

April 2, 2004

Mr. Clayton Bradt, C.H.P.
Associate Radiophysicist
Radiological Health Unit
Division of Safety and Health
New York State Department of Labor
NYS Office Campus, Building 12, Room 169
Albany, NY 12240

Dear Mr. Bradt:

We have reviewed the New York State Department of Labor (NYDOL) license conditions that were submitted to meet the Generally Licenced Device (GL) reporting requirements of 10 CFR 32.52 (a) and (b). Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the license conditions that incorporated the amendment identified on the States Regulation Status Data Sheet (SRS). These license conditions were reviewed by comparison to the equivalent NRC rules in 10 CFR 32.52 and the requirements of the one amendment identified in the enclosed SRS. We discussed our review of the regulations with you on March 17, 2004.

As a result of our review, we have no comments, however we would like to ensure that it is understood that the remaining portion of the GL Rule was due for Agreement State adoption on February 16, 2004. Please note that we have limited our review to the NYDOL license conditions required for compatibility and/or health and safety. We have determined that the NYDOL license conditions, as adopted, meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

The SRS Data Sheet summarizes our knowledge of the status of other NYDOL regulations and/or legally binding requirements, 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 STP website:
<http://www.hrsd.ornl.gov/nrc/rulemaking.htm>

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 me, or John Zabko of my staff at (301)415-2308 or JGZ@NRC.GOV.

Sincerely,

By KN Schneider Forl

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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OFFICE	STP		OGC		STP:DD	
NAME	JZabko		STreby		KNSchneider for JPiccone	
DATE	03/17/04*		04/01/04*		04/02/04 *	

ML040930388

Official Record

STATE REGULATION STATUS

State: New York Department of Labor

[One amendment reviewed and is identified

by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 4-63

Date: April 2, 2004

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ / ML #⁵	NRC Review / Y, N² / Date /ML #⁵	Final State Regulation¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843 (1/10/94)	1991-1	F-N	1/28/00	4/15/99
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 plus others (1/1/94)	1991-3	F-Y F-Y	12/5/97 12/24/97	6/29/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980 (10/15/94)	1991-4	F-N	1/28/00	4/15/99
Quality Management Program and Misadministrations-Part 35	56 FR 34104 (1/27/95)	1992-1			Not applicable to NYDOL
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566 (none)	1992-2			Not required
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628 (10/25/96)	1993-1	F-N	1/28/00	4/15/99
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715 (7/1/96)	1993-2	F-N	1/28/00	4/15/99
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 applicable SECY-95-112 ⁴
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220 (7/1/97)	1994-2			Not applicable to NYS
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026 (8/15/97)	1994-3	F-N	1/28/00	4/15/99
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	F-N	1/28/00	4/15/99

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900 (3/13/98)	1995-2	F-N	1/28/00	4/15/99
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649 60 FR 25983 (3/1/98)	1995-3	F-N	1/28/00	4/15/99
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323 (6/30/98)	1995-4	F-N	1/28/00	4/15/99
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038 (8/14/98)	1995-5			
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235 (11/24/98)	1995-6	F-N	1/28/00	4/15/99
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623 (10/20/98)	1995-7			Not applicable to NYDOL
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248 61 FR 28724 (4/1/99)	1996-1	F-N	1/28/00	4/15/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109 (none)	1996-2			Not required
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669 (6/17/99)	1996-3			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65119 (1/9/00)	1997-1	F-N	1/28/00	4/15/99
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			
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120 (5/29/00)	1997-3			
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907 (none)	1997-4			Not required
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			
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057 (8/20/00)	1997-6			

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Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634 (1/02/01)	1997-7			
Deliberate Misconduct by Unlicensed Persons- Parts 30, 40, 61, 70, 150	63 FR 1890 63 FR 13773 (2/12/01)	1998-1			
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535 (none)	1998-2			Not required
License Term for Medical Use Licenses- Part 35	63 FR 31604 (none)	1998-3			Not required
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059 (7/9/01)	1998-4			
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39347 63 FR 45393 (10/26/01)	1998-5			
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127 (11/20/01)	1998-6			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506 (6/11/02)	1999-1			Not applicable to NYS
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
Respiratory Protection and Controls to Restrict Internal Exposure - Part 20	64 FR 54543 64 FR 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	(F) LC's for 32.52 (a) & (b)	N 4/02/04 ML040930388	Only license conditions for 32.52 (a) & (b) reviewed

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Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (4/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			

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