

April 24, 2002

Mr. William A. Passetti, Chief
Bureau of Radiation Control
Department of Health
4052 Bald Cypress Way, Bin #C21
Tallahassee, FL 32399-1741

Dear Mr. Passetti:

We have reviewed the proposed Florida regulations, Control of Radiation Hazard Regulations, Chapter 64E-5, Florida Administrative Code, sent in to this office on February 4, 2002. The proposed regulations are in response to the 4 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 20, 30, 32, 34, 35, 71, and 150. We discussed our review of the regulations with Michael Stephens on March 27, 2002.

As a result of our review, we have three comments and two editorial suggestions (enclosed). 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 a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted without other 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 send one copy to STP in a computer readable format, if possible.

The SRS Data Sheet summarizes our knowledge of other Florida regulations. 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 Web Site: <http://www.hsrcd.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. Woodruff, Region II, at 404-562-4704 or RLW@NRC.GOV.

Sincerely,

/RA/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated
William A. Passetti

April 24, 2002

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DCD (SP06) PDR (YES)

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**COMMENTS ON FLORIDA REGULATIONS AGAINST
COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation or SSR	NRC Regulation or SSR	RATS ID	Category	Subject and Comments
64E-5.429 (1(a))	34.71(a)(3)	1997-5	B	<p>Utilization Logs</p> <p>The State regulation does not require the inclusion of the dates when the source was removed and returned to storage.</p> <p>The State needs to include all of the documentation requirements of 34.71 to achieve compatibility.</p>
64E-5.429 (1(e))	34.71(a)(2)	1997-5	B	<p>Utilization Logs</p> <p>The State rule allows for a signature or initials of the individual associated with the movement of the source. The NRC regulations provide for more stringent security measures by requiring both the identity and signature, whereas the State regulations only require the signature or initials.</p> <p>The State should delete the "initials" option from this section and adopt the same documentation requirements as in 34.71.</p>

State Regulation or SSR	NRC Regulation or SSR	RATS ID	Category	Subject and Comments
64E-5.434 (7)	34.43 (d)	1997-5	B	<p>Training</p> <p>Florida State Regulation states that “Each licensee or registrant shall provide 8 hours of annual radiation safety training to all radiographic personnel, which can be conducted in multiple sessions. The comparable section in 10 C.F.R. § 34.43 (d) states “The licensee shall provide annual refresher safety training for each radiographer and radiographer’s assistant at intervals not to exceed 12 months.”</p> <p>The NRC regulation includes a stricter time frame in which the training must be accomplished by including the phrase “at intervals not to exceed 12 months.” The State should adopt this wording to achieve compatibility.</p>

Editorial Suggestions

1. Section 5.101 (57), the word Joule should be capitalized.
2. Section 5.434, states a reference to 434 (2)(e)-(f); there is no (f).

STATE REGULATION STATUS

State: Florida

[Four amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 2-19

Date: April 24, 2002

NRC Chronology Identification	FR Notice (Date due for State)	RATS ID	Proposed (P) / Final (F) Rule ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 11/8/00	1/1/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	F ML010250079 (see note 6)	N 2/8/01 ML010430124	10/8/00
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 11/8/00	1/1/94
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 11/8/00	1/1/94
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	N 11/8/00	8/14/96
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 11/8/00	8/14/96
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming	59 FR 28220; (7/1/97)	1994-2			Not applicable to Florida

NRC Chronology Identification	FR Notice (Date due for State)	RATS ID	Proposed (P) / Final (F) Rule ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
NRC Requirements to EPA Standards-Part 40					
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 11/8/00	5/18/98
*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	P ML020460297	N 4/24/02 ML021150491	8/6/01
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 11/8/00	5/18/98
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F	N 11/8/00	5/18/98
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 11/8/00	5/18/98
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 11/8/00	5/18/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 11/8/00	5/18/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML010250079	N 2/8/01 ML010430124	10/8/00
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F ML010250079	N 2/8/01 ML010430124	10/8/00
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F ML010250079	N 2/8/01 ML010430124	10/8/00

NRC Chronology Identification	FR Notice (Date due for State)	RATS ID	Proposed (P) / Final (F) Rule ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML010250079	N 2/8/01 ML010430124	10/8/00
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 ML010250079	N 2/8/01 ML010430124	10/8/00
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML010250079	N 2/8/01 ML010430124	10/8/00
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
*Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	P ML020460297	Y 4/24/02 ML021150491	9/11/02
*Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	P ML020460297	N 4/24/02 ML021150491	8/6/11
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML010250079	N 2/8/01 ML010430124	10/8/00
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML010250079	N 2/8/01 ML010430124	10/8/00
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses- Part 35	63 FR 31604; (none)	1998-3			Not required ³
*Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML020460297	N 4/24/02 ML021150491	9/11/02

NRC Chronology Identification	FR Notice (Date due for State)	RATS ID	Proposed (P) / Final (F) Rule ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML010250079	N 2/8/01 ML010430124	10/8/00
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6			
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			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F (License conditions for 32.5 (a) and (b))	N (License conditions for 32.5 (a) and (b))	License Conditions for 32.5 (a) and (b) reviewed and found satisfactory during the Feb 2003 IMPEP,
Revision of the Skin Dose Limit-Part 20	67 FR 16298; 4/5/05	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; 4/24/05	2002-2			

NRC Chronology Identification	FR Notice (Date due for State)	RATS ID	Proposed (P) / Final (F) Rule ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			

1. Or other generic Legally Binding Requirements.
2. (Y/N) 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. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs,” III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995
5. ADAMS ML number.
6. Proposed modifications were made to be compatible with Part 20 as requested in NRC letter dated 11/24/97.