



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

February 9, 2015

Mr. Roland G. Fletcher
Program Manager
Radiological Health Program
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Dear Mr. Fletcher:

We have reviewed the proposed changes to the Maryland Radiological Health Program Rules COMAR 26.12.01.01, received by our office on December 17, 2014. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Nathaniel Owrutsky on February 5, 2015.

As a result of our review, we have four 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. 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 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 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 NMSS Procedure [SA-201](#), "Review of State Regulatory Requirements," please highlight the final changes, 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 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 NMSS Web site: <http://nrc-stp.ornl.gov/rulemaking.html>.

Additionally, please note that NRC has previously issued certain security Orders to five Maryland licensees. We have not listed the names of the licensees in this letter because that information is "Official Use Only" and cannot be made publicly available. Because the NRC-issued Orders are still legally binding, they must be rescinded by NRC concurrent with Maryland's promulgation of final regulations. Accordingly, close coordination is needed between NRC and your office to ensure there are no conflicts, duplications, or gaps regarding the security-related requirements for these licensees. Please contact Adelaide Giantelli, Branch Chief, Source Management and Protection Branch, NMSS for information regarding the affected State licensees and for coordination with rescission of the NRC-issued Orders for these licensees after State's promulgation and NRC's review of the final Maryland regulations.

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 Farrah Gaskins at 610-337-5143 (Farrah.Gaskins@nrc.gov).

Sincerely,

/RA Chris Einberg for/

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility Comments
2. Maryland SRS Data Sheet

COMPATIBILITY COMMENTS ON MARYLAND PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	Section C.4(d)	30.13	2013-1	B	<p>Common carriers</p> <p>Maryland needs to delete the words “and the requirements for a license set forth in Section 81 of the Atomic Energy Act of 1954, as Amended,” from Section C.4(d).</p> <p>Maryland needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 30.13.</p>
2	Section V.27(c)(i)	37.27(c)	2013-1	B	<p>Requirements for criminal history records checks of individuals granted unscorted access to category 1 or category 2 quantities of radioactive material</p> <p>The telephone number in Section V.27(c)(i) is incorrect. Maryland should change this telephone number to 1-630-829-9565.</p> <p>Maryland needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 37.27(c).</p>
3	Section V.77	37.77(a)-(d)	2013-1	B	<p>Advance notification of shipment of category 1 quantities of radioactive material</p> <p>Maryland needs to change the introduction paragraph in Section V.77 to read “...each licensee shall provide advanced notification to the Department and to the governor of a State...”</p> <p>Maryland needs to change Section V.77(a)(i) to read “The notification must be made to the Department and to the office of ... Notifications to the Department must be made in accordance with [insert Department requirement].”</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>Maryland needs to change Section V.77(a)(iii) to read "A notification delivered by any means other than mail must reach the Department at least ..."</p> <p>Maryland needs to change Section V.77(c)(i) to read "...but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department."</p> <p>Maryland needs to change Section V.77(c)(ii) to read "...in accordance with paragraphs (b) and (c)(1) of this section. The licensee shall also immediately notify the Department of any such changes."</p> <p>Maryland needs to change Section V.77(d) to read "...send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department. The licensee ..."</p> <p>Maryland needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 37.77(a)-(d).</p>
4	Section V.73(c)	37.73(c)	2013-1	B	<p>Maryland regulations in section V.73(c) states, "The shipping licensee shall be responsible for meeting the requirements of this Part unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this Part." As written, this can be misconstrued to mean that by meeting the written agreement option to in-transit physical protection, compliance with the Part (corresponding to all of Maryland's Part V) would no longer be</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>necessary. Maryland needs to add appropriate language [e.g.. subpart, subsection, specific provision(s), etc.] where applicable in order to provide a distinction between the entire Part and the specific provisions of the Part for which the shipping and receiving licensee would be responsible.</p> <p>Maryland needs to address the above issue in Section V.73(c) in order to meet the Compatibility Category B designation assigned to 10 CFR 37.73</p>

STATE REGULATION STATUS

State: Maryland

Tracking Ticket Number: 14-73

Date: February 9, 2015

[1 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 (Superceded by 1997-5)	01/10/1994	Final	No Comments 09/09/1995	Maryland has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5)	none	Final	No Comments 09/09/1995	Maryland 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 02/28/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980	10/15/1994	Final	No Comments 04/15/1998	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Final	No Comments 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 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	No Comments 10/19/1995	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final	No Comments 03/20/1997	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable ¹	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 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	Maryland 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	No Comments 08/08/2000	
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	No Comments 08/08/2000	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final	No Comments 11/03/1997	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final	No Comments 12/28/1997	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Final	No Comments 08/08/2000	Maryland 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	No Comments 08/08/2000	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final	No Comments 08/08/2000	
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	No Comments 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 Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1)	04/01/1999	Final	No Comments 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 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	No Comments 08/08/2000	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML051380408	No Comments 06/27/2005 ML051800055	
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 ML051380408	No Comments 06/27/2005 ML051800055	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML021120426	No Comments 05/10/2002 ML021340513	
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 ML021120426	No Comments 05/10/2002 ML021340513	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final ML021120426	No Comments 05/10/2002 ML021340513	
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 ML051380408	No Comments 06/27/2005 ML051800055	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML051380408	No Comments 06/27/2005 ML051800055	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 (Superseded 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)
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML051100241	No Comments 05/13/2005 ML051360003	
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 ML051100241	No Comments 05/13/2005 ML051360003	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML051100241	No Comments 05/13/2005 ML051360003	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 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 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML051100241	No Comments 05/13/2005 ML051360003	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML051100241	No Comments 05/13/2005 ML051360003	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML071710580	No Comments 09/04/2007 ML072470495	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML071980288	No Comments 08/03/2007 ML072210120	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML071710580	No Comments 09/04/2007 ML072470495	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML083290007	No Comments 12/23/2008 ML083460488	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML071710580	No Comments 09/04/2007 ML072470495	
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML093500525	No Comments 01/27/2010 ML100140061	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML083290007	No Comments 12/23/2008 ML083460488	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML083290007	No Comments 12/23/2008 ML083460488	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML053040172	No Comments 11/01/2005 ML053050373	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML093500525	No Comments 01/27/2010 ML100140061	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML093500525	No Comments 01/27/2010 ML100140061	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML112260004 License Condition ML083390004	No Comment 09/22/2011 ML112411249 No Comment 12/11/2008 ML083390024	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML093500525	No Comments 01/27/2010 ML100140061	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 ML112260004	No Comment 09/22/2011 ML112411249	
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 ML113310005	No Comments 01/10/2012 ML113530474	
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 ML081160371	No Comments 05/02/2008 ML081230186	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML113310005	No Comments 01/10/2012 ML113530474	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML13061A002	No Comments 03/28/2013 ML13070A113	
2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Proposed ML12347A347	No Comments 01/16/2013 ML13002A081	
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Proposed ML12347A347	No Comments 01/16/2013 ML13002A081	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	R ² ML13347A977	Comments 01/17/2014 ML13347A961	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015			
2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML13347A977	No Comments 01/17/2014 ML13347A961	
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML14176A138	Comments 08/19/2014 ML14171A465	
*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 ML14356A521	Comments 02/09/2015 ML14356A459	
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			
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
N/A	10 CFR 20.1301, 32.72, 35.80 and 35.3045	N/A	Final ML113310005	No Comments 01/11/2012 ML113530474	
N/A	10 CFR 31.5, 35.60, 35.63 35.75, and 35.80	N/A	Final ML13061A002	No Comments 03/28/2013 ML13070A113	
N/A	10 CFR 35.61	N/A	Proposed ML13347A977	No Comments 01/17/2014 ML13347A961	

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

² R stands for revision to final rule