October 20, 2005

Mr. Dennis O'Dowd, Administrator
Radiological Health Section
Division of Public Health Services
Department of Health and Human Services
29 Hazen Drive
Concord, NH 03301-6504

Dear Mr. O'Dowd:

We have reviewed your letter dated September 22, 2005 requesting our review of a legally-binding license condition which has been added to all applicable New Hampshire Radioactive Material Licenses. The license condition has been used to meet the compatibility requirements for the NRC regulations, "Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20," (61 FR 65120, (January 9, 2000)), RATS ID 1997-1.

A review of our records indicates that the license condition has been reviewed and found to meet the compatibility requirements as documented in a March 21, 2005 letter. In addition, we have also reviewed your proposed regulation addressing the 1997-1 amendment and found the proposed regulation compatible as documented in a May 13, 2005 letter. Both letters can be found on the Office of State and Tribal Programs (STP) website: http://www.hrsd.ornl.gov/nrc/rulemaking.htm.

We request that when the proposed regulation is adopted and published as a final regulation, a copy of the "as published" regulation be provided to us for review. As requested in the STP Procedure SA-201, "Review of State Regulatory Requirements," please highlight any final changes and provide a copy to STP. When the final regulation becomes effective, the license condition would no longer be necessary.

The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of the legal binding requirement and other New Hampshire regulations. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. The SRS Data Sheet, is posted on the STP website indicated above.

If you have any questions regarding this correspondence, please contact me, or Kevin Hsueh at 301-415-2598 or by e-mail at KPH@NRC.GOV.

Sincerely,

\RA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

October 20, 2005

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Office of State and Tribal Programs

Enclosures: As stated

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NAME	KHsueh		KNSchneider for DKRathbun	
DATE	10/19/05*		10/20/05*	

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STATE REGULATION STATUS

State: New Hampshire
[No Amendments reviewed and identified by a i at the beginning of each equivalent NRC Regulation]

Tracking Ticket Number 5-274
Date: October 20, 2005

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F)[1] Rule ML #[5]
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	
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
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2	
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F (License Condition)
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2	
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	F
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	F

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F)[1] Rule ML #[5]
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2	
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P ML050900337
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	P ML050900337 License Condi ML050670114
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	P ML0509003 License Condi 150.20 ML052720200
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	
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
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	P ML050900337
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML050900337
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2	
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3	
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 39477; 63 FR 45393 (10/26/01)	1998-5	P ML050900337
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML050900337
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	
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3	P ML050900337
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML042720491 ML042660535 ML042520322
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F (License Condition) ML042720491 ML042660535 ML042520322

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F)[1] Rule ML #[5]
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162 (2/16/04)	2001-1	P ML050900337
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/04)	2002-1	P ML050900337
Medical Use of Byproduct Material-Parts 20, 32 and 35	67 FR 20249; (10/24/05	2002-2	
Financial Assurance for Materials Licensees - Parts 30, 40 and 70	68 FR 57327; (12/3/06)	2003-1	
Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - PART 71	69 FR 3697; (10/01/07)	2004-1	
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1	
Medical Use of Byproduct Material - Recognition of Specialty Boards - PART 35	70 FR 16336; (4/29/08)	2005-2	
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090)	**TBD FR TBD (12/2/05)**	2005-3	

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 the regulation. See: “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs,” III.1.Time From For Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.

5. ADAMS ML Number.

6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090