**SA-201**

**APPENDIX A**

**CRITERIA FOR COMPARING REGULATIONS AND IDENTIFYING DIFFERENCES**

1. **DIFFERENCES THAT ARE NOT SIGNIFICANT**

In most cases, the following differences between Agreement State and NRC regulations are not significant and do NOT affect compatibility or the health and safety objectives of the regulation. These differences should be noted in the Reviewer Summary Sheet as “Yes” in the “Difference” column, but as “No” in the “Significant” column. They also should not be included as a compatibility comment in the response letter to the State program:

* 1. Differences that do not result in Agreement State licensees being subject to a requirement different from the equivalent NRC requirement;
  2. Differences that result from the Agreement 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 included in the Energy Policy Act of 2005);
  3. Differences between the ordering and/or numbering of the subdivisions
  4. 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 Agreement State, i.e., "shall" or "must,” "rule" or "regulation," "Commission" or "agency," "device" or "equipment;"
  5. 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;
  6. The incorporation, as a requirement in the Agreement 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;
  7. Modifications to punctuation that do not change the meaning of the text, for example, changing a semicolon (";") to a conjunction followed by a comma ("and,");
  8. Any difference that results from the use of International System of Units (SI) units for record keeping and reporting;
  9. Typographical and minor editorial or punctuation errors;
  10. References to the State agency instead of the NRC for certain reports, notifications or certifications.

1. **DIFFERENCES THAT ARE SIGNIFICANT**

In some cases, the difference in the wording between Agreement State and NRC regulations may significantly change the meaning and/or intent of the regulation and may, therefore, affect compatibility or the H&S 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.

* 1. Regulations Assigned Compatibility Category A and B

Differences between NRC and Agreement 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 Agreement State regulation for all phases of the licensee’s operations. Such a conclusion—that the text of the Agreement State regulation leads to a different interpretation than the text of the corresponding NRC regulation—would result in a finding that the Agreement State regulation does not meet the compatibility category A or B designation. The reviewer should describe why the State's regulation leads to a different interpretation.

* 1. Regulations Assigned Compatibility Category C

Differences between Agreement State and NRC 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 pattern in regulation of agreement materials on a nationwide basis. Please see Management Directive 5.9for definitions of “essential objective”, “conflict”, “duplication,” and “gap.” In the case of compatibility category C, the Agreement State may adopt regulations that are more restrictive than the NRC regulations. The reviewer should refer to the Statements of Consideration in the Federal Register Notice for each rulemaking for information regarding the objective of each regulation revision or addition.

* 1. Regulations Assigned a Health and Safety (H&S) 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. A conclusion that an Agreement State regulation does not reflect the H&S objectives of the corresponding NRC regulation or creates a conflict, duplication or a gap would result in a significant finding. Please see Management Directive 5.9for definitions of “essential objective”, “conflict”, “duplication”, and “gap”. The reviewer should describe why the Agreement State's regulation does not reflect the H&S intent of the corresponding NRC regulation in their comment.