



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 10, 2015

Mr. Todd S. Carpenter, Licensing Manager
Oregon Health Authority, Public Health Division
Center for Health Protection, Radiation
Protection Services
800 NE Oregon Street, Suite 640
Portland, OR 97232

Dear Mr. Carpenter:

We have reviewed the final revisions to the Oregon Administrative Rules (OAR), received by our office on November 6, 2015. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the two amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on December 9, 2015.

As a result of our review, we have seven comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Oregon, in response to our comments, and provide a copy to Division of Material Safety, State, Tribal, and Rulemaking Programs, NMSS. 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 NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

T. Carpenter

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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 Michelle Beardsley, State Regulation Review Coordinator, at (610) 337-6942 (Michelle.Beardsley@nrc.gov) or Stephen Poy at (301) 415-7135 (Stephen.Poy@nrc.gov).

Sincerely,

*/RA/
DWhite for CEinberg*

Christian E. Einberg, Acting Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility Comments
2. Oregon SRS Data Sheet

T. Carpenter

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Sincerely,

Christian E. Einberg, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
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OFFICE	ASPB	ASPB	OGC	ASPB:BC	MSTR:DD
NAME	SPoy	MBeardsley	SClark	DWhite	DWhite for CEinberg
DATE	11/23/2015	11/23/15	12/8/15	12/10/15	12/10/15

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Package ML ML15313A356

COMPATIBILITY COMMENTS ON OREGON FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	333-125-0060	37.25(a)	2013-1	B	<p>Background investigations</p> <p>Oregon regulations in 333-125-0060(2)(a) contains an incorrect reference (OAR 333-120-0075 through 333-125-0080). Oregon needs to correct the reference so that the statement reads, "Fingerprinting and an FBI identification and criminal history records check in accordance with OAR 333-125-0075 through 333-125-0080;"</p> <p>Oregon needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 37.25(a).</p>
2	333-125-0100 (1)	37.41(a)	2013-1	B	<p>Security program</p> <p>Oregon regulations contain an incorrect reference in 333-125-0100 (1), Oregon needs to correct the reference so that the statement reads:</p> <p>"An applicant for a new license and each licensee that becomes newly subject to the requirements of OAR 333-125-0100 through 333-125-0155 upon application for modification of its license shall implement the requirements of OAR 333-125-0100 through 333-125-0155 as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material."</p> <p>Oregon needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 37.41(a).</p>
3	333-125-0120(3)(b) &	37.43(d)(1)-(d)(8)	2013-1	C	<p>General security program requirements</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
	(4)(b)			<p>Oregon regulations contain incorrect references in 333-125-0120(3)(b) and (4)(b). Oregon needs to correct the references so that the statements read:</p> <p>In OAR 333-125-0120(3)(b)- “A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in OAR 333-125-0060(2)(b) through (2)(e)(B).”</p> <p>In OAR 333-125-0120(4)(b)- “Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in OAR 333-125-0060(2)(b) through (2)(e)(B) has been provided by the security service provider.”</p> <p>Oregon needs to make the above changes in order to meet the Compatibility Category C designation assigned to 10 CFR 37.43.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	333-125-0180(1)-(4)	37.77, (a)-(d)	2013-1	B	<p>Advance notification of shipment of category 1 quantities of radioactive material</p> <p>Oregon regulations need to be revised to state that the notification required by this section should be sent to the Oregon State agency and not to the NRC. Oregon also needs to update the website and contact information so that the statement reads:</p> <p>“Procedures for submitting advance notification. The notification must be made to the [State Agency] and to the office of each appropriate Governor or Governor’s designee. The contact information, including telephone and mailing addresses, of Governors and Governors’ designees, is available on the NRC’s website at https://scp.nrc.gov/special/designee.pdf.</p> <p>A list of the contact information is also available upon request from the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.”</p> <p>Oregon needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 37.77(a)-(d).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5	333-102-0005(3)	40.13(c)	2013-2	B	<p>Unimportant quantities of source material</p> <p>Oregon should expand the exemption in 333-102-0005(3) to include the regulations contained in Oregon Divisions 111 and 120.</p> <p>Oregon needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 40.13(c).</p>
6	333-102-0102(2)	40.54(b)	2013-2	B	<p>Requirements for license to initially transfer source material for use under the ‘small quantities of source material’ general license</p> <p>Oregon needs to replace the reference to “the Commission” with the appropriate Oregon State Agency in section 333-102-0102(2).</p> <p>Oregon needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 40.54(b).</p>
7	333-102-0104(4)	40.55(d)	2013-2	B	<p>Conditions of licenses to initially transfer source material for use under the ‘small quantities of source material’ general license: Quality control, labeling, safety instructions, and records and reports</p> <p>Oregon needs to correct the reference in 333-102-0104(4)(a)(B), so that the statement reads, “For each general licensee under OAR 333-102-0101:”</p> <p>Oregon needs to correct the reference in 333-102-0104(4)(b), so that the statement reads, “File a</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>report with each responsible Agreement State or U.S. Nuclear Regulatory Commission agency that identifies all persons, operating under provisions equivalent to OAR 333-102-0101,”</p> <p>Oregon needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 40.55.</p>

STATE REGULATION STATUS

State: Oregon

Tracking Ticket Number: 16-16

Date: 12/10/2015

[# 2 amendment(s) reviewed identified by a * at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	
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	Final ML100600750	No Comments 04/15/2010 ML100850065	
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	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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.
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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	
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 (Superseded 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	

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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.
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, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML073390164	No Comments 12/20/2007 ML073540058	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	Final ML102780374	No Comments 10/20/2010 ML102780421	
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	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML14184B057	No Comments 07/30/2014 ML14183B696	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	Final ML13042A212	No Comments 03/12/2013 ML13052A447	
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	Final ML100600750	No Comments 04/15/2010 ML100850065	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	R ² ML083570002	No Comments 01/13/2009 ML083570028	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	R ² ML083570002 License Condition ML083660132	No Comments 01/13/2009 ML083570028 No Comments 01/22/2009 ML090120206	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML14266A010	No Comments 10/08/2014 ML14258B144	
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	Final ML100600750	No Comments 04/15/2010 ML100850065	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML112920054	No Comments 12/14/2011 ML113111389	
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 ML080790556	No Comments 03/27/2008 ML080870332	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML112920056	No Comments 12/14/2011 ML113111389	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML14266A010	No Comments 10/08/2014 ML14258B144	
2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Proposed ML14226A139	Comments 10/17/2014 ML14225A662	
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Proposed ML14191A222 Final ML15057A528	No Comments 08/13/2014 ML14189A008 No Comments 03/23/2015 ML15057A516	
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Final ML14184B057	No Comments 07/30/2014 ML14183B696	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Proposed ML13364A278 Final ML15057A528	No Comments 03/07/2014 ML13364A270 Comments 03/23/2015 ML15057A516	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML15092A201	No Comments 04/13/2015 ML15092A196	
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML15148A492	No Comments 06/16/2015 ML15148A491	
*2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016	Proposed ML15121A861 Final ML15313A358	No Comments 05/20/2015 ML15121A853 Comments 12/10/2015 ML15313A356	
*2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016	Proposed ML15168A139 Final ML15313A358	No Comments 07/06/2015 ML15168A114 Comments 12/10/2015 ML15313A356	
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018			
2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73, and 150 79 FR 58664, 80 FR 3865	01/28/2018			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987	07/13/2018			
2015-4	Miscellaneous Corrections, Parts 37 and 40 80 FR 45841	09/02/2018			