages or scheduling conflicts.

D. The Reviewer

1. Conducts a comparison of the State's regulation with the equivalent NRC regulation to determine if the State's regulation is compatible. Differences that are identified, which either significantly change or affect the intent of the regulation, should be analyzed further and a determination made whether the regulation meets (or does not meet) the compatibility or health and safety objective of the equivalent NRC regulation. Guidance to assist the reviewer in determining when a difference is significant and should be included as a comment on the State's regulation can be found in Appendix B of this document, Management Directive 5.9 and FSME Procedure SA-200.

2. Prepares a review summary sheet to document the review, showing all areas where the State regulation differs from the NRC regulations and documenting the reviewer's reasoning for generating or not generating a comment on the difference. An example review summary sheet is shown in Appendix C. This summary sheet shall be provided to OGC to expedite their review.

3. Limits review to those portions of a State's regulation that are being added or amended by the State's rulemaking action and identified in the transmittal letter. The reviewer should also limit review to those parts or sections of the regulation that are either required for compatibility or health and safety, as set out in FSMEProcedure SA-200 (i.e., Categories A, B, and C or H&S).

4. Consults, as necessary, for State regulations and SSRs, with other NRC offices to support completion of the regulation review based on issues raised during the review and their significance. When reviewing the regulations for States seeking an Agreement with the NRC, the reviewer shall follow FSME Procedure SA-700 for coordination with other offices. All regulation review packages should be provided to OGC for review and concurrence (no legal objection) within 14 days after acceptance of the regulation submittal.

5. After concurrence from other offices(s) and before a formal comment letter or "no comment" letter to the State is prepared, the reviewer should informally discuss proposed comments with the State to assure the comments will be clearly understood and to receive any information from the State that is helpful in explaining the comments.

6. The reviewer should prepare a formal comment letter or "no comment" letter to the State documenting the results of the review and prepare a hardcopy markup to update the SRS Data Sheet. The letter should be addressed to the State Radiation Control Program Director, unless State staff has specified otherwise, and should normally be prepared for signature by the Deputy Director, DMSSA. The standard format and content for the letter are set out in form letters that are partially completed and available in the Regulation Toolbox on FSME's website.) All letters should use the Regulatory Information Distribution System (RIDS) codes SP (05-08), corresponding to NRC Regions I-IV, on the concurrence sheet.

7. Comments resulting from the review should be set out in an enclosure to the letter and should contain, as a minimum, the information as listed in a-e below. A comment table with sample comments for reviewer use is shown in Appendix D.

    a. Citation of the part or section of the State regulation or SSR reviewed;

    b. Citation of the equivalent NRC regulation;

    c. RATS ID;

    d. Compatibility or H&S category assigned to that section or part of the regulation;

    e. Description of the difference identified by the Reviewer between

the State (or SSR) and NRC regulation, including the significance of the difference (e.g., why it does not meet the assigned compatibility category), and description of at least one course of action the State could take to address the comment.

8. A SRS Data Sheet should be updated to reflect the current review and included as an enclosure to the comment letter. The reviewer will markup the previous SRS Data Sheet provided by either the SRRC or Regulation Review Assistant. Only the Regulation Review Assistant will generate electronic revisions to the SRS Data Sheets. An example SRS sheet can be found in Appendix E.

9. The reviewer should concur in the comment letter and forward it to the SRRC. The SRRC will conduct a quality assurance review and will concur on all letters within three days of receipt and send out the comment letter for other office concurrence. Unless specifically requested by the SRRC, the Branch Chief, SAISB and Deputy Director, DMSSA, will review and concur after other office concurrence. and will provide to the Deputy Director, STP for review and concurrence prior to being sent out for other office concurrence.

10. All offices participating in the review should be on concurrence. The concurrence of OGC is always required.

11. Responds to questions or issues raised by OGC or other offices.

E. The State Regulation Review Coordinator (SRRC)

1. Conducts a technical completeness review of incoming State transmittal letters and regulation packages within three days of a receipt of a review request and notifies the State about the acceptance of the request.

2. Upon completion of the review, conducts a quality assurance review of the comment letter and comments, serves as liaison between the State, the reviewer, and the Office of General Council (OGC) throughout the review process. Facilitates preparation of a final letter and comment sheet.

3. Schedules meetings, as needed, with the Branch Chief, Deputy Director, and concurring offices to resolve review issues not resolved by reviewer and concurring offices. Acts as point of contact for questions on the review process.

4. Follows any generic comments returned by the State on the subject regulations to examine how the State addressed the comments. Schedules meetings with the Branch Chief, Deputy Director and other offices to develop answers to any State concerns, involving generic or SSR issues.

5. If necessary, the SRRC shall coordinate the request for consultant or contractor assistance in review of proposed or final State regulations. Contractor assistance can only be initiated by the SAISB technical monitor of the consultant or contractor, and should follow the procedures established by FSME. When using such assistance, the SRRC should:

   a. Prepare a cover letter and attach the regulations package for forwarding to the consultant or contractor following the instructions of the technical monitor, including the instruction to follow this procedure to conduct the review.

   b. Evaluate the comments as the basis for development of a comment letter to the State upon return of the consultant's or contractor's review report.

F. A document review flowchart can be found in the Regulation Toolbox on FSME's website. Appendix F contains a set of Frequently Asked Questions.

VI. APPENDICES

Appendix A - Regulation Submission Guidance for NRC Staff Review
Appendix B - Criteria For Comparing Regulations and Identifying Differences
Appendix C -Sample Review Summary Sheet
Appendix D - Sample Comment Chart
Appendix E - SRS Data Sheet
Appendix F - Frequently Asked Questions

VII. REFERENCES

1. *Chronology of NRC Amendments* (latest) provided electronically to the States by All Agreement States Letter and posted on the FSME website. Links are provided to the Federal Register notice.
2. NRC Management Directive 5.9, *Adequacy and Compatibility of Agreement State Programs*.
3. NRC Regulations Title 10-Chapter 1, *Code of Federal Regulations*, published by the Division of Freedom of Information and Publications Services, NRC, codified and reissued periodically.
4. FSME Procedure SA-200, *Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements.*
5. FSME Procedure SA-700, *Processing an Agreement*

VIII. ADAMS REFERENCE DOCUMENTS

For knowledge management purposes, listed below are all previous revisions of this procedure, as well as associated correspondence with stakeholders, that have been entered into the NRC's Agencywide Document Access Management System (ADAMS).

No.	Date	Document Title/Description	Accession Number
1	7/23/01	STP-01-059, Opportunity to Comment on Draft Revisions to STP Procedure SA-201	ML012050534
2	1/29/03	STP-03-010, Opportunity to Comment on Draft Revisions to STP Procedure SA-201	ML030290744
3	6/19/03	Final STP Procedure SA-201	ML031750279
4	8/07/03	Summary of Comments on SA-201	ML032190296
5	8/31/06	STP-06-080, Opportunity to Comment on Draft Revisions to STP Procedure SA-201	ML062440197

APPENDIX A

REGULATION SUBMISSION GUIDANCE FOR NRC STAFF REVIEW (Includes License Conditions and Other Generic Legally Binding Requirements)

I. INTRODUCTION

This guidance to Agreement States, States seeking an Agreement, and the Conference of Radiation Control Program Directors, Inc., (CRCPD) pertains to the submittal of proposed and final State regulations to the U.S. Nuclear Regulatory Commission (NRC) staff for review. The NRC goal is to conduct a single review for proposed regulations and a single review for final promulgated regulations to confirm they are compatible with equivalent NRC regulations. NRC will not routinely conduct more than one review each of the proposed and final regulations. Although many States base their regulations on Suggested State Regulations (SSRs), until the SSRs are updated and reviewed with regard to compatibility and approved by NRC, the State should not assume that State regulations based on SSRs are necessarily compatible. The NRC review process compares all State regulations with the equivalent regulations of the NRC.

II. STATE SUBMITTAL GUIDANCE

A. When regulations are at the draft stage or, preferably, the public comment stage, the Radiation Control Program Director, or designee, or CRCPD (Director) should submit the regulations to the Deputy Director, DMSSA. In preparing and submitting proposed regulations, the Director should identify by line-in/line-out text, or similar identification, the changes to NRC's regulations that are being incorporated into the State's regulations. It is important that when the proposed regulations are finalized, that the final regulations are also submitted to NRC promptly following adoption . For final promulgated regulation changes, the Director is requested to identify by line-in/line-out text, or similar identification, the changes made between the proposed regulation submitted above and the final regulation. The Director is requested to discuss how the State has addressed or incorporated NRC's comments on the proposed regulation. The Director is requested to submit an electronic version of the cover letter and regulation, whenever possible, using a word processing software that is compatible with NRC. A sample submittal letter can be found in the FSME Regulation Toolbox.

B. With both proposed and final regulations, the Director is requested to include with the request for review, a comparison table of significant differences between the State rule and the equivalent NRC rule and whether the Agreement State believes its regulation satisfies the compatibility and health and safety component criteria in *Management Directive 5.9* and the assigned compatibility and health and safety

component designations set out in FSMEProcedure SA-200, *Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements*. The NRC staff reviews State regulations based on this guidance. If the regulation does not satisfy the compatibility and health and safety designation, the Director is requested to identify those sections and to describe the State's rationale for promulgating a regulation that is not compatible with NRC's regulation. The Director is also requestedto describe any constraints that prevent the State from promulgating a rule that satisfies the compatibility or health and safety designation in a timely fashion and whether the program is examining removal of the constraints.

D. The State or CRCPD may be requested to submit additional relevant information, as necessary, such as a copy of the State regulations package, public proceedings, advisory committee comments, and public comments that influenced the text of the final regulations. The State has the responsibility of demonstrating that the requirements adopted other than by regulation are legally binding on the licensee, e.g., license conditions, orders, or statements from Attorney Generals.

III. THE STATE REGULATION STATUS (SRS) DATA SHEET

The SRS Data Sheet (Appendix E) is used by NRC staff to track the status of Agreement State regulations. If information is missing or differs from a State's records, the Agreement State should add the missing information or changes and forward the revised SRS Data Sheet, with the supporting documentation, to the SRRC for amendment consideration. The regulation assessment tracking system (RATS) is an internal program used by SAISB staff to track the status of State adoption of amendments equivalent to those made to the NRC regulations and NRC's review of those amendments.

APPENDIX B

CRITERIA FOR COMPARING REGULATIONS AND IDENTIFYING DIFFERENCES

I. DIFFERENCES THAT ARE NOT SIGNIFICANT

In most cases, the following differences between State and NRC regulations are not significant and do NOT affect compatibility or the health and safety objectives of the regulation. These differences do not need to be identified or commented on.

A. Differences that do not result in Agreement State licensees being subject to a requirement different from the equivalent NRC requirement;

B. Differences that result from the State regulation being made applicable to sources of radiation not covered by the Atomic Energy Act, as amended (e.g., x-rays, naturally-occurring and accelerator-produced radioactive materials not covered by the Energy Policy Act of 2005);

C. Differences between the ordering and/or numbering of the subdivisions of the NRC and the State regulations;

D. The substitution of terms with the same meaning (where the use of essentially identical terms is not required) according to the editorial style of the State, i.e., "shall" or "must," "rule" or "regulation," "Commission" or "agency," "device" or "equipment;"

E. The omission of any portion of the text of an NRC regulation that provides an example, contains supplementary material, parenthetical information, or provides a reference to another regulation for the convenience of the reader;

F. The incorporation, as a requirement in the State regulation, of any portion of the text of an NRC regulation that provides an example, contains supplementary material, parenthetical information, or provides a reference to another regulation for the convenience of the reader;

G. Modifications to punctuation that do not change the meaning of the text, i.e., changing a semicolon (";") to a conjunction followed by a comma ("and,");

H. Any difference that results from the use of SI units for record keeping and reporting; and

I. Typographical and minor editorial or punctuation errors.

Appendix B (Continued)

II. DIFFERENCES THAT ARE SIGNIFICANT

In some cases, the difference in the wording between State and NRC regulations may significantly change the meaning and/or intent of the regulation and may, therefore, affect compatibility or the health and safety objectives of the regulation. The reviewer is also responsible for checking requirements that have been adopted by reference to ensure that the corresponding sections refer to the appropriate criteria.

For regulations with Category A and B compatibility designations, differences between NRC and State regulations are significant and result in incompatibility if the licensee actions required to satisfy the NRC regulation are not the same as the actions required to satisfy the corresponding State regulation for all phases of the licensee's operations. Such a conclusion- that the text of the State regulation leads to a different interpretation than the text of the corresponding NRC regulation- would result in a finding that the State regulation does not meet the Category A or B designation. The reviewer should describe why the State's regulation leads to a different interpretation.

For regulations with a Category C compatibility designation, differences between NRC and Agreement State regulations are acceptable only if, despite such differences, the Agreement State has adopted the essential objectives of the corresponding NRC program element in order to avoid conflicts, duplication, gaps or other conditions that would jeopardize the orderly regulation of agreement materials on a nationwide basis. For regulations with a Health and Safety designation, the Agreement State regulation must adopt the essential objectives of the corresponding NRC program element because of the health and safety significance of the program element. Please see Section VII of *Management Directive 5.9* for definitions of "essential objective", "conflict", "duplication", and "gap". A conclusion that a State regulation does not reflect the essential objectives of the corresponding NRC regulation or the State's regulation creates a conflict, duplication or a gap would result in a finding that the regulation does not meet the Category C or Health and Safety designations. The reviewer should describe why the State's regulation does not reflect the essential objectives of the corresponding NRC regulation.

APPENDIX C

Sample Review Summary Sheet

Note: The *italicized text* represents sample entries and is guidance for determining text to be entered.

NRC Section	**Section Title**	**State Section**	**Compatibility Category**	**Summary of Amendment Change**	**Is There a Difference Between State Text and NRC Yes/No**	**Is the Difference Significant Yes/No**	**Comments: If Difference Exists, Why or Why Not Is The Difference Significant.**
20.1003	Definitions	53.2 (1)	A	In Sec. 20.1003 the definition of Shallow-dose equivalent (Hs) is revised to read as follows: Shallow-dose equivalent (Hs), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2)	*NO*		
20.1701	Use of process or other engineering controls	4.1.2	H&S	Section 20.1701 is revised to read as follows: The licensee shall use, to the extent practical, process or other engineering controls (e.g., containment, decontamination, or ventilation) to control the concentration of radioactive material in air.	*YES*	*NO*	*The State uses a different word order, but the essential objectives are met.* *Not a compatibility issue.*
39.49	Uranium sinker bars	4.2.3 (b)	C	Section 39.49 is revised to read as follows: The licensee may use a uranium sinker bar in well logging applications only if it is legibly impressed with the words ``CAUTION--RADIOACTIVE-DEPLETED URANIUM" and	*YES*	*YES*	***COMMENT #*** *(corresponding to the letter's comment table)* *The State has omitted this requirement.* *The State needs to add this requirement to*

				``NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND."			*their regulations to meet the Compatibility Category C designation assigned to 10 CFR 39.49.*

APPENDIX D

COMPATIBILITY COMMENTS *(STATE NAME)*(*PROPOSED* or *FINAL*) REGULATIONS

STATE SECTION[1]		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
FORMAT					
0	State or SSR citation	NRC citation	See State Regulation Status Sheet	Compatibility Categories from SA-200 A, B, C, NRC or H&S	[CFR TITLE] Description of comment Action State must take to meet compatibility.
EXAMPLE COMMENTS					
1	N/A	30.35(g), 40.36(f) 70.25(g)	1996-3	H&S	Financial assurance and recordkeeping for decommissioning [State] has omitted requirements for the transfer of records pertaining to decommissioning in their regulations. [State] needs to adopt the essential objectives of the requirements for the transfer of decommissioning records to the new licensee to meet the Category H&S designation assigned to Section 30.35(g), 40.36(f), and 70.25(g).
2	[State citation]	20.1003	2002-2	A	Definitions [State's] proposed definition of "public dose" fit test" omits the phrase "does not include occupational dose" compared to NRC's definition [State] needs to add the phrase to [state citation] to meet the Compatibility Category A designation assigned to Section 10 CFR 20.1003.
3	[State citation]	20.1003	1999-3	B	Definitions [State's] proposed definition of "fit test" omits the phrase "or quantitatively" compared to NRC's definition. Fit tests should also have protocols to provide quantitative results. [State] needs to add the phrase to [state citation] to meet the Compatibility Category B designation assigned to Section 10 CFR 20.1003.

STATE SECTION[1]		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	[State citation]	20.1401	1997-6	C	General provisions and scope [State] has omitted the requirements of paragraph (d). This requirement mandates that the peak annual TEDE be calculated for the first 1,000 years after termination of the license. This requirement is important in determining the potential exposure to members of the public. [State] needs to add this paragraph to [State citation] to meet the Compatibility Category C designation assigned to Section 10 CFR 20.1401.

APPENDIX E

STATE REGULATION STATUS (SRS) DATA SHEET

State:

[*Number* of amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.] **Tracking Ticket Number:** **Date:**

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) Rule[1] / 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			
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			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			
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	59 FR 28220;	1994-2			SECY-95-112[4]

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) Rule[1] / ML #[5]	NRC Review / Y, N[2] / Date / ML #[5]	Final State Regulation[1] (Effective Date)
Regulations: Conforming NRC Requirements to EPA Standards-Part 40	(7/1/97)				
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			
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	61 FR 65120; (1/9/00)	1997-1			

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) Rule[1] / ML #[5]	NRC Review / Y, N[2] / Date / ML #[5]	Final State Regulation[1] (Effective Date)
Effluents of Radioactive Materials; Clean Air Act-Part 20					
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			
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			

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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 1629; (4/5/05)	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	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 (10/1/07)	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			

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Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-090)[6]	70 FR 72128 (12/1/05)	2005-3			
Minor Amendments-Parts 20, 30, 32, 35, 40 and 70	71 FR 15005 (3/27/09)	2006-1			
National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E	71 FR 65685 (2/6/07)	2006-2			
National Source Tracking System - Part 20[7]	71 FR 65685 (11/15/07) & (11/30/07)	2006-3			

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
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-05-090.
7. RATS ID 2006-3 will not be considered under the Non-Common Performance Indicator "Compatibility Requirements" for IMPEP reviews until such time as the National Source Tracking System is ready for use Revisions in the implementation date for Agreement States will be provided to the States under separate correspondence and the SRS sheet will be revised as appropriate.

APPENDIX F

FREQUENTLY ASKED QUESTIONS (FAQs)

1.Q What do the Compatibility Categories mean?

A On the basis of the 1997 Commission Policy Statement on Adequacy and Compatibility and Management Directive 5.9, NRC program elements (including regulations) can be placed into four compatibility categories. In addition, NRC program elements also can be identified as having particular health and safety significance or as being reserved solely to the NRC.

Compatibility Category A - program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. The program elements adopted by an Agreement State should be essentially identical to those of NRC to provide uniformity in the regulation of agreement material on a nationwide basis.

Compatibility Category B - program elements that apply to activities that have direct and significant transboundary implications. An Agreement State should adopt program elements essentially identical to those of NRC.

Compatibility Category C - program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the NRC program elements, but may be more restrictive.

Compatibility Category D -program elements that do not meet any of the criteria of Category A, B, or C, and do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety - program elements that are not required for compatibility (i.e., Category D), but that have been identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this category, based on those of NRC, that embody the essential objectives of the NRC program elements because of particular health and safety considerations.

NRC (Areas of Exclusive NRC Regulatory Authority)- program elements that address areas of regulation that cannot be relinquished to Agreement States and should not be adopted by Agreement States.

2.Q What kind of program elements are reserved to NRC (that is, what NRC regulations should not be adopted by the Agreement States)?

A Areas of exclusive NRC regulatory Authority are those areas of regulation that cannot be relinquished to the Agreement States under a Section 274b. agreement. The following listing are examples of NRC regulations that should not be adopted by Agreement States:

10 CFR Part 10 - Criteria and procedures for determining eligibility for access to restricted data or national security information or an employment clearance
10 CFR Part 11 - Criteria and procedures for determining eligibility for access to or control over special nuclear material
10 CFR Part 50 - Domestic licensing of production and utilization facilities

Agreement States should check SA-200 for the comprehensive listing of those regulations reserved to the NRC.

3.Q How does NRC staff evaluate the regulation submission from the State?

A The assigned NRC reviewer compares the State regulation text to the corresponding NRC regulation as outlined in the State's letter of submission. The review will be more timely and efficient if the State's regulation submission takes a "crosswalk approach" directly showing the correspondence between rule sets (see example below):

State Section	Subject	10 CFR Section
KAS 28-35-135a	Industrial Radiography Definitions	34.3

4.Q About how long does it usually take to get a response from NRC?

A The NRC staff goal is to complete 85% of the reviews within 60 days of receipt of a completed package and 100% of the reviews within 120 days of receipt of a completed package. If NRC staff has encounters or anticipates a delay in the response, they will contact the individual indicated on the submission package with the expected completion date.

5.Q What is the SRS data sheet?

A NRC maintains a State Regulation Status (SRS) data sheet for each Agreement State. The SRS data sheet is used by NRC staff to track the status of program elements (i.e., regulations and legal binding requirements) submitted to NRC for review. The Integrated Materials Performance Evaluation Program (IMPEP) teams also use the SRS data sheets to assist in the team evaluation of adequacy and compatibility for Agreement State programs. The SRS for each State can be found on the FSME web site at: http://www.hsrd.ornl.gov/nrc/rulemaking.htm

6.Q How do I find out what regulations my State is expected to adopt to be found adequate and compatible for the upcoming IMPEP review?

A The State's SRS sheet contains the status of the State's submissions and NRC's review results. The SRS sheet is updated after the completion of each regulation package review conducted by NRC.

7.Q What does it mean if the SRS sheet has boxes not filled in?

A Blanks on the SRS sheet usually mean that the NRC staff has not received proposed or final regulations to review. If there is a blank and the State believes that the entry is an error, please contact the State Regulation Review Coordinator to discuss a correction to the SRS sheet.

8.Q What are LBRs?

A LBR is the abbreviation for legally binding requirements and may be used as a method to adopt compatibility or health and safety program elements. Examples of such legally binding requirements may include license conditions (including licensee commitments referenced in "tie-down" conditions), orders or other mechanisms determined by the State to be legally binding and enforceable. The State has the responsibility of demonstrating that requirements adopted other than by regulation are legally binding. If allowed by State law, LBRs can be adopted in many instances in a shorter time frame that regulations.

9.Q Can a State adopt NRC or other federal regulations by reference when appropriate.

A Agreement States can adopt NRC regulations by reference if authorized by State administrative law. This approach can be an efficient and effective method for adopting and maintaining compatibility regulations with the NRC within the usual three year time frame.

10.Q How long does an Agreement State have to adopt a new NRC Amendment?

A Unless specified differently in the Federal Register, the Agreement State has three years from the effective date of the amendment to adopt the revised regulation or six months for program element.

11.Q What does it mean when the Compatibility Category has “[ ]” around it?

A The brackett “[ ]” means that the requirements of the 10 CFR section may be adopted or implemented in other provisions of the State regulations rather than the radiation control requirements. For example, many Agreement States have State Department of Transportation regulations that implement all the requirements of 49 CFR on transportation use within the State. The State should supply the references and the cross walk to show that the requirements have been adopted. NRC staff will still need to review the State regulations to verify that the compatibility/health and safety requirements have been adopted.

12.Q What does a “non-applicable” status mean on the SRS sheet?

A This entry on the SRS sheet means that the specific State is not required to adopt the amendment because it is not included in the Agreement State's regulatory authority under their 274b Agreement with the NRC. For example, a State without uranium mill authority does not have to adopt uranium mill tailings regulations or revisions to the uranium mill tailings requirements.

13.Q What is an acceptance review and why is it done?

A When DMSSA receives the regulation submission from the State, the Regulation Review Coordinator reviews the package to ensure that all of the components needed for review are submitted. If the submission is complete, NRC sends a verification e-mail to the State program acknowledging the receipt and staff assigned to review the package.

14.Q What is a Review Summary Sheet (RSS) and how is it filled out?

A An RSS is the documentation of the review of the State regulations against the NRC regulations completed by a reviewer. The RSS will document inconsistencies between NRC and State regulations.

15.Q Are the SSRs automatically compatible with NRC regulations?

A No, although the NRC provides resource staff to the CRCPD SSR working groups, until the SSRs are reviewed with regard to compatibility and health and safety and approved by NRC, the State should not assume that the SSRs are necessarily compatible. A listing of those SSR Parts that have been approved by NRC can be found on FSME's website.