

June 27, 2005

Robert E. Owen, Chief
Bureau of Radiation Protection
Ohio Department of Health
246 North High Street
P.O. Box 118
Columbus, Ohio 43216-0118

Dear Mr. Owen:

We have reviewed the proposed changes to the Ohio Administrative Code Chapter 3701:1-44 "Licensing Requirements for Source Material," received by our office on May 4, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 40. We discussed our review of the regulations with Mike Snee on June 24, 2005.

As a result of our review, we have no comments. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the Ohio regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Ohio regulations. However, we have determined that if your proposed regulations were adopted, without 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 the proposed regulations are adopted and published as final regulations, 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 final changes and provide a copy to STP.

The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of other Ohio 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.hrsd.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 me, or Richard L. Blanton at (301)-415-2322 or by e-mail at RLB@NRC.GOV.

Sincerely,

By KNSchneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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Bureau of Radiation Protection
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Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure: As stated

SISP Review Complete

- Publicly Available Non-Publicly Available
- Non-Sensitive Sensitive

Distribution:

DIR RF[5-137] DCD (SP05) PDR(YES_✓) Response to Incoming Document: **ML051380407**

Sheri Minnick, Duncan White, RSAO DSollenberger, ASPO BUilton Ohio File Name: C:\NRC\Regs\OH 5-137.wpd

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OFFICE	STP		STP		OGC		STP:DD	
NAME	WRR fo RLBlanton		WRautzen		STreby		KSchneider for DRathbun	
DATE	06/11/05*		06/11/05*		06/23/05*		06/27/05*	

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STATE REGULATION STATUS

State: OHIO
 [No Amendments Reviewed]

Tracking Ticket Number: 5-137
 Date: June 27, 2005

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁴	NRC Review / Y, N ¹ / Date / ML # ⁴	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML023250117	N 1/9/03 ML030060349	10/20/02
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	F ML023250117	N 1/9/03 ML030060349	10/20/02
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 ML040920160	N 4/14/04 ML041060011	7/22/01
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	P	Y 7/26/00	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1-7/95)	1992-1	P ML042230062	N 10/14/2004 ML042890002	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2	P ML042230062	N 10/14/2004 ML042890002	10/9/98 ⁶
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	Y 7/26/00	10/9/98 ⁵
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F ML023250117	N 1/19/03 ML030060349	10/20/02
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			10/9/98 ⁶
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			10/9/98 ⁶
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			10/9/98 ⁵
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P	N 7/26/00	10/9/98 ⁵
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 ML023180373	N 1/9/03 ML030220061	10/20/02

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment- Part 20	60 FR 7900; (3/13/98)	1995-2	F ML041240504	N 6/14/04 ML041670402	10/9/98 ⁵
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F ML040920160	N 4/14/04 ML041060011	7/22/01
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML012500056	N 1/14/02 ML020170450	10/20/02
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML040920160	N 4/14/04 ML041060011	7/22/01
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 7/26/00	10/9/98 ⁵
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P ML042230062	N 10/14/2004 ML042890002L	10/9/98 ⁵
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P ML010380259 ML010870344	Y 9/25/01 ML012710319	10/9/98 ⁵
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			10/9/98 ⁶
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	N 7/26/00	10/9/98 ⁵
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML041240504 F ML041900134	N 6/14/04 ML041670402 N 8/9/04 ML042220269	07/26/01
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 ML041240504	N 6/14/04 ML041670402	11/27/02
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P ML042230062	N 10/14/2004 ML042890002	10/9/98 ⁵
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			10/9/98 ⁶

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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	P ML023250117	N 1/9/03 ML030060349	10/20/02 ⁵
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			10/9/98 ⁵
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML041240504	6/14/04 ML041670402	10/18/02
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML010380259 ML010870344	N 12/12/01 ML013530072	10/9/98 ⁵
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			10/9/98 ⁶
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			10/9/98 ⁶
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML041240504	N 6/14/04 ML041670402	10/18/02
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			10/9/98 ⁵
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML041240504 N ML041900134	Y 6/14/04 ML041670402 N 8/9/04 ML042220269	7/26/01
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			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 ML040920160	N 4/14/04 ML041060011	7/22/01
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML012500049	N 1/9/03 ML030060349	10/20/02

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New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F ML023250117	N 1/9/03 ML030060349	10/20/02
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML041240504 F ML041900134	Y 6/14/04 ML041670402 N 8/9/04 ML042220269	10/18/02
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML042230062	N 10/14/2004 ML042890002	
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	2002-2	P ML042230062	N 10/14/2004 ML042890002	
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; (4/29/08)	2005-2			

1. For 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. ADAMS ML Number
5. Ohio became an Agreement State effective 08/31/99. The State incorporated NRC regulations by reference 10/9/98 and therefore, these regulations were found compatible.
6. Although these items are not required for purposes of compatibility, the State incorporated NRC regulations by reference on 10/9/98 which included these items.