

September 3, 2008

Roland G. Fletcher, Manager  
Radiological Health Program  
Air and Radiation Management Administration  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, MD 21230

Dear Mr. Fletcher:

We have reviewed the proposed changes to the Maryland regulations, Maryland Radiological Health Rules Code of Maryland Regulations 26.12.01.01, "Regulations for the Control of Ionizing Radiation," received by our office on July 25, 2008. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 32, and 35 and the requirements of the four amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Ray Monley on August 29, 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 Maryland 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 Maryland 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 Maryland 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>.

R. Fletcher

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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 Torre Taylor at 301-415-7900 (torre.taylor@nrc.gov).

Sincerely,

**/RA/ by AD White for**

James G. Luehman, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures:  
As stated

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 Torre Taylor at 301-415-7900 (torre.taylor@nrc.gov).

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|--------|--------------|--------------|--------------|------------|------------------|
| NAME   | TTaylor      | KSchneider   | BJones       | DWhite     | JLuehman/AD<br>W |
| DATE   | 08/ 19 /2008 | 08/ 19 /2008 | 08/ 25 /2008 | 09/03/2008 | 09/03/2008       |

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**Package ML082460311**

**COMPATIBILITY COMMENTS ON MARYLAND PROPOSED REGULATIONS**

| STATE SECTION |                            | NRC SECTION | RATS ID          | CATEGORY | SUBJECT and COMMENTS   |
|---------------|----------------------------|-------------|------------------|----------|--|
| 1.            | Part C, page C39, item (l) | 32.74(a)    | 2006-1<br>2007-1 | B        | <p>Section 32.74(a) of NRC's regulations is related to the manufacture and distribution of sources or devices containing radioactive material for medical use.</p> <p>Maryland's proposed regulation includes a provision for "irradiation of materials." This provision is not part of NRC's regulation in 32.74(a).</p> <p>Maryland needs to delete the phrase "irradiation of materials" to meet the compatibility category B designation assigned to Section 10 CFR 32.74 (a).</p> |

## STATE REGULATION STATUS

State: Maryland

Tracking Ticket Number: 8-74

[4 amendment(s) reviewed is identified by a ★

Date: September 3, 2008

at the beginning of the equivalent NRC requirement.]

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package | Outgoing Package          | Notes  |
|---------|--|-----------------------------|------------------|---------------------------|--|
| 1991-1  | Safety Requirements for Radiographic Equipment Part 34<br>55 FR 843<br><b>(Supceded by 1997-5)</b>   | 01/10/1994                  | Final            | No Comments<br>09/09/1995 | Maryland has adopted Final Regulations equivalent to RATS ID: 1997-5.                  |
| 1991-2  | ASNT Certification of Radiographers Part 34<br>56 FR 11504<br><b>(Supceded by 1997-5)</b>  | none                        | Final            | No Comments<br>09/09/1995 | Maryland has adopted Final Regulations equivalent to RATS ID: 1997-5.                  |
| 1991-3  | Standards for Protection Against Radiation Part 20<br>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<br>02/28/1997 |  |
| 1991-4  | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70<br>56 FR 64980;   | 10/15/1994                  | Final            | No Comments<br>04/15/1998 |  |
| 1992-1  | Quality Management Program and Misadministrations Part 35<br>56 FR 34104<br><b>(Supceded by 2002-2)</b>  | 01/27/1995                  | Final            | No Comments<br>09/09/1995 | Maryland has not yet adopted Final Regulations equivalent to RATS ID: 2002-2.          |
| 1992-2  | Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35<br>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 Package            | Outgoing Package          | Notes  |
|---------|---|-----------------------------|-----------------------------|---------------------------|--|
| 1993-1  | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]<br>Parts 30, 40<br>58 FR 39628            | 10/25/1996                  | Final                       | No Comments<br>10/19/1995 |  |
| 1993-2  | Licensing and Radiation Safety Requirements for Irradiators<br>Part 36<br>58 FR 7715  | 07/01/1996                  | Final                       | No Comments<br>03/20/1997 |  |
| 1993-3  | Definition of Land Disposal and Waste Site QA Program<br>Part 61<br>58 FR 33886   | 07/22/1996                  | Not Applicable <sup>i</sup> | Not Applicable            | Maryland does not have any licensees subject to these regulations. (See SECY-95-112)   |
| 1994-1  | Self-Guarantee as an Additional Financial Mechanism<br>Parts 30, 40, 70<br>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<br>Part 40<br>59 FR 28220   | 07/01/1997                  | Not Applicable              | Not Applicable            | Maryland does not have authority to regulate this material under its Agreement.        |
| 1994-3  | Timeliness in Decommissioning Material Facilities<br>Parts 30, 40, 70<br>59 FR 36026  | 08/15/1997                  | Final                       | No Comments<br>08/08/2000 |  |
| 1995-1  | Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use<br>Parts 30, 32, 35<br>59 FR 61767; 59 FR 65243; 60 FR 322 | 01/01/1998                  | Final                       | No Comments<br>08/08/2000 |  |
| 1995-2  | Frequency of Medical Examinations for Use of Respiratory Protection Equipment   | 03/13/1998                  | Final                       | No Comments<br>11/03/1997 |  |

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package | Outgoing Package          | Notes   |
|---------|--|-----------------------------|------------------|---------------------------|---|
| 1995-3  | Low-Level Waste Shipment Manifest Information and Reporting<br>Parts 20, 61<br>60 FR 15649; 60 FR 25983                                  | 03/01/1998                  | Final            | No Comments<br>12/28/1997 |   |
| 1995-4  | Performance Requirements for Radiography Equipment<br>Part 34<br>60 FR 28323<br><b>(Superceded by 1997-5)</b>                            | 06/30/1998                  | Final            | No Comments<br>08/08/2000 | Maryland has adopted Final Regulations equivalent to RATS ID: 1997-5.                     |
| 1995-5  | Radiation Protection Requirements: Amended Definitions and Criteria<br>Parts 19, 20<br>60 FR 36038                                       | 08/14/1998                  | Final            | No Comments<br>08/08/2000 |   |
| 1995-6  | Clarification of Decommissioning Funding Requirements<br>Parts 30, 40, 70<br>60 FR 38235   | 11/24/1998                  | Final            | No Comments<br>08/08/2000 |   |
| 1995-7  | Medical Administration of Radiation and Radioactive Materials<br>Parts 20, 35<br>60 FR 48623<br><b>(Superceded by 2002-2 and 2005-2)</b> | 10/20/1998                  | Final            | No Comments<br>08/08/2000 | Maryland has not yet adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2. |
| 1996-1  | Compatibility with the International Atomic Energy Agency<br>Part 71<br>60 FR 50248; 61 FR 28724<br><b>(Superceded by 2004-1)</b>        | 04/01/1999                  | Final            | No Comments<br>08/08/2000 | Maryland 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<br>Parts 30, 40, 70<br>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<br>Parts 20, 30, 40, 61, 70<br>61 FR 24669                   | 06/17/1999                  | Final            | No Comments<br>08/08/2000 |   |

| RATS ID | NRC Chronology Identification   | Date Due for State Adoption | Incoming Package     | Outgoing Package                         | Notes   |
|---------|---|-----------------------------|----------------------|--|---|
| 1997-1  | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20<br>61 FR 65120                                  | 01/9/2000                   | Final<br>ML051380408 | No Comments<br>06/27/2005<br>ML051800055 |   |
| 1997-2  | Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State<br>Part 150<br>62 FR 1662           | 02/27/2000                  | Final<br>ML051380408 | No Comments<br>06/27/2005<br>ML051800055 |   |
| 1997-3  | Criteria for the Release of Individuals Administered Radioactive Material<br>Parts 20, 35<br>62 FR 4120   | 05/29/2000                  | Final<br>ML021120426 | No Comments<br>05/10/2002<br>ML021340513 |   |
| 1997-4  | Fissile Material Shipments and Exemptions<br>Part 71<br>62 FR 5907<br><b>(Superceded by 2004-1)</b>   | 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<br>Parts 30, 34, 71, 150<br>62 FR 28947 | 06/27/2000                  | Final<br>ML021120426 | No Comments<br>05/10/2002<br>ML021340513 |   |
| 1997-6  | Radiological Criteria for License Termination<br>Parts 20, 30, 40, 70<br>62 FR 39057  | 08/20/2000                  | Final<br>ML021120426 | No Comments<br>05/10/2002<br>ML021340513 |   |
| 1997-7  | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea<br>Part 30<br>62 FR 63634                                    | 01/02/2001                  | Final<br>ML051380408 | No Comments<br>06/27/2005<br>ML051800055 |   |
| 1998-1  | Deliberate Misconduct by Unlicensed Persons<br>Parts 30, 40, 61, 70, 71,  | 02/12/2001                  | Final<br>ML051380408 | No Comments<br>06/27/2005<br>ML051800055 |   |

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|---------|--|-----------------------------|----------------------|--|---|
| 1998-2  | Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees<br>Parts 30, 40, 70<br>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<br>Part 35<br>63 FR 31604<br><b>(Superseded by 2002-2)</b>   | 07/10/2001                  | Not Required         | Not Required                             | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) |
| 1998-4  | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations<br>Part 34<br>63 FR 37059                 | 07/09/2001                  | Final<br>ML051100241 | No Comments<br>05/13/2005<br>ML051360003 |   |
| 1998-5  | Minor Corrections, Clarifying Changes, and a Minor Policy Change<br>Parts 20, 35, 36<br>63 FR 39477; 63 FR 45393                                       | 10/26/2001                  | Final<br>ML051100241 | No Comments<br>05/13/2005<br>ML051360003 |   |
| 1998-6  | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment<br>Part 20<br>63 FR 50127  | 11/20/2001                  | Final<br>ML051100241 | No Comments<br>05/13/2005<br>ML051360003 |   |
| 1999-1  | Radiological Criteria for License Termination of Uranium Recovery Facilities<br>Part 40<br>64 FR 17506   | 06/11/2002                  | Not Applicable       | Not applicable                           | Maryland 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<br>Part 31<br>64 FR 42269 | 10/04/2002                  | Not Required         | Not Required                             | These regulation changes are not required to be adopted for purposes of Compatibility.                  |

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|---------|---|-----------------------------|-------------------------|--|-------|
| 1999-3  | Respiratory Protection and Controls to Restrict Internal Exposure<br>Part 20<br>64 FR 54543; 64 FR 55524                    | 02/02/2003                  | Final<br>ML051100241    | No Comments<br>05/13/2005<br>ML051360003 |       |
| 2000-1  | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications<br>Part 39<br>65 FR 20337                  | 05/17/2003                  | Final<br>ML051100241    | No Comments<br>05/13/2005<br>ML051360003 |       |
| 2000-2  | New Dosimetry Technology<br>Parts 34, 36, 39<br>65 FR 63750   | 01/08/2004                  | Final<br>ML071710580    | No Comments<br>09/04/2007<br>ML072470495 |       |
| 2001-1  | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct   | 02/16/2004                  | Final<br>ML071980288    | No Comments<br>08/03/2007<br>ML072210120 |       |
| 2002-1  | Revision of the Skin Dose Limit<br>Part 20<br>67 FR 16298   | 04/05/2005                  | Final<br>ML071710580    | No Comments<br>09/04/2007<br>ML072470495 |       |
| 2002-2  | Medical Use of Byproduct Material<br>Parts 20, 32, 35<br>67 FR 20249  | 10/24/2005                  | Proposed<br>ML071340183 | Comments<br>06/28/2007<br>ML071780614    |       |
| 2003-1  | Financial Assurance for Materials Licensees<br>Parts 30, 40, 70<br>68 FR 57327  | 12/03/2006                  | Final<br>ML071710580    | No Comments<br>09/04/2007<br>ML072470495 |       |
| 2004-1  | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments<br>Part 71<br>69 FR 3697 | 10/01/2007                  | Proposed<br>ML072960361 | No Comments<br>11/20/2007<br>ML073240836 |       |
| 2005-1  | Security Requirements for Portable Gauges Containing Byproduct Material<br>Part 30<br>70 FR 2001                            | 07/11/2008                  | Proposed<br>ML071340183 | No Comments<br>06/28/2007<br>ML071780614 |       |

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|---------|---|-----------------------------|-------------------------------|------------------------------------|---|
| 2005-2  | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35   | 04/29/2008                  | Proposed ML071340183          | Comments 06/28/2007 ML071780614    |   |
| 2005-3  | Increased Controls for Risk-Significant Radioactive Sources (NRC  | 12/01/2005                  | License Condition ML053040172 | No Comments 11/01/2005 ML053050373 |   |
| ★2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70  | 03/27/2009                  | Proposed ML082108398          | Comments ML082310168               |   |
| ★2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685                                       | 02/06/2007                  | Proposed ML082108398          | No Comments ML082310168            | Maryland responded on 02/16/2007 to FSME-06-110 stating that they currently had no licensees applicable to this rule <sup>1</sup> . ML070460468 |
| ★2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162  | 01/31/2009                  | Proposed ML082108398          | No Comments ML082310168            |   |
| ★2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207   | 10/29/2010                  | Proposed ML082108398          | Comments ML082310168               |   |
| 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                  |                               |                                    |   |

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package                 | Outgoing Package                         | Notes |
|---------|--|-----------------------------|----------------------------------|--|-------|
| 2007-4  | Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material<br>NRC Order EA-07-305<br>72 FR 70901 | 06/05/2008                  | License Condition<br>ML081160371 | No Comments<br>05/02/2008<br>ML081230186 |       |
| 2008-1  | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20<br>72 FR 68043  | 02/15/2011                  |                                  |  |       |

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<sup>i</sup> IMPEP Team: verify that Maryland does not have any licensees subject to these regulations during each review.