

February 23, 2007

Tobias A. Lickerman
Chief of Radioactive Materials Division
New York City Department of Health
2 Lafayette St. 11th fl.,
New York, NY 10007

Dear Mr. Lickerman:

We have reviewed the final revision to the New York City Department of Health regulations in Article 175 of the New York City Health Code "Radiation Control", received by our office via email on January 25, 2007. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 40, 70, and 150 and the requirements of the three amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on February 20, 2007.

As a result of our review, we have no comments. 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 New York City Department of Health 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.hsr.doe.gov/nrc/rulemaking.htm>.

If you have any questions regarding the review results, 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 (email: kxs@nrc.gov) or William Rautzen at (301) 415-7206 (email: wrr@nrc.gov).

Sincerely,

IRA BY KN SCHNEIDER FOR

Scott W. Moore, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosure:
As stated

February , 2007

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FOR BY KN SCHNEIDER FOR

Scott W. Moore, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosure: As stated

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STATE REGULATION STATUS

State: New York City Department of Health
 [3 Amendments were reviewed identified by a ★ at
 the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 7-12
 Date: February 23, 2007

| NRC Chronology Identification | FR Notice (Date Due For State Implementation) | RATS ID | Proposed (P) / Final (F) ¹ Rule ¹ / License Condition (LC) 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 | | | Not required ³ |
| 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 10/14/97 | |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980 (10/15/94) | 1991-4 | | | |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104 (1/27/95) | 1992-1 | | | Superceded by 2002-2 |
| 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 | | | |
| 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 |

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|--|--|---------|---|--|--|
| Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70 | 59 FR 36026 (8/15/97) | 1994-3 | F 5/1/06 ML061290502 | N 6/12/06 ML061630264 | |
| 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 | | | |
| Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20 | 60 FR 7900 (3/13/98) | 1995-2 | F 5/5/06 ML061290502 | N 6/1/2006 ML061530099 | |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649 60 FR 25983 (3/1/98) | 1995-3 | | | Not applicable SECY- 95-112 ⁴ |
| Performance Requirements for Radiography Equipment- Part 34 | 60 FR 28323 (6/30/98) | 1995-4 | | | Not applicable SECY- 95-112 ⁴ |
| ★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038 (8/14/98) | 1995-5 | F 1/31/07 ML070290581 | N 2/23/07 ML070520527 | |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235 (11/24/98) | 1995-6 | F 5/1/06 ML061290502 | N 6/12 /06 ML061630264 | |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623 (10/20/98) | 1995-7 | | | |
| 10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71 | 60 FR 50248 61 FR 28724 (4/1/99) | 1996-1 | P | N 2/9/99 | 4/99 |
| 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 5/1/06 ML061290502 | N 6/12/06 ML061630264 | |
| Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20 | 61 FR 65119 (1/9/00) | 1997-1 | | | |

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|---|--|---------|---|--|--|
| ★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 1/31/07 ML070290581 | N 2/23/07 ML070520527 | |
| 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 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 | | | Not applicable SECY-95-112 ⁴ |
| ★Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057 (8/20/00) | 1997-6 | F 1/31/07 ML07-290581 | N 2/23/07 ML070520527 | |
| 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 | F 5/1/06 ML061290502 | N 6/12/06 ML061630264 | |
| 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 | | | Not applicable SECY-95-112 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 | | | |

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|--|--|---------|---|--|--|
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506 (6/11/02) | 1999-1 | | | Not applicable SECY-95-112 ⁴ |
| 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 5/5/06 ML061290502 | N 6/1/2006 ML061530099 | |
| 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 | | | |
| Revision of the Skin Dose Limit-Part 20 | 67 FR 1629; (4/5/05) | 2002-1 | F 5/5/06 ML061290502 | N 6/1/06 ML061530099 | |
| 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 | | | |
| 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 - | 70 FR 16336; 71 FR | 2005-2 | | | |

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|---|--|---------|---|--|--|
| Part 35 | 1926 (4/29/08) | | | | |
| Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶ | 70 FR 72128; (12/1/05) | 2005-3 | LC ML052910113 | 10/20/05 ML052940009 | 12/2/05 |
| Minor Amendments - Parts 20, 30, 32, 35, 40, and 70 | 71 FR 15005 (3/27/09) | 2006-1 | | | |
| National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E | 71 FR 65685 (2/6/07) | 2006-2 | | | |
| National Source Tracking System - Part 20 | 71 FR 65865 (11/15/07) & (11/30/07) | 2006-3 | | | |

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 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
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.