

August 31, 2006

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

Dear Mr. Owen:

By letter dated August 9, 2004, we sent you the results of our review of the final changes to the Ohio regulations which were submitted to the NRC by letter dated July 1, 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 Michael Snee on August 23, 2006. Although we had no comments for the 2001-1 amendment stated in the August 9, 2004 letter, as a result of our re-review against the Compatibility Category B designation, we have three comments that have been identified in the enclosure. Comment 3 indicates 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 1 and 2 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 Ohio regulations are 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 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.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 me, or Ms. Jennifer Tobin at (301) 415-2328 or by e-mail at JCT1@nrc.gov.

Sincerely,

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.

Sincerely,

**IRA By KNSchneider For!**

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

Enclosures:  
As stated

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**COMMENTS ON PROPOSED OHIO REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	3701: 1-46- 05	31.5(c)(8)(ii)	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>The NRC requires a report to be furnished within 30 days after the transfer of a device to a specific licensee or export. However, Ohio has omitted the requirement of reporting such a device within 30 days after it is exported.</p> <p>Also, NRC does not contain provision that relieves a licensee from reporting a device that is transferred to a specific licensee for a replacement of the same model. However, Ohio's final regulations do not require report if the device is transferred to the specific licensee for a replacement of the same model.</p> <p>Ohio needs to add the requirement of reporting a device that is exported to 3701:1-46-05(C)(8)(b), and delete the phrase "a report is not required if the device is transferred to the specific licensee for a replacement of the same model." from its regulations, to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(8)(ii).</p>
2	N/A	31.5(c)(11)	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>Ohio has omitted the requirement of 10 CFR 31.5(c)(11), regarding general license response to information requests within 30 calendar days.</p> <p>Ohio needs to add the requirements of 10 CFR 31.5(c)(11) to 3701:1-46-05(C), to meet the Compatibility Category B designation assigned to 10 CFR 31.5(c)(11).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	N/A	31.5(c)(13) (iv)	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>Ohio has omitted the provisions 10 CFR 31.5(c)(13)(iv), regarding the applicability of the registration requirements for the GL devices licensed by an Agreement State or by the NRC, that are used in Ohio for less than 180 days.</p> <p>Ohio'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>

**STATE REGULATION STATUS**

State: OHIO

Tracking Ticket Number: 6-16

[1 Amendment reviewed is identified by a ★  
at the beginning of the equivalent NRC regulation]

Date: August 31, 2006

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / License Condition (LC) ML # <sup>4</sup>	NRC Review / Y, N <sup>1</sup> / Date / ML # <sup>4</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 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	F ML061440106	N 6/8/06 ML061590424	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2	F ML061440106	N 6/8/06 ML061590424	10/9/98 <sup>6</sup>
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 <sup>5</sup>
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F ML023250117	N 1/9/03 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 <sup>6</sup>
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			10/9/98 <sup>6</sup>
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			10/9/98 <sup>5</sup>

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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 <sup>5</sup>
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 ML061440106	N 6/8/06 ML061590424	10/20/02
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 <sup>5</sup>
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	F ML023250117	N 1/9/03 ML030060349	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 <sup>5</sup>
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P ML042230062	N 10/14/2004 ML042890002	10/9/98 <sup>5</sup>
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 <sup>5</sup>
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2	P	N 07/26/00	10/9/98 <sup>6</sup>
Termination or Transfer of Licensed Activities: Record Keeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	N 07/26/00	10/9/98 <sup>5</sup>
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML041900134 F ML041240504	N 8/9/04 ML042220269 Y 6/14/04 ML041670402	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

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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 <sup>5</sup>
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			10/9/98 <sup>6</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 ML023250117	Y 1/9/03 ML030060349	10/20/02 <sup>5</sup>
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6			10/9/98 <sup>5</sup>
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 <sup>5</sup>
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 <sup>6</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			10/9/98 <sup>6</sup>
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 <sup>5</sup>
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML041900134	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	F ML060580024	N 4/13/2006 ML061030457	



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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 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 ML023250117	N 1/9/03 ML030060349	10/20/02
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 <sup>8</sup> ML041900134	Y 8/31/06 ML062370212	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	F ML061440106	N 6/8/06 ML061590424	
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	P ML050200730	Y 9/23/2005 ML052660013	
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) <sup>7</sup>	70 FR 72128; (12/1/05)	2005-3	LC ML053120143	11/10/05 ML053180026	12/2/05

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Minor Amendments - Parts 20, 30, 32, 35, 40, and 70	71 FR 15005 (3/27/09)	2006-1			

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.
7. 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.
8. 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.