

January 23, 2007

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:

We have reviewed the final revision to the Arkansas regulations 'Rules and Regulations for Control of Ionizing Radiation', received by our office on December 15, 2006. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts: 20, 30, 31, 32, 34, 35, 36, 39, 40, and 70 and the requirements of the nine amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on January 22, 2007.

As a result of our review, we have four comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other 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](#).

We request that when you revise your regulations to address our comments, 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 highlight the location of any changes made by Arkansas, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs (FSME) (see letter [FSME 06-94](#) dated October 6, 2006 for further information).

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 FSME website: <http://www.hsr.d.ornl.gov/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 Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (email: kxs@nrc.gov) or Monica Orendi at 301-415-3938 (email: mlo1@nrc.gov).

Sincerely,

***IRA By S.W. Moore\***

Scott W. Moore, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures:  
As stated

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Scott W. Moore, Deputy Director  
 Division of Materials Safety and State Agreements  
 Office of Federal and State Materials and  
 Environmental Management Programs

Enclosures: As stated

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**COMPATIBILITY COMMENTS ON ARKANSAS FINAL REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	N/A	31.5(c)(7)	2001-1	B	<p><b>CERTAIN DETECTING, MEASURING, GAUGING, OR CONTROLLING DEVICES AND CERTAIN DEVICES FOR PRODUCING LIGHT OR AN IONIZED ATMOSPHERE</b></p> <p>Arkansas has omitted 10 CFR 31.5(c)(7) from its regulations.</p> <p>Arkansas needs to add this section in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(7).</p> <p>*This comment, from the August 31, 2006, letter was not addressed.</p>
2	RH 402.b.3.G	31.5(c)(8)	2001-1	B	<p><b>CERTAIN DETECTING, MEASURING, GAUGING, OR CONTROLLING DEVICES AND CERTAIN DEVICES FOR PRODUCING LIGHT OR AN IONIZED ATMOSPHERE</b></p> <p>Arkansas omits the requirements for transferring or disposing of a device containing byproduct material only by export as provided in 10 CFR 31.5(c)(7) from 10 CFR 31.5 (c)(8).</p> <p>Arkansas needs to add the above requirement to RH 402.b.3.G to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(8).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	N/A	31.5(c)(10)	2001-1	B	<p><b>CERTAIN DETECTING, MEASURING, GAUGING, OR CONTROLLING DEVICES AND CERTAIN DEVICES FOR PRODUCING LIGHT OR AN IONIZED ATMOSPHERE</b></p> <p>Arkansas has omitted 10 CFR 31.5(c)(10) from its regulations.</p> <p>*In the review done August 31, 2006 Arkansas regulations contained RH 402.b.3.l which corresponded to 10 CFR 31.5(c)(10), however this regulation has been omitted from the submitted revised regulations.</p> <p>Arkansas needs to add this section in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(10).</p>
4	RH 402.b.4	31.5(d)	2001-1	B	<p><b>CERTAIN DETECTING, MEASURING, GAUGING, OR CONTROLLING DEVICES AND CERTAIN DEVICES FOR PRODUCING LIGHT OR AN IONIZED ATMOSPHERE</b></p> <p>Arkansas omits the phrase "...or import ..." from RH 402.b.4.</p> <p>Arkansas needs to add "or import" to meet the Compatibility Category B designation assigned to 10 CFR 31.5(d).</p> <p>*This comment, from the August 31, 2006, letter was not addressed.</p>

**STATE REGULATION STATUS**

State: Arkansas

Tracking Ticket Number: 7-1

[9 amendments reviewed are identified by a ★  
at the beginning of the equivalent NRC requirement.]

Date: January 23, 2007

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule <sup>1</sup> License Condition (LC) / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (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 <sup>3</sup>
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 <sup>3</sup>
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 <sup>4</sup>
Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70	58 FR 68726 59 FR 1618 (none)	1994-1			Not required <sup>3</sup>
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

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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 <sup>3</sup>
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	

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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 <sup>3</sup>
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 <sup>3</sup>
License Term for Medical Use Licenses- Part 35	63 FR 31604 (none)	1998-3			Not required <sup>3</sup>
★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059 (7/9/01)	1998-4	F ML063520501	N 01/23/07 ML070240401	
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

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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 <sup>3</sup>
★Respiratory Protection and Controls to Restrict Internal Exposure - Part 20	64 FR 54543 64 FR 55525 (2/2/03)	1999-3	F ML063520501	N 01/23/07 ML070240401	
★Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39	65 FR20337 (5/17/03)	2000-1	F ML063520501	N 01/23/07 ML070240401	
★New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F ML063520501	N 01/23/07 ML070240401	
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML063520501	Y 01/23/07 ML070240401	
★Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	F ML063520501	N 01/23/07 ML070240401	
★Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (10/24/05)	2002-2	F ML063520501	N 01/23/07 ML070240401	
★Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1	F ML063520501	N 01/23/07 ML070240401	
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	F ML063520501	N 01/23/07 ML070240401	
Medical Use of Byproduct Material - Recognition of Speciality 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) <sup>6</sup>	70 FR 72128; (12/1/05)	2005-3	LC ML052510171	N 09/9/05 ML052520313	

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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.