

October 29, 2010

Mike Broderick, Environmental Programs Manager
Radiation Management Section
Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Dear Mr. Broderick:

We have reviewed the final revision to Oklahoma Department of Environmental Quality, Title 252, Oklahoma Administrative Code, Chapter 410, "Radiation Management," received by our office on September 20, 2010. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 31, 32, 33, 35, 40, 61, 70, and 150 and the requirements of the nine amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with John Flynn on October 27, 2010.

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 Federal and State Materials and Environmental Management Programs (FSME) Procedure [SA-200](#).

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 FSME Procedure [SA-201](#), "Review of State Regulatory Requirements," please highlight the location of any changes made by Oklahoma, in response to our comments, 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 Oklahoma 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>.

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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 Nicole Coleman at (301) 415-1048 (Nicole.Coleman@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

[Concurrence Page]

Enclosures: As stated

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DATE	10/12/10		10/12/10 10/12/1		0		10/29/10 10/29/1		0	

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COMPATIBILITY COMMENTS ON *OKLAHOMA* FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	252: 410-10- 1(b)(5)	40.36	2003-1	H&S	<p>Financial assurance and recordkeeping for decommissioning</p> <p>Oklahoma regulations designate responsibility remaining with NRC; however this regulation should be designated to the State. Oklahoma needs to include 10 CFR 40.36 in their regulations.</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category H&S designation assigned to 10 CFR 40.36.</p>
2	252: 410-10- 70(4)(C)	70.25	2003-1	H&S	<p>Financial assurance and recordkeeping for decommissioning</p> <p>Oklahoma regulations state responsibility remains with NRC in 252: 410-10-1(b)(7), but also includes NRC regulation as incorporated by reference in 252: 410-10-70(4)(C).</p> <p>Oklahoma needs to remove reference to 10 CFR 70.25 from 252:410-10-1(b)(7).</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category H&S designation assigned to 10 CFR 70.25.</p>
3	252: 410-10- 1(b)(8)	71.14(b)	2004-1	NRC	<p>Exemption for low-level materials.</p> <p>Oklahoma has this regulation both, incorporated by reference and under NRC jurisdiction.</p> <p>Oklahoma needs to remove this regulation from its state regulation as incorporated by reference (as listed in 252:410-10-71(2).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					Oklahoma needs to make the above change in order to meet the Compatibility Category NRC designation assigned to 10 CFR 71.14(b).
4	252: 410-10-71(6)	71.101 (c)(2),(d)&(e)	2004-1	NRC	<p>Quality assurance requirements.</p> <p>Oklahoma has this entire regulation (71.101) incorporated by reference; however there are select sections that are reserved for the NRC.</p> <p>Oklahoma needs to remove this regulation from its state regulation as incorporated by reference (as listed in 252:410-10-71(6)) and include 10 CFR 71.101(c)(2), (d) & (e) under 252:410-10-1(8) as reserved for the NRC.</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category NRC designation assigned to 10 CFR 71.101(c)(2), (d) & (e).</p>
5	252: 410-20-1(c) (15)	20. Appendix B	2006-1 2007-3	A	<p>Standards For Protection Against Radiation "List of Elements"</p> <p>Oklahoma regulation does not specifically include the table, "List of Elements", incorporated by reference in their regulation. Oklahoma needs to include this table or incorporate the table by reference in their regulations.</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category A designation assigned to 10 CFR 20, Appendix B.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	252: 410-10- 1(b)(9)	150.20	2007-2	C	<p>Recognition of Agreement State licenses.</p> <p>Oklahoma regulations designate responsibility remaining with NRC; however this regulation should be designated to the State. Oklahoma needs to add 10 CFR 150.20 to their regulations.</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category C designation assigned to 10 CFR 150.20.</p>
7	252: 410-10- 35(a)(1)	§35.13 (a)(1)	2007-3	NRC	<p>License Amendments</p> <p>Oklahoma has this entire regulation (35.13) incorporated by reference; however there are select sections that are reserved for the NRC.</p> <p>Oklahoma needs to remove this regulation from its state regulation as incorporated by reference (as listed in 252:410-10-35(1) and include all but 10 CFR 35.13(a)(1) by reference.</p> <p>Oklahoma needs to make the above change in order to meet the Compatibility Category NRC designation assigned to 10 CFR 35.13(a)(1).</p>

STATE REGULATION STATUS

State: Oklahoma

Tracking Ticket Number: 10-47

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

Date: October 29, 2010

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 55 FR 843 (Superceded by 1997-5)	01/10/1994	Not Required	Not Required	Oklahoma 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	Not Required	Not Required	Oklahoma 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 05/20/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final	No Comments 09/16/1999	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Not Required	Not Required	Oklahoma 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 No	Comments 09/16/1999	

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	Not Applicable ¹	Not Applicable	Oklahoma does not have any licensees subject to these regulations. (See SECY-95-112)
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable ¹	Not Applicable	Oklahoma 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	Oklahoma does not have the 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 09/16/1999	
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 09/16/1999	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment	03/13/1998	Final No	Comments 05/20/1997	
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 09/16/1999	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Final	No Comments 09/16/1999	Oklahoma 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 No	Comments 09/16/1999	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final No	Comments 09/16/1999	
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	Final No	Comments 09/16/1999	Oklahoma 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	Final No	Comments 09/16/1999	Oklahoma 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 09/16/1999	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final No	Comments 05/20/1997	
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 No	Comments 09/16/1999	

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	Final No	Comments 09/16/1999	
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 No	Comments 09/16/1999	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final No	Comments 09/16/1999	
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 ML052640398	No Comments 10/31/2005 ML053050275	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71,	02/12/2001	Final ML052640398	No Comments 10/31/2005 ML053050275	
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		07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Oklahoma 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 ML052640398	No Comments 10/31/2005 ML053050275	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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 ML052640398	No Comments 10/31/2005 ML053050275	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML052640398	Comments 10/31/2005 ML053050275	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Final ML052640398	No Comments 10/31/2005 ML053050275	
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 ML052640398	No Comments 10/31/2005 ML053050275	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML052640398	No Comments 10/31/2005 ML053050275	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML052640398	No Comments 10/31/2005 ML053050275	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct	02/16/2004	Final ML052640398	No Comments 10/31/2005 ML053050275	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML052640398	No Comments 10/31/2005 ML053050275	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML052640398	No Comments 10/31/2005 ML053050275	
*2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML1025900266	Comments 10/29/2010 ML102810155	
*2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML1025900266	Comments 10/29/2010 ML102810155	
*2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML1025900266	No Comments 10/29/2010 ML102810155	
*2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35	04/29/2008	Final ML1025900266	Comments 10/29/2010 ML102810155	
2005-3	Increased Controls for Risk-Significant Radioactive Sources	12/01/2005	License Condition ML053110225	No Comments 11/07/2005 ML053120007	
*2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70	03/27/2009	Final ML1025900266	Comments 10/29/2010 ML102810155	
*2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML1025900266	No Comments 10/29/2010 ML102810155	
2006-3	National Source Tracking System Part 20 71 FR 658685, 72 FR 59162	01/31/2009	License Condition ML083230013 License Condition ML091110146	No Comments 12/05/2008 ML083290052 No Comments 04/28/2009 ML091120131	
*2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML1025900266	No Comments 10/29/2010 ML102810155	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	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 ML1025900266	Comments 10/29/2010 ML102810155	
*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 ML1025900266	Comments 10/29/2010 ML102810155	
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 ML080940298	No Comments 04/22/2008 ML081130062	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011			
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012			

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