



March 7, 2024

**MEMORANDUM**

To: Jeffrey W. Cown, Director  
Environmental Protection Division

From: James Boylan, Chief  
Air Protection Branch

Subject: Responses to Comments Received During the Public Comment Period Regarding Proposed Revisions to the Rules for Radioactive Materials, Chapter 391-3-17

On January 5, 2024, EPD issued a public notice requesting comments on proposed revisions to the Georgia Rules for Radioactive Materials, Chapter 391-3-17. The proposed changes included the following rules:

- **Rule 391-3-17-.03(12), “Precautionary Procedures,”; Rule 391-3-17-.03(15), “Reports,”; Rule 391-3-17-.05(22), “Training for Radiation Safety Officer,”; Rule 391-3-17-.05(24), “Training for an Authorized Nuclear Pharmacist,”; Rule 391-3-17-.05(26), “Provisions for Experienced Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Authorized User, Nuclear Pharmacist, and Authorized Nuclear Pharmacist,”; Rule 391-3-17-.05(64), “Training for Ophthalmic Use of Strontium-90,”; Rule 391-3-17-.05(75), “Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units,”; Rule 391-3-17-.05(78), “Periodic Spot-Checks for Gamma Stereotactic Radiosurgery Units,”; Rule 391-3-17-.05(111), “Records of Periodic Spot-Checks for Gamma Stereotactic Radiosurgery Units,”; Rule 391-3-17-.08(15), “Conditions of Specific Licenses Issued Under (12),”;** **Rule 391-3-17-.09(5), “Operation of Irradiators,”; and Rule 391-3-17-.13, “Physical Protection of Category 1 and Category 2 Quantities of Radioactive Materials,”** are being amended to ensure the consistency of the rules with the requirements of the Nuclear Regulatory Commission.
- **Rule 391-3-17-.10, “Administration,”** is being amended to adjust the fee structure which was established in the Radioactive Materials Rules in October 2014 and has not been adjusted since. Increased equipment cost, large-scale external customer IT Improvements, and new salary requirements have necessitated revising the current Fee Schedule.

Responses to Comments Memo  
Rules for Radioactive Materials, Chapter 391-3-17  
March 7, 2024  
Page 2 of 2

A public hearing was held at 1:00 p.m. on February 5, 2024, via Zoom. Zoom is a free web conferencing platform that also allows participation by phone. The public comment period ended February 12, 2024. On February 5, 2024, EPD received verbal comments that were also submitted in written form from a representative of Emory University Environmental Health and Safety Office. On February 13, 2024, EPD received written comments from a representative of Applied Technical Services. A summary of the comments and EPD's responses are attached. A revision of the proposed amendments is appropriate in response to a comment received. This revision is non-substantive and does not alter the intent or applicability of the rule.

JB:th

**Responses to Comments Received on the Proposed Amendments to the Rules for  
Radioactive Materials, Chapter 391-3-17****January 5, 2024 through February 12, 2024**

On January 5, 2024, the Georgia Environmental Protection Division (EPD) issued a public notice requesting comments on Georgia's proposed amendments to the Rules for Radioactive Materials, Chapter 391-3-17. A public hearing was on February 5, 2024. The public comment period ended February 12, 2024. On February 5, 2024, EPD received verbal comments that were also submitted in written form from a representative of Emory University Environmental Health and Safety Office. On February 13, 2024, EPD received written comments from a representative of Applied Technical Services. A summary of the comments and EPD's responses have been summarized below.

**Emory University Environmental Health and Safety Office**

**Comment:** This comment applies to every paragraph in 391-3-17 where the additional notification of the NRC Headquarters Operations Center is proposed, including but not limited to .03(12)(f)4., .03(15)(a)1., .03(15)(a)2., .03(15)(a)4., .03(15)(b)1.(i), .03(15)(b)2., .03(15)(b)2.(v), .03(15)(b)3.(i), .03(15)(b)4., and .03(15)(b)3.(ii).

Emory University requests a more complete explanation of the proposed NRC notification requirement, including reference to federal regulations that require this change, as this represents a significant change to the current notification requirements. The proposed change raises several questions. Will the required emergency postings be altered to include an NRC telephone number? Which organization should be notified first? Will the follow-up to licensee reports be made by the NRC, the Division, or both? Would fines resulting from incidents reported to both organizations be levied by more than one organization? Are all Agreement States subject to this requirement?

**EPD Response:** The notification language in question is included based on formal comments received from the US Nuclear Regulatory Commission in a Regulatory Review Letter dated May 25, 2022. The rule sections cited below fall under *State Agreements Procedure SA-200: Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements* category 'H&S' where the State must adopt program elements in this category, that embody the basic H&S aspects of the NRC's program elements because of particular H&S considerations.

- 10 CFR 20.1906(d)(2) requires notification when, "external radiation levels exceed the limits of § 71.47 of this chapter." 10 CFR 20.1906(d) also requires notification to the NRC Headquarters Operations Center.
- 10 CFR 20.2201(a)(2)(ii), 20.2202(d)(2), 30.50(c)(1), 40.60(c)(1), and 70.50(c)(1) all require notification to the NRC Headquarters Operations Center.

Upon conferring with the NRC, Georgia EPD was informed that these requirements were initially instituted to potentially identify defects in Type A or Type B packaging for potential national recall. SA-200 is currently being revisited and the direct to NRC reporting requirements are being reconsidered to allow Agreement States to make the notification to NRC (if warranted), however at this time Georgia would need a formal letter from NRC reversing the May 25, 2022, letter to remove this language. NRC is discussing this specific instance with their Office of the General Council to determine if reversing is necessary in Georgia's case. If such a letter reversing these reporting requirements is received, the rule will be updated in its next regularly scheduled update.

Due to ongoing restructuring at the US Nuclear Regulatory Commission, the current NRC Contact information will be provided by Georgia EPD staff upon initial notification of events to the Division.

Violations could be enforced by NRC, DOT and/or EPD in these cases.

**Comment:** This comment applies to paragraph 391-3-17-.05(24). The official name of the organization referenced is the "Accreditation Council **for Pharmacy** Education", not "Accreditation Council **on Pharmaceutical** Education".

**EPD Response:** Based on our draft document the proposal to change "American" to "Accreditation" is already present, however "on Pharmaceutical" still needs to be changed to "for Pharmacy".

The Division will update 391-3-17-.05(24)(a)1. accordingly, from:  
"American Council on Pharmaceutical Education (ACPE)" to:  
"Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education)."

### **Applied Technical Services**

**Comment:** This comment applies to Rule 391-3-17-.03(12)(f)4., "Precautionary Procedures". We're unsure of the designation as a matter of compatibility with NRC requirements. In the Conference of Radiation Control Program Directors (CRCPD)'s State Suggested Regulations, Part D, section 1906d lists notifying the Agency, but not the NRC. Thus, we are requesting that the addition of NRC Headquarters Operation Center be removed. The Statement of Rationale mentions that this pertains to persons conducting industrial radiography, but in fact this rule pertains to all radioactive materials licensees. If this revision is enacted, make sure that NRC Ops Center is aware of the possible influx of calls from all GA RAM licensees, not just radiographers. Also, if the GA RMP is implementing this change, are other Agreement States implementing an equivalent amendment during their Rule Revision processes?

**EPD Response:** The State of Georgia is not bound by CRCPD's suggested language; however, it is bound by formal comments received from the US Nuclear Regulatory Commission, specifically in the Regulatory Review Letter dated May 25, 2022. As discussed above in the response to Emory University's comments, the NRC is aware of the situation and is currently working on a determination and potential letter to revise their comments.

Due to ongoing restructuring at the US Nuclear Regulatory Commission, the current NRC Contact information will be provided by Georgia EPD staff upon initial notification of events to the Division.

**Comment:** This comment applies to Rule 391-3-17-.03(15), “Reports”. We’re unsure of the designation as a matter of compatibility with NRC requirements. In CRCPD’s State Suggested Regulations, Part D, section 2202 lists notifying the Agency, but not the NRC. Thus, we are requesting that the addition of NRC Headquarters Operation Center in multiple citations be removed. The Statement of Rationale mentions that this pertains to persons conducting industrial radiography, but in fact this rule pertains to all radioactive materials licensees. If this revision is enacted, make sure that NRC Ops Center is aware of the possible influx of calls from all GA RAM licensees, not just radiographers. For subparagraph .03(15)(b)3.(ii), if the addition of the address for the NRC Headquarter Operations Center is enacted, we request that the address be changed to read as follows:

U.S. Nuclear Regulatory Commission Region I  
475 Allendale Road, Suite 102  
King of Prussia, PA 19406-1415

Our rationale is that the Region II office handles fuel cycle facilities and new power plant construction, while Materials Licensing for both Region I and Region II are handled by the Region I office. See NRC website at <https://www.nrc.gov/about-nrc/locations.html>.

**EPD Response:** The State of Georgia is not bound by CRCPD’s suggested language; however, it is bound by formal comments received from the US Nuclear Regulatory Commission, specifically in the Regulatory Review Letter dated May 25, 2022. As discussed above in the response to Emory University’s comments, the NRC is aware of the situation and is currently working on a determination and potential letter to revise their comments.

Due to ongoing restructuring at the US Nuclear Regulatory Commission, the current NRC Contact information will be provided by Georgia EPD staff upon initial notification of events to the Division.

**Comment:** This comment applies to Rule 391-3-17-.10, “Administration”. Considering the last adjustment to the Fee Schedule was 10 years ago, we understand that regular fee increases are necessary to properly fund a Fee-Supported program. Applied Technical Services has RAM licenses in multiple Agreement States, as well as the US NRC. Regarding the addition of the change to the Reciprocity Administrative Fee, was there any consideration to using a percentage increase to the fee instead of a flat amount increase? For instance, fee category C.11, Portable Gauges, the annual fee is \$2100. The \$500 administrative fee amounts to approximately 25% of the annual fee. For our fee category, C.3, Multiple Job-Site Industrial Radiography, where the annual fee is \$12,500, the administrative fee amounts to 4%, not as much incentive to keep work with in-state licensees.

**EPD Response:** A percentage increase versus a flat reciprocity administrative fee was considered, but for simplicity's sake adding a flat fee was the simplest. Additionally, adding a \$500 fee increases the burden on out of state small businesses forcing them to charge more to conduct business in Georgia which may actually push business back to Georgia Small Businesses.