

December 23, 2003

Mr. Stanley R. Marshall, Supervisor
Radiological Health Section
Bureau of Health Protection Services
Nevada State Health Division
1179 Fairview Drive, Suite 102
Carson City, NV 87901-5405

Dear Mr. Marshall:

We have reviewed the final revisions to the Nevada Administrative Code Chapter 459 (Radiological Health Rules) officially adopted on May 30, 2003. The rules were submitted to the Nuclear Regulatory Commission (NRC), via email from Larry Boschult, on November 12, 2003. In addition, we reviewed your responses to our letters, dated November 8, 2001, November 16, 2001, and July 30, 2003, which contained our comments on your proposed version of these rules. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) regulations in 10 CFR Parts 20, 30, 31, 32, 34, 36, 39 and the requirements of the 11 amendments identified in the enclosed States Regulation Status Data Sheet (SRS). We discussed our review of the regulations with Larry Boschult on December 16, 2003.

As a result of our review, we found that the State has incorporated the comments identified in the NRC letters mentioned above and we have no comments, as reflected in the SRS sheets. In addition, we reviewed the submitted rule text for the incorporation of the two most recently due CFR amendments; "New Dosimetry Technology" (RATS ID 2000-2) and "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material" (RATS ID 2001-1). We found the State **has not** incorporated the requirements of these two amendments. For reference, the documents used for the comparison of State text to the required amendment text is attached for your use. If the State has incorporated these items, and our review is in error, please cite where the required text appears in the State's rules and resubmit for review.

In addition, it was not clear whether the State intended to submit this rule text for review against these amendments from your submission email nor the outcome of the teleconference on November 12, 2003. In the future, to avoid unnecessary reviews of your regulations, please use the format as shown in the attached sample regulation review request letter. This sample letter allows the State to specify which amendments are to be reviewed.

Please note, that we have limited our review to regulations required for compatibility and/or health and safety. The SRS Data Sheet summarizes our knowledge of other Nevada regulations. 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 STP Web Site: <http://www.hsrdr.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me or Lloyd Bolling at (301) 415-2327 or lab@nrc.gov.

Sincerely,

IRA By J. Piccone

Josephine Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me or Lloyd Bolling at (301) 415-2327 or lab@nrc.gov.

Sincerely,

IRA By J. Piccone

Josephine Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Response to Incoming Document: **ML033210100**

OFFICE	STP		STP		OGC		STP:DD	
NAME	LBolling		JZabko		STreby		JPiccone	
DATE	12/2/03*		12/2/03*		12/15/03*		12/23/03*	

ML033580078

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Change to Nrc Section	Title	State Section	Comparability Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
<p>New Dosimetry Technology – Parts 34, 36, 39 (65 FR 63749, October 24, 2000; 66 FR 1573, January 9, 2001) RATS ID 2000-2 Effective January 8, 2001</p>							
34.47	Personnel monitoring		C	<p>In Sec. 34.47, the introductory text of paragraph (a), and paragraphs (a)(2), (a)(3), (a)(4), (d), (e), and (f) are revised to read as follows:</p> <p>(a) The licensee may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required. *****</p> <p>(2) Each personnel dosimeter must be assigned to and worn only by one individual.</p> <p>(3) Film badges must be replaced at periods not to exceed one month and other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.</p> <p>(4) After replacement, each personnel dosimeter must be processed as soon as</p>			

Change to Nrc Section	Title	State Section	Comparability Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
34.47 (cont'd)				<p>possible *****</p> <p>(d) If an individual's pocket chamber is found to be off-scale, or if his or her electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, the individual's personnel dosimeter must be sent for processing within 24 hours. In addition, the individual may not resume work associated with licensed material use until a determination of the individual's radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be included in the records maintained in accordance with Sec. 34.83.</p> <p>(e) If the personnel dosimeter that is required by paragraph (a) of this section is lost or damaged, the worker shall cease work immediately until a replacement personnel dosimeter meeting the requirements in paragraph (a) is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be included in the records maintained in accordance with Sec. 34.83.</p> <p>(f) Dosimetry reports received from the accredited NVLAP personnel dosimeter processor must be retained in accordance with Sec. 34.83. *****</p>			
34.83	Records of personnel		C	<p>*****</p> <p>(c) Personnel dosimeter results received</p>			

Change to Nrc Section	Title	State Section	Comparability Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
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monitoring procedures

from the accredited NVLAP processor until the Commission terminates the license.

(d) Records of estimates of exposures as

36.55	Personnel monitoring		H&S	<p>a result of off-scale personnel dosimeters, or lost or damaged personnel dosimeters until the Commission terminates the license.</p> <p>(d) Records of estimates of exposures as a result of off-scale personnel dosimeters, or lost or damaged personnel dosimeters until the Commission terminates the license. The personnel dosimeter processor must be accredited for high energy photons in the normal and accident dose ranges (see 10 CFR 20.1501(c)). Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be processed at least monthly, and other personnel dosimeters must be processed at least quarterly.</p> <p>*****</p>			
36.81	Records and retention periods.	N/A	D	<p>In Sec. 36.81, paragraph (e) is revised to read as follows:</p> <p>*****</p> <p>(e) Evaluations of personnel dosimeters required by Sec. 36.55 until the Commission terminates the license.</p> <p>*****</p>	N/A	N/A	N/A
39.65	Personnel monitoring		<p>Category C for paragraph (a)</p> <p>and Category D for paragraph (c)</p>	<p>In Sec. 39.65, paragraphs (a) and (c) are revised to read as follows:</p> <p>(a) The licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.</p>			

Change to Nrc Section	Title	State Section	Comparability Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
			Para C is N/A Cat D	Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and other personnel dosimeters replaced at least quarterly. After replacement, each personnel dosimeter must be promptly processed. ***** (c)The licensee shall retain records of personnel dosimeters required by paragraph (a) of this section and bioassay results for inspection until the Commission authorizes disposition of the records.	Para C is N/A		

STATE REGULATION STATUS

State: Nevada

[11 amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 3-261

Date: DECEMBER 23, 2003

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ / Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 9/21/94	12/8/93
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	F	N 12/15/97	12/8/93
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 9/21/94	12/8/93
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
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; (1/1/98)	1995-1	P	Y 3/10/99	1/99
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P	N 3/10/99	1/99
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P	Y 3/10/99	1/99
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P	N 3/10/99	1/99
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P	N 3/10/99	1/99
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P	N 3/10/99	1/99
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P	Y 3/10/99	1/99
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P	Y 3/10/99	1/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
*Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F ML033210100	N 12/23/03 ML033580078	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1			
*Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F ML033210100	N 12/23/03 ML033580078	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
*Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML033210100	N 12/23/03 ML033580078	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
*Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948; (6/27/00)	1997-5	F ML033210100	N 12/23/03 ML033580078	
*Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	F ML033210100	N 12/23/03 ML033580078	
*Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML033210100	N 12/23/03 ML033580078	
*Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML033210100	N 12/23/03 ML033580078	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
*Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML033210100	N 12/23/03 ML033580078	
*Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	F ML033210100	N 12/23/03 ML033580078	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML031972017	7/30/03	License Condition
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3	F ML031972017	7/30/03	License Condition
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML031972017	7/30/03	License Condition
*New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	P ML033210100	Y 12/23/03 ML033580078	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
*Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material	65 FR 79162; (2/16/04)	2001-1	P ML033210100	Y 12/23/03 ML033580078	
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	2002-2			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address.
N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number