



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 23, 2015

Mr. Bernard Bevill, Chief
Radiation Control Section
Arkansas Department of Health
4815 West Markham Street, Slot 30
Little Rock, Arkansas 72205

Dear Mr. Bevill:

We have reviewed the proposed revisions to the Arkansas State Board of Health's Rules and Regulations for Control of Sources of Ionizing Radiation, received by our office on March 13, 2015. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the three amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Angela Minden on April 22, 2015.

As a result of our review, we have one comment that has been identified in the enclosure. 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 Arkansas 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 Arkansas regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comment and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

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 NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, and provide a copy to Division of Material Safety, State, Tribal, and Rulemaking Programs, NMSS.

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 NMSS Web site: <http://nrc-stp.ornl.gov/rulemaking.html>.

Additionally, please note that NRC has previously issued certain security Orders to one Arkansas licensee. We have not listed the name of the licensee in this letter because that information is Official Use Only and cannot be made publicly available. Because the NRC-issued Orders are still legally binding; they must be rescinded by NRC concurrent with Arkansas' promulgation of final regulations. Accordingly, close coordination is needed between the NRC and your office to ensure there are no conflicts, duplications, or gaps regarding the security-related requirements for these licensees. Please contact Adelaide Giantelli, Branch Chief, Source Management, and Protection Branch, NMSS (Adelaide.Giantelli@nrc.gov) for information regarding the affected State licensees and for coordination with rescission of the NRC-issued Orders for this licensee after Arkansas' promulgation and NRC's review of the final Arkansas regulations.

If you have any questions regarding the review, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at (610) 337-6942 (Michelle.Beardsley@nrc.gov) or Randy Erickson at (817) 200-1143 (Randy.Erickson@nrc.gov).

Sincerely,

**/RA/
CEinberg for PHenderson**

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal,
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility comments
2. Arkansas SRS Data Sheet

COMPATIBILITY COMMENTS ON ARKANSAS PROPOSED REGULATIONS

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---------------|-----------------------|-----------------|---------|----------|---|
| 1 | RH-200 and RH-1100 | 70.4 20.1003 | N/A | A | <p>Terms and conditions of licenses</p> <p>Arkansas' regulation states, "<i>Special nuclear material</i> means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the <i>Department</i>, pursuant to the provisions of section 51 of the act, determines to be special nuclear material...".</p> <p>Arkansas has changed the word "Commission" to "Department". As the State cannot determine what is considered special nuclear material under the AEA, Arkansas needs to retain the reference to the NRC.</p> <p>Arkansas needs to make the above change in order to meet the Compatibility Category A designation assigned to 10 CFR Parts 70.4 and 20.1003.</p> |

STATE REGULATION STATUS

State: Arkansas

Tracking Ticket Number: 15-21

Date: 04/23/2015

[4 amendment(s) reviewed identified by a * at the beginning of the equivalent NRC requirement.]

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|--|-----------------------------|----------------------|--|---|
| 1991-1 | Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5) | 01/10/1994 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | Arkansas has adopted final regulations equivalent to RATS ID 1997-5. |
| 1991-2 | ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5) | none | Final ML031270002 | No Comments 04/30/2003 ML031220523 | Arkansas has adopted final regulations equivalent to RATS ID 1997-5. |
| 1991-3 | 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 | 01/01/1994 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980 | 10/15/1994 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1992-1 | Quality Management Program and Misadministration Part 35 56 FR 34104 (Superceded by 2002-2) | 01/27/1995 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | Arkansas has adopted final regulations equivalent to RATS ID 2002-2. |
| 1992-2 | Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566 | none | Not Required | Not Required | These regulations are not required to be adopted for purposes of Compatibility. |
| 1993-1 | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628 | 10/25/1996 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |

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|---------|---|-----------------------------|----------------------|--|---|
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Final ML093090272 | No Comments 12/02/2009 ML093230551 | |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1994-1 | Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618 | none | Not Required | Not Required | These regulations are not required to be adopted for purposes of Compatibility. |
| 1994-2 | Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220 | 07/01/1997 | Not Applicable | Not Applicable | Arkansas does not have the authority to regulate this material under its Agreement. |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026 | 08/15/1997 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1995-1 | 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 | 01/01/1998 | Final ML112420011 | No Comments 10/24/2011 ML112760170 | |
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |

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|---------|---|-----------------------------|----------------------|--|--|
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final ML12325A664 | No Comments 12/19/2012 ML12338A286 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1995-5 | Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038 | 08/14/1998 | Final ML112420011 | No Comments 10/24/2011 ML112760170 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235 | 11/24/1998 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1995-7 | Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superceded by 2002-2 and 2005-2) | 10/20/1998 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1) | 04/01/1999 | Final ML031270002 | Comments 04/30/2003 ML031220523 | |
| 1996-2 | One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109 | 02/15/1999 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |

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|---------|---|-----------------------------|----------------------|--|---|
| 1996-3 | Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669 | 06/17/1999 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1997-2 | Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662 | 02/27/2000 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120 | 05/29/2000 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superceded by 2004-1) | 02/10/2000 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078) |
| 1997-5 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947 | 06/27/2000 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |

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|---------|---|-----------------------------|----------------------|--|---|
| 1997-7 | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634 | 01/02/2001 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | Final ML031270002 | No Comments 04/30/2003 ML031220523 | |
| 1998-2 | Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535 | 07/01/2001 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |
| 1998-3 | License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2) | 07/10/2001 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) |
| 1998-4 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059 | 07/09/2001 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 1998-5 | Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 40 63 FR 39477; 63 FR 45393 | 10/26/2001 | Final ML112420011 | No Comments 10/24/2011 ML112760170 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML12325A664 | No Comments 12/19/2012 ML12338A286 | |

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|---------|--|-----------------------------|----------------------|--|--|
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Not Applicable | Not Applicable | Arkansas does not have the authority to regulate this material under its Agreement. |
| 1999-2 | Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269 | 10/04/2002 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |
| 1999-3 | Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524 | 02/02/2003 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36, 39 65 FR 63750 | 01/08/2004 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249 | 10/24/2005 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |

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|---------|---|-----------------------------|--|---|--|
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327 | 12/03/2006 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML063520501 | No Comments 01/23/2007 ML070240401 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML052510171 | No Comments 09/09/2005 ML052520313 | |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685 | 02/06/2007 | Not Applicable | Not Applicable | Arkansas does not have any licensees subject to these regulations. (See SECY-95-112) |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Final ML12268A064 License Condition ML090060786 | No Comments 10/25/2012 ML12270A287 No Comment 01/22/2009 ML090120596 | |

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|---------|--|-----------------------------|----------------------------------|--|-------|
| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207 | 10/29/2010 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2007-2 | Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473 | 12/17/2010 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2007-3 | Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864 | 11/30/2010 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2007-4 | Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901 | 06/05/2008 | License Condition ML080240020 | No Comments 03/03/2008 ML080630031 | |
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043 | 02/15/2011 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512 | 12/17/2015 | Proposed ML14259A542 | No Comments 12/03/2014 ML14258B162 | |

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|---------|---|-----------------------------|---|---|-------|
| 2011-2 | Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951 | 11/14/2014 | Proposed ML14071A126 Final ML14337A022 | No Comments 04/30/2014 ML14071A12 No Comments 01/12/2015 ML14337A022 | |
| 2012-1 | Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640 | 01/25/2015 | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| 2012-2 | Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194 | 08/10/2015 | Proposed ML14259A542 | No Comments 12/03/2014 ML14258B162 | |
| 2012-3 | Technical Corrections Part 30, 34, 40 and 71 77 FR 39899 | 08/06/2015 | Proposed ML14259A542 | No Comments 12/03/2014 ML14258B162 | |
| 2012-4 | Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666 | 10/23/2015 | Proposed ML14259A542 | No Comments 12/03/2014 ML14258B162 | |
| *2013-1 | Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922 | 03/19/2016 | Proposed ML15078A088 | No Comments 04/23/2015 ML15078A086 | |
| *2013-2 | Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310 | 08/27/2016 | Proposed ML15078A088 | No Comments 04/23/2015 ML15078A086 | |
| 2015-1 | Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143 | 01/26/2018 | | | |

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|---------|---|-----------------------------|---|---|--|
| *2015-2 | Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73, and 150 79 FR 58664, 80 FR 3865 | 01/28/2018 | Proposed ML15078A088 | No Comments 04/23/20115 ML15078A086 | |
| N/A | 10 CFR 19.13, 20.1502, 20.1904, 20.1905, 20.2203, 31.3, 34.25, 35.60, 35.63, 35.2060 and 70.20 | N/A | Final ML12268A064 | No Comments 10/25/2012 ML12270A287 | |
| *N/A | 10 CFR 20.1003, 20.1701, 20.1703(b), 20.1902, 20.2001, 20.2008, 34.3, 34.53 and 35.2 | N/A | Proposed ML14071A126 Final ML14337A022 Revised Final ML15078A088 | No Comments 04/30/2014 ML14071A120 Comments 01/12/2015 ML14337A022 Comment 04/23/2015 ML15078A086 | Comment was regarding 20.1003 and 70.4 |
| N/A | 10 CFR 30.13, 31.12, 36.23, and Part 30 Schedule A and B | N/A | Proposed ML14259A542 | Comments 12/03/2014 ML14258B162 | |