

FREQUENTLY ASKED QUESTIONS (FAQs)

Q What do the Compatibility Categories mean?

A On the basis of the 1997 Commission Policy Statement on Adequacy and Compatibility and Management Directive 5.9, NRC program elements (including regulations) can be placed into four compatibility categories. In addition, NRC program elements also can be identified as having particular health and safety significance or as being reserved solely to the NRC.

Compatibility Category A - program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. The program elements adopted by an Agreement State should be essentially identical to those of NRC to provide uniformity in the regulation of agreement material on a nationwide basis.

Compatibility Category B - program elements that apply to activities that have direct and significant transboundary implications. An Agreement State should adopt program elements essentially identical to those of NRC.

Compatibility Category C - program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the NRC program elements, but may be more restrictive.

Compatibility Category D - program elements that do not meet any of the criteria of Category A, B, or C, and do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety - program elements that are not required for compatibility (i.e., Category D), but that have been identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this category, based on those of NRC, that embody the essential objectives of the NRC program elements because of particular health and safety considerations.

NRC (Areas of Exclusive NRC Regulatory Authority)- program elements that address areas of regulation that cannot be relinquished to Agreement States and should not be adopted by Agreement States.

Q What kind of program elements are reserved to NRC (that is, what NRC regulations should not be adopted by the Agreement States)?

A Areas of exclusive NRC regulatory Authority are those areas of regulation that cannot be

relinquished to the Agreement States under a Section 274b. agreement. The following listing are examples of NRC regulations that should not be adopted by Agreement States:

- 10 CFR Part 10 - Criteria and procedures for determining eligibility for access to restricted data or national security information or an employment clearance
- 10 CFR Part 11 - Criteria and procedures for determining eligibility for access to or control over special nuclear material
- 10 CFR Part 50 - Domestic licensing of production and utilization facilities

Agreement States should check SA-200 for the comprehensive listing of those regulations reserved to the NRC.

Q How does NRC staff evaluate the regulation submission from the State?

A The assigned NRC reviewer compares the State regulation text to the corresponding NRC regulation as outlined in the State’s letter of submission. The review will be more timely and efficient if the State’s regulation submission takes a “crosswalk approach” directly showing the correspondence between rule sets (see example below):

State Section	Subject	10 CFR Section
KAS 28-35-135a	Industrial Radiography Definitions	34.3

Q About how long does it usually take to get a response from NRC?

A The STP staff goal is to complete 85% of the reviews within 60 days of receipt of a completed package and 100% of the reviews within 120 days of receipt of a completed package. If STP staff has encounters or anticipates a delay in the NRC response, STP staff will contact the individual indicated on the submission package with the expected completion date.

Q What is the SRS data sheet?

A NRC maintains a State Regulation Status (SRS) data sheet for each Agreement State. The SRS data sheet is used by NRC staff to track the status of program elements (i.e., regulations and legal binding requirements) submitted to NRC for review. The Integrated Materials Performance Evaluation Program (IMPEP) teams also use the SRS data sheets to assist in the team evaluation of adequacy and compatibility for Agreement State programs. The SRS for each State can be found on the STP web site at:

<http://www.hsrdsrnl.gov/nrc/rulemaking.htm>

Q How do I find out what regulations my State is expected to adopt to be found adequate and compatible for the upcoming IMPEP review?

A The State's SRS sheet contains the status of the State's submissions and NRC's review results. The SRS sheet is updated after the completion of each regulation package review conducted by NRC.

Q What does it mean if the SRS sheet has boxes not filled in?

A Blanks on the SRS sheet usually mean that the NRC staff has not received proposed or final regulations to review. If there is a blank and the State believes that the entry is an error, please contact the State Regulation Review Coordinator to discuss a correction to the SRS sheet.

Q What are LBRs?

A LBR is the abbreviation for legally binding requirements and may be used as a method to adopt compatibility or health and safety program elements. Examples of such legally binding requirements may include license conditions (including licensee commitments referenced in "tie-down" conditions), orders or other mechanisms determined by the State to be legally binding and enforceable. The State has the responsibility of demonstrating that requirements adopted other than by regulation are legally binding. If allowed by State law, LBRs can be adopted in many instances in a shorter time frame than regulations.

Q Can a State adopt NRC or other federal regulations by reference when appropriate.

A Agreement States can adopt NRC regulations by reference if authorized by State administrative law. This approach can be an efficient and effective method for adopting and maintaining compatibility regulations with the NRC within the usual three year time frame.

Q How long does an Agreement State have to adopt a new NRC Amendment?

A Unless specified differently in the Federal Register, the Agreement State has three years from the effective date of the amendment to adopt the revised regulation or six months for program element.

Q What does it mean when the Compatibility Category has "[]" around it?

A The bracket "[]" means that the requirements of the 10 CFR section may be adopted or implemented in other provisions of the State regulations rather than the radiation control requirements. For example, many Agreement States have State Department of Transportation regulations that implement all the requirements of 49 CFR on transportation use within the State. The State should supply the references and the cross walk to show that the requirements have been adopted. NRC staff will still need to review the State regulations to verify that the compatibility/health and safety requirements have been adopted.

Q What does a “non-applicable” status mean on the SRS sheet?

A This entry on the SRS sheet means that the specific State is not required to adopt the amendment because it is not included in the Agreement State’s regulatory authority under their 274b Agreement with the NRC. For example, a State without uranium mill authority does not have to adopt uranium mill tailings regulations or revisions to the uranium mill tailings requirements.

Q What is an acceptance review and why is it done?

A When STP receives the regulation submission from the State, the Regulation Review Coordinator reviews the package to ensure that all of the components needed for review are submitted. If the submission is complete, NRC sends a verification e-mail to the State program acknowledging the receipt and staff assigned to review the package.

Q What is a Review Summary Sheet (RSS) and how is it filled out?

A An RSS is the documentation of the review of the State regulations against the NRC regulations completed by a reviewer . The RSS will indicate where there are inconsistencies between NRC and State regulations.