

December 5, 2008

Robert E. Owen, Chief
Bureau of Radiation Protection
Ohio Department of Health
246 North High Street
Columbus, OH 43215

Dear Mr. Owen:

We have reviewed the final rule 3701:1-48-01 of the Ohio Administrative Code, received by our office on October 27, 2008. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 34 and the requirements of the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Mike Snee on December 3, 2008.

As a result of our review, we have no comments on your final rule. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that the regulations, as adopted, 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.

The SRS Data Sheet summarizes our knowledge of the status of other Ohio 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://www.hsrcd.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comment, 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 Aaron T. McCraw at (301) 415-1277 (Aaron.McCraw@nrc.gov).

Sincerely,

/RA/

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

Enclosures:
As stated

Robert E. Owen, Chief
 Bureau of Radiation Protection
 Ohio Department of Health
 246 North High Street
 Columbus, OH 43215

Dear Mr. Owen:

We have reviewed the final rule 3701:1-48-01 of the Ohio Administrative Code, received by our office on October 27, 2008. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 34 and the requirements of the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Mike Snee on December 3, 2008.

As a result of our review, we have no comments on your final rule. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that the regulations, as adopted, 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.

The SRS Data Sheet summarizes our knowledge of the status of other Ohio 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://www.hsrdo.org/nrc/rulemaking.htm>.

If you have any questions regarding the comment, 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 Aaron T. McCraw at (301) 415-1277 (Aaron.McCraw@nrc.gov).

Sincerely,

/RA/

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

Enclosures:
 As stated

Distribution:
 DIR RF (8-98)
 DCD (SP07)
 J.Lynch, RIII
 T.Taylor, FSME
 Ohio File

SUNSI Review Complete

- Publicly Available Non-Publicly Available
 Non-Sensitive Sensitive

DOCUMENT NAME: G:\DMSSA\SAISB\REGULATION TOOLBOX\States\Ohio\8-98

Incoming: ML083020271

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

| | | | | | | | | | |
|--------|------------|--|------------|--|------------|--|------------|--|------------|
| OFFICE | ASPB | | ASPB | | OGC | | ASPB:C | | MSSA:DD |
| NAME | ATMcCraw | | KSchneider | | BJones | | DWhite | | TReis |
| DATE | 11/ 10 /08 | | 11/ 13 /08 | | 11/ 26 /08 | | 12/ 05 /08 | | 12/ 05 /08 |

ML0831050053

OFFICIAL RECORD COPY

Package ML083150069

COMMENT RESOLUTION ON FINAL OHIO REGULATIONS

from January 9, 2003 letter to Roger L. Suppes, Ohio Bureau of Radiation Protection

| State Regulation | NRC Regulation | RATS ID | Category | Subject and Comments |
|------------------|----------------|---------|----------|---|
| 1-48-01 (C) | 34.3 | 1997-5 | B | <p>Definition of “Certifying Entity”</p> <p>The definition is missing a portion regarding an Agreement State being a certifying entity.</p> <p>“means an independent certifying organization meeting the requirements in appendix A of rule 3701:1-48-16...<u>or an Agreement State meeting the requirements in appendix A, parts II and III of rule 3701:1-48-16.</u>”</p> <p>The State needs to include this part of the definition.</p> |

Comment resolution:

Although the State revised the regulations, the State’s regulation still does not explicitly define an Agreement State as a “certifying entity;” however, the regulations clearly state that any organization that meets the criteria set forth in Appendix A to 3701:1-48-16 will be recognized as a “certifying entity.” Appendix A to 3701:1-48-16 includes the requirements for an Agreement State to be considered as a “certifying entity.” A telephone conversation with Mike Snee from the Ohio Bureau of Radiation Protection revealed that the State does recognize Agreement States as certifying entities if they meet the applicable criteria in Appendix A. The State recognizes Agreement States as “independent certifying organizations.” The State has met the intent of the definition of 10 CFR Part 34.3; therefore, the differences in text do not affect compatibility.

STATE REGULATION STATUS

State: Ohio

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

Tracking Ticket Number: 8-98

Date: December 5, 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 (Superceded by 1997-5) | 01/10/1994 | Final ML023250117 | No Comments 01/09/2003 ML030060349 | Ohio 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 ML023250117 | No Comments 01/09/2003 ML030060349 | Ohio 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 ML040920160 | No Comments 04/14/2004 ML041060011 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980; | 10/15/1994 | Proposed | Comments 07/26/2000 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2) | 01/27/1995 | Final ML061440106 | No Comments 06/08/2006 ML061590424 | Ohio 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 | Final ML061440106 | No Comments 06/08/2006 ML061590424 | 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 | Proposed | Comments 07/26/2000 | |

| 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 ML023250117 | No Comments 01/09/2003 ML030060349 | |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Final | No Comments 10/09/1998 | |
| 1994-1 | Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618 | none | Final | No Comments 10/09/1998 | |
| 1994-2 | Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220 | 07/01/1997 | Final | No Comments 10/09/1998 | |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026 | 08/15/1997 | R ¹ | N 7/26/00 | |
| 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 ML061440106 | No Comments 06/08/2006 ML061590424 | |
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Final ML041240504 | No Comments 06/14/2004 ML041670402 | |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final ML040920160 | No Comments 04/14/2004 ML041060011 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Final ML023250117 | No Comments 01/09/2003 ML030060349 | Ohio has adopted Final Regulations equivalent to RATS ID: 1997-5. |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | Outgoing Package | Notes |
|---------|---|-----------------------------|-------------------------|--|---|
| 1995-5 | Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038 | 08/14/1998 | Final ML040920160 | No Comments 04/14/2004 ML041060011 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235 | 11/24/1998 | R ¹ | No Comments 07/26/2000 | |
| 1995-7 | Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2) | 10/20/1998 | Proposed ML042230062 | No Comments 10/14/2004 ML042890002 | Ohio has not yet adopted Final Regulations equivalent to RATS ID: 2005-2. |
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1) | 04/01/1999 | Not Required | Not Required | Ohio has 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 | R ¹ | No Comments 07/26/2000 | |
| 1996-3 | Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669 | 06/17/1999 | R ¹ | No Comments 07/26/2000 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML041900134 | No Comments 08/09/2004 ML042220269 | |
| 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 ML041240504 | No Comments 06/14/2004 ML041670402 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | Outgoing Package | Notes |
|---------|---|-----------------------------|--|--|--|
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120 | 05/29/2000 | R ¹ | No Comments 07/26/2000 | |
| 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 ML083020271 | No Comments 12/05/2008 ML083150069 | |
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final | No Comments 10/09/1998 | |
| 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 ML041240504 | No Comments 06/14/2004 ML041670402 | |
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | R ¹ ML010380259 ML010870344 | No Comments 12/12/01 ML013530072 | |
| 1998-2 | Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535 | 07/01/2001 | Final | No Comments 10/09/1998 | 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) Ohio 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 ML041240504 | No Comments 06/14/2004 ML041670402 | |
| 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 | No Comments 10/09/1998 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML041900134 | No Comments 08/09/2004 ML042220269 | |
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Final ML060580024 | No Comments 04/13/2006 ML061030457 | |
| 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 ML040920160 | No Comments 04/14/2004 ML041060011 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Final ML023250117 | No Comments 01/09/2003 ML030060349 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36, 39 65 FR 63750 | 01/08/2004 | Final ML023250117 | No Comments 01/09/2003 ML030060349 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | Outgoing Package | Notes |
|---------|---|-----------------------------|----------------------------------|--|-------|
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | R ¹ ML070950457 | Comments 04/27/2007 ML071150004 | |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML061440106 | No Comments 06/08/2006 ML061590424 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249 | 10/24/2005 | Final ML061440106 | No Comments 06/08/2006 ML061590424 | |
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327 | 12/03/2006 | R ¹ ML081370130 | No Comments 06/30/2008 ML081820355 | |
| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Final ML063170453 | No Comments 12/15/2006 ML063490049 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML071010099 | No Comments 04/25/2007 ML071150005 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Proposed ML081370130 | Comments 06/30/2008 ML081820355 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML053120143 | No Comments 11/10/2005 ML053180026 | |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | Proposed ML081370130 | Comments 06/30/2008 ML081820355 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Package | 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 | Proposed ML070380488 | No Comments 03/06/2007 ML070650102 | Ohio responded on 02/01/07 to FSME-06-110 stating that they currently had no licensees applicable to this rule ² . ML070310347 |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Proposed ML070380488 | No Comments 03/06/2007 ML070650102 | |
| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207 | 10/29/2010 | Proposed ML081370130 | Comments 06/30/2008 ML081820355 | |
| 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 | Proposed ML081980659 | No Comments 09/05/2008 ML082320032 | |
| 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 ML080460449 | No Comments 03/12/2008 ML080720077 | |
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043 | 02/15/2011 | Proposed ML081980659 | No Comments 09/05/2008 ML082320032 | |

¹ R stands for proposed revisions to Final Regulations

² IMPEP Team: verify that Ohio does not have any licensees subject to these regulations during each review.