

Arkansas Department of Health
Proposed Rules Pertaining to the ASBH
Rules and Regulations for Control of Sources of Ionizing Radiation

Public Comments Received

A public hearing was conducted March 8, 2017, at 10:00 a.m. in Room 902 of the Freeway Medical Tower building, 5800 West 10th Street, Little Rock, Arkansas.

No oral or written comments were received during the hearing.

During the public comment period, non-substantive comments were received from the U.S. Nuclear Regulatory Commission (NRC) via a February 2, 2017, letter and teleconference. The Department's response to the non-substantive comments is as follows:

Comment		Response
1	Arkansas regulations in RH-3301.b., 3304.b., 3305.b., 3306.b., 3600.b.,c., and 3602.a. should refer to their Agency and not to the NRC. Also, cross-references should be to AR regulations, as this requirement applies to the AR licensee's quality assurance program.	These regulations will maintain current rule language that lists the Department and its requirements as governing Arkansas licensee quality assurance programs instead of proposed language that indicates NRC has the authority.
2	Arkansas regulation RH-3301.c. should contain the AR point of contact.	Paragraph c.3. of the "General License for NRC-Approved Packages" states the third requirement that each Arkansas general licensee must do and that is register with the NRC (not Arkansas) before first use of the package. Registration with the NRC is per U.S. DOT 49 CFR 173.471(a) and is for any offeror of a Type B(U), Type B(M), or fissile material package that has been approved by the NRC. Paragraph c.3. will retain proposed language with a correction to the NRC Division name listed.
3	Arkansas needs to include the phrase "design, fabrication, and assembly records; results of reviews...and the action taken in connection with any deficiencies noted" in RH-3506.c. after the reference to RH-3502.	Paragraph c. will maintain current rule language that lists these records to be maintained by the licensee as evidence of quality of packaging, instead of proposed language that removes this list.
4	Arkansas may remove references in Section 4 to certificate holders and applicants for Certificates of Compliance due to these being NRC licensees and therefore not regulated by the State of Arkansas.	References to certificate holders and applicants for Certificates of Compliance will be stricken from RH-3600.b., 3601.a., 3602.a.,b.,d.,e., and 3603.-3608. leaving "licensee."
5	Arkansas needs to remove the sentence "Each certificate holder and applicant for a package approval is responsible for satisfying the quality assurance requirements that apply to design, fabrication, testing, and modification of packaging subject to this Part." from RH-3600.a. as this applies to NRC certificate holders and applicants, or otherwise modify	Explanatory language will be added to paragraph a., "Purpose," in order to clarify agency authorities. There will be no change in requirements.

	this paragraph to meet the essential objectives.	
6	Arkansas may remove references in paragraphs b. and c. of RH-3602. to certificate holders and applicants for Certificates of Compliance due to these being NRC licensees and therefore not regulated by the State of Arkansas, or otherwise modify these paragraphs to meet the essential objectives.	Explanatory language will be added to paragraphs b. and c. in order to better direct Arkansas licensees. There will be no change in requirements.
7	Arkansas needs to reference their Agency and not the NRC in RH-3602.e. as the State would approve their licensee's quality assurance program. Also, the cross-reference in paragraph e. should be to AR regulations, as this requirement applies to the AR licensee's quality assurance program.	This regulation will indicate that Arkansas quality assurance programs, including changes, are approved by the Department pursuant to its requirements, like that of Comment 1.
8	In RH-600.a.2., Arkansas omits the phrase, "until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement." As written, AR's regulation is less restrictive than 10 CFR 40.61(a)(2) as it only requires the licensee to retain the records for three years, and not until the license is terminated. AR needs to add their equivalent regulation as indicated above.	RH-600.a.2. as it currently reads was approved by the NRC in Department regulations effective July 1, 2002. The retention period for radioactive material transfer records was also approved by the NRC on May 12, 2010, as part of the Conference of Radiation Control Program Director's Suggested State Regulations. Arkansas does not have the authority to regulate the same types of Part 40, "source material," licensees that the NRC does (e.g., uranium mills, enrichment facilities, and UF ₆ production facilities); therefore, three years is an adequate retention period for Arkansas source material licensees. This retention period meets the essential objective.
9	In RH-11027.c.1., Arkansas needs to update the Mail Stop and phone number listed to Mail Stop TWB-05 B32M and 1-630-829-9565.	Paragraph c.1. will be revised to reflect the change in Mail Stop and phone number as well as the zip code and the use of "https" instead of "http."

Three administrative, non-substantive changes will also be addressed as follows:

Comment		Response
10	Unclear language exists in RH-3002.d.1., "Purpose and Scope."	The language will be simplified so that readers will be more clearly directed to Part C of Section 4 that contains the exemption requirements.
11	For consistency and simplicity, "this Section" should be used in RH-3305.a. and RH-3306.a.	"This Section," instead of the Section number and its title, will be used.
12	A type-o exists where paragraph c. of RH-3508. is incorrectly shown as paragraph d.	Paragraph c. will be shown as such.

No other oral or written comments were received during the public comment period.