

October 15, 2008

Terry D. Lindsey, Program Director
Radiation Protection Services
Oregon Health Services
Department of Human Services
800 NE Oregon Street, Suite 640
Portland, OR 97232-2162

Dear Mr. Lindsey:

We have reviewed the proposed changes to the Oregon regulations, Oregon Radiological Health Rules Chapter 333, Division 102, received by our office on October 2, 2008. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20 and 32 and the requirements of the one amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Todd Carpenter on October 14, 2008.

As a result of our review, we have one comment that has been identified in the enclosure. 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 the Oregon regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Oregon regulations. However, we have determined that if your proposed regulations were adopted, 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 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 FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, 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 Oregon 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>.

T. Lindsey

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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 Shirley Xu at 301-415-7640 (shirley.xu@nrc.gov).

Sincerely,

/RA AD White for/

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

Enclosures:
As stated

T. Lindsey

-2-

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Enclosures:
As stated

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Oregon File

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|--------|------------|--|-------------|--|------------|--|------------|--|------------|--|
| OFFICE | ASPB | | ASPB | | OGC | | ASPB:BC | | MSSA:DD | |
| NAME | S Xu | | K Schneider | | B Jones | | D White | | T Reis | |
| DATE | 10/ 08 /08 | | 10/ 08 /08 | | 10/ 10 /08 | | 10/ 15 /08 | | 10/ 15 /08 | |

ML082820023

OFFICIAL RECORD COPY

Package ML082820026

COMPATIBILITY COMMENTS ON *Oregon* PROPOSED REGULATIONS

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---------------|-------------------|-------------|---------|----------|--|
| 1 | 333-102-0203 (44) | 10 CFR 32.2 | 2006-2 | B | <p>Definitions-Nationally tracked source</p> <p>Oregon has an incorrect NRC reference in the definition of Nationally tracked source.</p> <p>Oregon needs to replace “10 CFR part 32 Appendix E” with “10 CFR 20 Appendix E” to meet the Category B designation assigned to Section 10 CFR part 32.2.</p> |

STATE REGULATION STATUS

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

Tracking Ticket Number: 8-88
 Date: October 15, 2008

| 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 (Superseded by 1997-5) | 01/10/1994 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | Oregon has adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1991-2 | ASNT Certification of Radiographers Part 34 56 FR 11504 (Superseded by 1997-5) | none | Not Required | Not Required | Oregon 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 11/13/1997 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980; | 10/15/1994 | Final ML023450397 | No Comments 01/23/03 ML030240463 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superseded by 2002-2) | 01/27/1995 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | Oregon has adopted Final Regulations equivalent 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 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | Outgoing Package | Notes |
|---------|---|-----------------------------|-----------------------------|--|--|
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Not Applicable ¹ | Not Applicable | Oregon 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 | Oregon 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 ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 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 ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Not Applicable ¹ | Not Applicable | Oregon does not have any licensees subject to these regulations. (See SECY-95-112) |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | Oregon 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 ML071870477 | No Comments 09/04/2007 ML072470108 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235 | 11/24/1998 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 1995-7 | Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superceded by 2002-2 and 2005-2) | 10/20/1998 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | Oregon has adopted Final Regulations equivalent 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 (Superceded by 2004-1) | 04/01/1999 | Final ML071870477 | No Comments 09/04/2007 ML072470108 | Oregon has not yet 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 ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML071870477 | No Comments 09/04/2007 ML072470108 | |
| 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 ML023450397 | No Comments 01/23/2003 ML030240463 | |

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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 ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superceded 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 ML073390164 | No Comments 12/20/2007 ML073540058 | |
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 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 ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 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 regulation changes are not required to be adopted for purposes of Compatibility. |
| 1998-3 | License Term for Medical Use Licenses Part 35 63 FR 31604 (Superceded by 2002-2) | 07/10/2001 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Oregon has adopted Final Regulations equivalent to RATS ID: 2002-2. |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | Outgoing Package | Notes |
|---------|--|-----------------------------|-------------------------|--|--|
| 1998-4 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059 | 07/09/2001 | Final ML023450397 | No Comments 01/23/2003 ML030240463 | |
| 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 ML073390164 | No Comments 12/20/2007 ML073540058 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Not Applicable | Not Applicable | Oregon does not have authority to regulate this material under its Agreement. |
| 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 regulation changes 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 | Proposed ML061020352 | Comments 07/10/2006 ML061910103 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Final ML071870477 | No Comments 09/04/2007 ML072470108 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36, 39 65 FR 63750 | 01/08/2004 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |

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|---------|---|-----------------------------|----------------------------------|--|-------|
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | Final ML071870477 | Comments 09/04/2007 ML072470108 | |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249 | 10/24/2005 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327 | 12/03/2006 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | | | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML063110122 | No Comments 12/21/2006 ML070030381 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML052870028 | No Comments 10/18/2005 ML052930002 | |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | | | |

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|---------|--|-----------------------------|----------------------------------|--|-------|
| ★2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685 | 02/06/2007 | Proposed ML082770698 | Comments 10/15/2008 ML082820026 | |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | | | |
| 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 | | | |
| 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 ML080780038 | No Comments 03/27/2008 ML080870332 | |
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043 | 02/15/2011 | | | |

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