

August 31, 2006

Jay Hyland, Manager
Division of Environment Health
Radiation Control Program
11 State House Station
286 Water Street, 4th Floor
Augusta, ME 04333

Dear Mr. Hyland:

By letter dated October 14, 2004, we sent you the results of our review of the final changes to the Maine regulations which were submitted to the NRC by letter dated May 15, 2004. 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 two comments for the 2001-1 amendment stated in the October 14, 2004 letter, as a result of our re-review against the Compatibility Category B designation, we have four additional comments that have been identified in the enclosure. Comment 1 and the two old comments stated in the October 14, 2004 letter indicate that the State's regulation is more restrictive than the NRC's regulation, and there is no corrective action required for this comment at this point. However, Comments 2 and 4 indicate that the State's regulations are less restrictive than the NRC's regulations, and they need to be addressed in the State's future rulemaking process. We request that when a final amended version of Maine regulations is 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 Maine 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.hsrld.ornl.gov/nrc/rulemaking.htm>.

Jay Hyland, Manager

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August 31, 2006

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. Jennifer Tobin at (301) 415-2328 or by e-mail at JCT1@nrc.gov.

Sincerely,

IRA By KNSchneider Forl

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. Jennifer Tobin at (301) 415-2328 or by e-mail at JCT1@nrc.gov.

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

Enclosures:

As stated

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COMPATIBILITY COMMENTS ON MAINE FINAL REGULATIONS

| State Regulation | | NRC Regulation | RATS ID | Category | Subject and Comments |
|------------------|--------------------|----------------|---------|----------|---|
| 1 | 220.C.6.B (3) | 31.5 (c) (1) | 2001-1 | B | <p>Certain detecting, measuring gauging or controlling devices.</p> <p>Maine requires additional registration process which is not stated in 10 CFR 31.5(c).</p> <p>Maine's rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State petition and State of Florida's request on compatibility changes for the GL rule.</p> |
| 2 | 220.C.6.B (3)c. | 31.5(c)(3) | 2001-1 | B | <p>Certain detecting, measuring gauging or controlling devices.</p> <p>Maine has omitted the reference to 10 CFR 31.5(c)(2) at the beginning of 220.C.6.B(3)c regarding the test requirements for radioactive materials.</p> <p>Maine needs to add the reference to 220.C.6.B.(3)c. to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(3).</p> |
| 3 | 220.C.6.B (3)d. | 31.5(c)(4) | | B | <p>Certain detecting, measuring gauging or controlling devices.</p> <p>Maine requires records of tests for radioactive material leakage and tests for on-off mechanism to be maintained for 1 year while the NRC requires records to be retained for 3 years for the above conditions.</p> <p>Maine needs to revise the record retention period in 220.C.6.B.(3)d. to meet the Compatibility Category B assigned to 10 CFR 31.5(c)(4).</p> |

| | | | | | |
|---|-----|------------|--|---|---|
| 4 | n/a | 31.5(c)(7) | | B | <p>Certain detecting, measuring gauging or controlling devices.</p> <p>Maine has omitted the provision of 10 CFR 31.5(c)(7) regarding the export of the device containing byproduct material. Omitting this provision also caused a missing reference to 10 CFR 31.5(c)(7) in 220.C.6.B.(3)g.</p> <p>Maine needs to adopt the provision and add the equivalent reference to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(7) and 10 CFR 31.5(c)(8).</p> |
|---|-----|------------|--|---|---|

STATE REGULATION STATUS

State: Maine

[1 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 Rule / License Condition (LC) 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 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| ASNT Certification of Radiographers-Part 34 | 56 FR 11504; (none) | 1991-2 | | | Not required ³ |
| 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 ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980; (10/15/94) | 1991-4 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104; (1/27/95) | 1992-1 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| 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 ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| Licensing and Radiation Safety Requirements for Irradiators-Part 36 | 58 FR 7715; (7/1/96) | 1993-2 | | | Not applicable SECY-95-112 ⁴ |
| Definition of Land Disposal and Waste Site QA Program-Part 61 | 58 FR 33886; (7/22/96) | 1993-3 | | | 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 SECY-95-112 ⁴ |
| Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70 | 59 FR 36026; (8/15/97) | 1994-3 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |

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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 ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20 | 60 FR 7900; (3/13/98) | 1995-2 | F | N 11/24/99 | 8/26/99 |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649; 60 FR 25983; (3/1/98) | 1995-3 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/02 |
| Performance Requirements for Radiography Equipment-Part 34 | 60 FR 28323; (6/30/98) | 1995-4 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038; (8/14/98) | 1995-5 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235; (11/24/98) | 1995-6 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623; (10/20/98) | 1995-7 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| 10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71 | 60 FR 50248; 61 FR 28724; (4/1/99) | 1996-1 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/02 |
| 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 | N 11/24/99 | 8/26/99 |
| Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20 | 61 FR 65120; (1/9/00) | 1997-1 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| 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 ML012710492 | N 12/11/01 ML013520336 | (LBR) 8/1/01 |

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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 ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| Fissile Material Shipments and Exemptions-Part 71 | 62 FR 5907; (none) | 1997-4 | | | Not required ³ |
| 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 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (8/20/00) | 1997-6 | F | N 11/24/99 | 8/26/99 |
| Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30 | 62 FR 63634; (1/02/01) | 1997-7 | F | N 11/24/99 | 8/26/99 |
| Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150 | 63 FR 1890; 63 FR 13773; (2/12/01) | 1998-1 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/02 |
| 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 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| 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 ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20 | 63 FR 50127; (11/20/01) | 1998-6 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/02 |
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506; (6/11/02) | 1999-1 | | | Not applicable SECY-95-112 ⁴ |

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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 ³ |
| Respiratory Protection and Controls to Restrict Internal Exposure-Part 20 | 64 FR 54543; 64 FR 55524; (2/2/03) | 1999-3 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/01 |
| Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39 | 65 FR 20337; (5/17/03) | 2000-1 | F ML021830034/M L021990480 | N 8/27/02 ML022400454 | 8/1/02 |
| New Dosimetry Technology-Parts 34, 36, 39 | 65 FR 63750; (1/8/04) | 2000-2 | F ML012710492 | N 12/11/01 ML013520336 | 8/1/01 |
| ★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32 | 65 FR 79162; (2/16/04) | 2001-1 | F ⁷ ML032930364 | Y 8/31/06 ML062370173 | |
| Revision of the Skin Dose Limit-Part 20 | 67 FR 1629; (4/5/05) | 2002-1 | F ML032930364 | N 10/31/03 ML033040387 | |
| Medical Use of Byproduct Material-Parts 20, 32, 35 | 67 FR 20249; (4/24/05) | 2002-2 | F ML032930364 | N 10/31/03 ML033040387 | |
| 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) ⁶ | 70 FR 72128; (12/1/05) | 2005-3 | LC ML053130012 | 11/10/05 ML053180036 | |

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|---|---|---------|---|---|--|
| Minor Amendments - Parts 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 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 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-05-090.
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.