

November 12, 2009

Aubrey V. Godwin, Director
Arizona Radiation Regulatory Agency
4814 South 40th Street
Phoenix, AZ 85040

Dear Mr. Godwin:

We have reviewed the final revision to the Arizona regulations, Title 12, Chapter 1, received by our office on September 24, 2009. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 31, 32, 35, 40, 61, 70, 71, 150 and the requirements of the 12 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Jerry Perkins on November 4, 2009

As a result of our review, we have 20 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure [SA-200](#).

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in FSME Procedure [SA-201](#), "Review of State Regulatory Requirements," please highlight the location of any changes made by Arizona, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The SRS Data Sheet summarizes our knowledge of the status of other Arizona 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 FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

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 Kathleen Schneider State Regulation Review Coordinator at (301) 415-2320 (kathleen.schneider@nrc.gov) or Leira Cuadrado at (301) 415-0707 (leira.cuadrado@nrc.gov).

Sincerely,

/RA/

Terrence Reis, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As stated

Aubrey V. Godwin, Director
 Arizona Radiation Regulatory Agency
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Sincerely,

/RA/

Terrence Reis, Deputy Director
 Division of Materials Safety and State Agreements
 Office of Federal and State Materials and
 Environmental Management Programs

Enclosures:

As stated

Distribution:

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DCD (SP05)

LMcLean, RSAO

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OFFICE	ASPB	ASPB	OGC	ASPB:BC	MSSA:DD
NAME	LCuadrado	KSchneider/MLO	BJones	ADWhite	TReis
DATE	10/14/09	10/14/09	10/27/09	11/12/09	11/12/09

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COMPATIBILITY COMMENTS ON ARIZONA FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	R1 2-1 - 306.B.1	31.5(a), 31.5(d)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>The provisions of 10 CFR 31.5 (d) are missing in Arizona’s regulations, and the corresponding cross reference to this information is missing in R12-1-306.B.1.</p> <p>The phrase “a person such as” should be deleted. As written, the Arizona regulation could grant the general license to additional groups of licensees.</p> <p>Arizona needs to address the above changes to meet the Compatibility Category B designation assigned to 31.5(a) and 31.5(d).</p>
2	R12-1-721	35.290	2002-2	B	<p>Training for imaging and localization studies</p> <p>Arizona regulations in section B allow cardiologists to be limited to nuclear cardiology if they cannot provide proof that he/she has participated in 700 hours of training and experience required by 10 CFR 35.290. 10 CFR 35.290 makes no such exception for cardiologists.</p> <p>Arizona needs to eliminate section B from R12-1-721 in order to meet the compatibility Category B requirements assigned to 10 CFR 35.290.</p>
3	R12-1-1500	71.0(c)	2004-1	[B]	<p>Purpose and Scope</p> <p>Arizona omits an essentially identical provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to 10 CFR 71.0(c) in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.0(c).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	N/A	71.4	2004-1	[B]	<p>Definition Certificate Holder</p> <p>Arizona omits this definition from their regulations.</p> <p>Arizona needs to add an essentially identical definition in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.4 Definition Certificate holder.</p>
5	N/A	71.4	2004-1	[B]	<p>Definition Certificate of Compliance</p> <p>Arizona omits this definition from their regulations.</p> <p>Arizona needs to add an essentially identical definition in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.4 Definition Certificate of Compliance.</p>
6	N/A	71.13	2004-1	[B]	<p>Exemption of Physicians</p> <p>Arizona omits this section from their regulations.</p> <p>Arizona needs to add an essentially identical section to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.13.</p>
7	R12-1-1510C	71.22	2004-1	[B]	<p>General license: Fissile material</p> <p>Arizona's regulation is not essentially identical to 10 CFR 71.22. Specifically Arizona omits 71 .22 (c), (d), & (e).</p> <p>Arizona needs to make R12-1-1510C essentially identical to 10 CFR 71.22 in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.22.</p>
8	N/A	71.23	2004-1	[B]	<p>General license: Plutonium/ Beryllium Special Form Material</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.23.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
9	N/A	71.83	2004-1	[B]	<p>Assumptions as to Unknown Properties</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add this provision to their regulations in order to meet the Compatibility category [B] designation assigned to 10 CFR 71.83.</p>
10	R12-1-1510B	71.85	2004-1	[B]	<p>Preliminary Determinations</p> <p>Arizona only references 10 CFR 71 .85(c) in their regulations. Arizona needs to add provisions essentially identical to 10 CFR 71.85 (a) and (b).</p> <p>Arizona needs to make the above correction in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.85.</p>
11	N/A	71.87	2004-1	[B]	<p>Routine Determinations</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.87.</p>
12	N/A	71.89	2004-1	[B]	<p>Opening Instructions</p> <p>Arizona omits this provision from their regulations.</p> <p>Arizona needs to add an essentially identical provision to their regulations in order to meet the Compatibility Category [B] designation assigned to 10 CFR 71.89.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
13	R12-1-303A	30.14	2007-2	B	<p>Exempt Concentrations</p> <p>Arizona needs to list the correct subsections in R1 2-1 -303A1. (“Except as provided in subsections...”)</p> <p>Arizona omits essentially identical regulations to 10 CFR 30.14 (b) and (c).</p> <p>Arizona needs to remove “... a specific license issued under R1 2-1 -31 1(A) or a general license prescribed in R12-1-320.” from R1 2-1 -303A2 and replace in with “...a license issued under 10 CFR 32.11 .”, since these licenses are under NRC’s jurisdiction.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.14.</p>
14	R12-1-303B	30.15	2007-2	B	<p>Certain Items Containing Byproduct Material</p> <p>Arizona needs to remove R12-1-303B.1 .b, d, f, and h.iv.</p> <p>Arizona needs to add an essentially identical regulation to 10 CFR 30.15(a)(7) to R12-1-303B.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.15.</p>
15	R12-1-303B.2	N/A (was 30.16)	2007-2	N/A	<p>Resins containing scandium-46 and designed for sand consolidation in oil wells</p> <p>Arizona needs to remove R12-1-303 B.2.</p> <p>Arizona needs to remove the above regulation in order to be compatible with NRC regulations.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
16	R12-1-303C	30.18	2007-2	B	<p>Exempt quantities</p> <p>Arizona needs to change R12-1-303 C.1 to reflect the correct subsections (“Except as provided in subsections .”)</p> <p>Arizona needs to add essentially identical regulations to 10 CFR 30.18 (b) and (e) to R1 2-1-303 C.</p> <p>Arizona needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.18.</p>
17	R12-1-306B.1	31.5	2007-2	B	<p>Certain Detecting, Measuring, Gauging, or Controlling Devices and Certain Devices for Producing Light or an Ionized Atmosphere</p> <p>Arizona’s regulation R12-1-306 B.1. should read “... incorporated by reference and available under R12-1-101, radioactive material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, ...”.</p> <p>Arizona needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5.</p>
18	R12-1-303A.2	32.13	2007-2	C	<p>Same: Prohibition of Introduction</p> <p>Arizona needs to remove “... a specific license issued under R1 2-1 -31 1A or a general license prescribed in R12-1-320.” And replace it with “... a license issued under 10 CFR 32.11.”, since these licenses are under NRC’s jurisdiction.</p> <p>Arizona needs to make the above change in order to meet the Compatibility category C designation assigned to 10 CFR 32.13.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
19	R12-1-303B.2	32.16	2007-2	NRC	<p>Certain Items Containing Byproduct Material: Records and Reports of Transfer</p> <p>Arizona incorporates 10 CFR 32.16 by reference. This section is designated to the NRC and should be removed from R12-1-303 B 2.</p> <p>Arizona needs to not incorporate 10 CFR 32.16 by reference in order to meet the Compatibility Category NRC designation assigned to 10 CFR 32.16.</p>
20	R12-1-303B.2	32.17	2007-2	N/A	<p>Resins Containing Scandium-46 and Designed for Sand-Consolidation in Oil Wells: Requirements for License to Manufacture, or Initially Transfer for Sale or Distribution.</p> <p>NRC has removed 10 CFR 32.17 from its regulations, so in order to be compatible Arizona needs to remove all of R12-1-303 B 2 from their regulations.</p> <p>Arizona needs to remove all of R12-1-303 B 2 in order to be Compatible with NRC regulations.</p>

STATE REGULATION STATUS

State: Arizona
 [12 amendment(s) reviewed is identified by a ★
 at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 9-45
 Date: November 12, 2009

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5)	01/10/1994	Final ML042370896	No Comments 11/10/2004 ML043200721	Arizona 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 ML042370896	No Comments 11/10/2004 ML043200721	Arizona 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	No Comments 09/22/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final ML042370896	No Comments 11/10/2004 ML043200721	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	License Condition	No Comments 01/15/1999	Arizona has not yet adopted equivalent regulations 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 regulation changes 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			

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1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Not Applicable ¹	Not Applicable	Arizona does not have any licensees subject to these regulations (See SECY-95-112)
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable ¹	Not Applicable	Arizona does not have any licensees subject to these regulations (See SECY-95-112)
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 regulation changes 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	Arizona does not have 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 ML032750051	No Comments 11/20/2003 ML033240189	
★ 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 ML092590750	No Comments 11/12/2009 ML092870448	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998			
★ 1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML092590750	No Comments 11/12/2009 ML092870448	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5)	06/30/1998	Final ML042370896	No Comments 11/10/2004 ML043200721	Arizona has adopted final regulations equivalent to RATS ID 1997-5.

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1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML032750051	No Comments 11/20/2003 ML033240189	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final ML032750051	No Comments 11/20/2003 ML033240189	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2)	10/20/1998	Proposed	No Comments 10/5/2000	Arizona has not yet adopted equivalent regulations to RATS IDs 2002-2 and 2005-2.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1)	04/01/1999	Final ML042370896	Comments 11/10/04 ML043200721	Arizona has adopted final regulations equivalent to RATS ID 2004-1.
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.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final ML032750051	No Comments 11/20/2003 ML033240189	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML032750051	No Comments 11/20/2003 ML033240189	
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 ML042370896	No Comments 11/10/2004 ML043200721	

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★ 1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML092590750	No Comments 11/12/2009 ML092870448	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded 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 ML042180385	No Comments 11/10/2004 ML043200721	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final ML032930364	No Comments 11/06/2003 ML033160544	
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 ML032930364	No Comments 11/06/2003 ML033160544	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML042370896	No Comments 11/10/2004 ML043200721	
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 regulations 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 regulations are not required to be adopted for purposes of Compatibility. (See STP-98-074)

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1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML042370896	No Comments 11/10/2004 ML043200721	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 35, 36 63 FR 39477; 63 FR 45393	10/26/2001	Final ML032750051	No Comments 11/20/2003 ML033240189	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML032750051	No Comments 11/20/2003 ML033240189	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Required	Not Required	These regulations are not required to be adopted for purposes of Compatibility.
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 regulations 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 ML032930364	No Comments 11/06/2003 ML033160544	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML032930364	No Comments 11/06/2003 ML033160544	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML042370896	No Comments 11/1/2004 ML043200721	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
★2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML092590750	Comments 11/12/2009 ML092870448	
★2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML092590750	No Comments 11/12/2009 ML092870448	
★2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML092590750	Comments 11/12/2009 ML092870448	
★2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML092590750	No Comments 11/12/2009 ML092870448	
★2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML092590750	Comments 11/12/2009 ML092870448	
★2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML092590750	No Comments 11/12/2009 ML092870448	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008			
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML052630048	No Comments 09/21/2005 ML052640467	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
★2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML092590750	No Comments 11/12/2009 ML092870448	
★2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML092590750	No Comments 11/12/2009 ML092870448	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010			
★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 ML092590750	Comments 11/12/2009 ML092870448	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010			
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 ML081330218	No Comments 05/28/2008 ML081490633	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012			

¹ IMPEP Team: verify that Arizona does not have any licensees subject to these regulations during each review.