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April 28, 2008

Robert J. Lewis, Deputy Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Lewis:

Enclosed is a copy of the revisions to the proposed New Mexico Radiation Protection Rules contained in the following parts: 20.3.1 NMAC "General Provisions", 20.3.3 NMAC "Licensing of Radioactive Materials", 20.3.4 NMAC "Standards for Protection against Radiation", and 20.3.7 NMAC "Medical Use of Radionuclides." The proposed revisions will be made available for public comment in July 2008. We request NRC's comments by July 8, 2008.

The proposed regulations correspond to the following equivalent amendments to NRC's regulations:

<u>RATS ID</u>	<u>Title</u>	<u>State Section</u>
2002-2	Medical Use of Byproduct Material - Parts 20, 32, and 35	20.3.3 NMAC, 20.3.4 NMAC, and 20.3.7 NMAC
2003-1	Financial Assurance for Materials Licensees – Parts 30, 40, 70	20.3.3.311 NMAC
2004-1	Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71	20.3.3.306 NMAC
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	20.3.3.307 NMAC
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	20.3.7 NMAC
2006-1	Minor Amendments - Parts 20, 30, 32, 35, 40 and 70	20.3.3 NMAC, 20.3.4 NMAC, and 20.3.7 NMAC
2006-2	National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E	20.3.3 NMAC
2006-3	National Source Tracking System - Part 20	20.3.4 NMAC
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications - Parts 32 and 35	20.3.3 NMAC and 20.3.7 NMAC
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements - Parts 30, 31, 32, 150	20.3.3 NMAC

2007-3	Requirements for Expanded Definition of Byproduct Material - Parts 20, 30, et al.	20.3.1 NMAC, 20.3.3 NMAC, 20.3.4 NMAC, and 20.3.7 NMAC
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In addition to the earlier described revisions mandated by the RATS, the rules in the revised parts were compared to the corresponding 10 CFR regulations and revised according to the compatibility and health and safety categories listed in the Office of Federal and State Materials and Environmental Programs (FSME) Procedure SA-200. We therefore request that NRC review parts, 20.3.1 NMAC, 20.3.3 NMAC, 20.3.4 NMAC, and 20.3.7 NMAC, in their entirety.

To facilitate your review, cross-reference tables of the submitted revised parts to the 10 CFR parts were compiled, and submitted with this letter (see enclosures).

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in FSME Procedure SA-200.

If you have any questions, please feel free to contact Daniela Bowman of my staff at 505-476-3061 or daniela.bowman@state.nm.us.

Sincerely,

John Parker, Chief
Radiation Control Bureau

Enclosures:

1. Cross Reference Table for 20.3.1 NMAC
2. Draft copy of revised 20.3.1 NMAC
3. Cross Reference Table for 20.3.3 NMAC
4. Draft copy of revised 20.3.3 NMAC
5. Cross Reference Table for 20.3.4 NMAC
6. Draft copy of revised 20.3.4 NMAC
7. Cross Reference Table for 20.3.7 NMAC
8. Draft copy of revised 20.3.7 NMAC

ENCLOSURE 1
Cross Reference Table
20.3.1 NMAC to 10 CFR Various Parts

The structure of the NMAC follows

Title example 20 NMAC, “Environmental Protection”
Chapter example 20.3 NMAC, “Radiation Protection”
Part example 20.3.4 NMAC, “Standards against Radiation Protection”
Section example 20.3.4.7 NMAC, “Definitions”
Subsection example 20.3.4.404.A NMAC
Paragraph example 20.3.4.405.A(1) NMAC
Subparagraph example 20.3.4.405.A(1)(b) NMAC
Item example 20.3.4.426.C(4)(a)(ii) NMAC

1	2	3	4	5	6
20.3.1 NMAC Section	Subsection	New/Revised	10 CFR Part.Section	Comparability Category	Comments
1	-		State specific	N/A	
2	-		State specific	N/A	
3	-		State specific	N/A	
4	-		State specific	N/A	
5	-	Revised	State specific	N/A	
6	All	Revised	State specific	D	
7	All	Revised	Various	Various	RATS 2007-3; Definitions used in more than one part in this chapter were placed in this section
8 - 106	Reserved				
107	A	Revised	30.11	D	
			40.14		
			70.17		
107	B		30.12	B	
			40.11		
			70.11		
107	C	Revised	30.13	B	
			40.12		
			70.12		
107	D		State specific	N/A	

1	2	3	4	5	6
20.3.1 NMAC Section	Subsection	New/Revised	10 CFR Part.Section	Comparability Category	Comments
108	-		State specific	N/A	General recordkeeping requirement
109	All		30.52	D	
			40.62		
			70.55		
110	All	Revised	30.53	D	State authority on radiation machines included
			40.63		
			70.56		
111	-		40.41(e)	D	
			30.34(e)		
112	All	Revised	30.63 and 30.64	D	
			40.81 and 40.82		
			70.91 and 70.92		
113	-		State specific	N/A	
114	All		State specific	N/A	
115	-		30.5	D	
			40.6		
			70.6		
116	-		30.6	D	
			40.5		
			70.5		
117	Reserved	Revised	-		Transferred to 20.3.4 NMAC
118	Reserved	Revised	-		Transferred to 20.3.4 NMAC
119	Reserved				
120	Reserved	Repealed			Outdated (superseded by regulations in 20.1 NMAC)
121	All		State specific	N/A	
122	All		30.10	C	
			40.10		
			70.10		

1	2	3	4	5	6
20.3.1 NMAC Section	Subsection	New/Revised	10 CFR Part.Section	Comparability Category	Comments
123	All	New	30.9	D	
			40.9		
			70.9		
124	-	New	State specific		

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ENCLOSURE 3
Cross Reference Table
20.3.3 NMAC to 10 CFR Parts 30, 31, 32, 33, 40, 70, 71, and 150

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
1	-	-		State specific	N/A	
2	A	-	Revised	30.1 & 30.3	C, D, and NRC	RATS 2007-3 [NRC compatibility] N/A (waiver not given)
2	B	-	Revised	State specific	N/A	
	C	-	New	30.2	D	
3	All	-		State specific	N/A	
4	All	-		State specific	N/A	
5	All	-	Revised	State specific	N/A	
6	All	-	Revised	State specific	N/A	
7	All	All	New	30.4	Various	RATS 2007-3; Some definitions from 30.4 were placed in 20.3.1 or 20.3.7 NMAC
8 - 299	Reserved					
300	Reserved					Transferred to 20.3.3.326 NMAC
301	All	All	Revised	40.13	B	
302	A	All	Revised	30.14	B	RATS 2007-2
302	B	All	Revised	30.18	B	RATS 2007-2; RATS 2007-3
302	C	(1)	Revised	30.15	B	RATS 2007-2; RATS 2007-3
302	C	(2)	Revised	30.19	B	
302	C	(3)	Revised	State specific	N/A	Previous state authority on radium-226
302	C	(4)	Revised	30.20	B	RATS 2007-3
302	C	(5)	Repealed	30.16	B	RATS 2007-2
302	D	All	Revised	30.21	B	
303	All	-		30.31	C	
				40.20(a)		
				70.18		
304	A	-	New	40.21	C	
304	B	All		40.22	B	
304	C	All		40.25	C	
305	A	All		31.3	B	

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
305	B	All	Revised	31.5	B	RATS 2007-2; RATS 2007-3
305	C	All	Revised	31.7	B	
305	D	All	Revised	31.8	D	RATS 2007-3 N/A (radium already regulated previously by the state); Radium requirements more stringent than EPAct radium provisions.
				70.19	C	
305	E	All	New	31.6	B	Old subsection repealed (outdated)
305	F	All	Revised	31.11	D	RATS 2007-3 partially incorporated (state already has requirement)
305	G	All	Revised	31.10	B	
305	H	All	New	31.12	C	RATS 2007-3; Old subsection repealed (outdated)
305	I	-	New	31.9	C	
				40.21		
				70.20		
306	All	All	New	71	Various	RATS 2007-1 - 10 CFR 71 Incorporated by reference
307	All	All	Revised	30.32(a) - (j)	C and D	RATS 2007-3 [B for 30.32(j) and C for 30.32(g)] partially incorporated (30.32(j) only in 307.J)
				40.31 (applicable paragraphs)	D	
308	All	All	Revised	30.33	D and H&S	
				40.32 (applicable paragraphs)		
				70.23(a)		
309	B	All		30.32(i)	H&S	
310	All	All	Revised	State specific	N/A	State-wide requirement for public commenting
311	All	All	Revised	30.35	D and H&S	RATS 2003-1
				40.36		

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
				70.25		
312	Reserved					Transferred to 20.3.3.325 NMAC
313	All	All	Revised	State specific	N/A	Old section repealed (outdated); All new language in this section
314	A	All		33.11	D	
314	B	All		33.13	D	
314	C	All		33.14	D	
314	D	All		33.15	D	
314	E	All		33.17	D	
315	A	(1)	Revised	32.11	NRC [change from B and C]	RATS 2007-2 Referring to NRC jurisdiction
315	A	(2)	Repealed	32.12	NRC [change from C]	Previously paragraph (2), now removed after RATS 2007-2
315	A	(2)	New	32.13	C	RATS 2007-2
315	B	(1)	New	32.18	NRC	Referring to NRC jurisdiction
315	B	(2)	New	32.14	NRC	Referring to NRC jurisdiction
315	B	(3)		State specific	N/A	Designed to regulate NARM which does not meet the definition of “byproduct material”
315	B	(4)		State specific	N/A	
315	B	(5)	Revised	State specific	N/A	
315	C	(1)	New	32.26	NRC	Referring to the NRC jurisdiction
315	C	(2)	New	32.22	NRC	Referring to the NRC jurisdiction
315	C	(3)	New	32.21	NRC	Referring to the NRC jurisdiction
315	D	-	Reserved	-	-	
315	E	All	Revised	32.24 32.51 32.51a 32.52	All B	Previously section D
315	F	All	Revised	32.53 32.54	All B	Previously section E

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
				32.55 33.56		
315	G	All	Revised	32.57 32.58 32.59 70.39	B C	RATS 2007-3; Previously section F
315	H	All	Revised	32.71	B	
315	I	All	Revised	32.61 32.62	All B	
315	J	All	Revised	32.72	B	Previously section G; RATS 2002-2 (20.3.3.315.J(2)(a) corrected reference); RATS 2006-1 (minor amendments); RATS 2007-1; RATS 2007-3
315	K	All	New	32.74	B	RATS 2006-1; RATS 2007-1
315	L	All	Revised	40.34 40.35	B, C, and D	Previously section J
315	M	-	Revised	State specific	N/A	Previously section K
315	N	-	New	32.201	Not determined	RATS 2006-2
316	A	-	Revised	70.31(a)	D	
316	B	All		30.34(e)	D	
				40.41(e)		
				70.32(b)		
316	C	-	New	State specific	N/A	
317	All	All	Revised	30.34, except 30.34(e)	C, D, and H&S	RATS 2005-1; RATS 2007-3; 20.3.3.317.G NMAC more restrictive than NRC equivalent;
				40.41 (applicable paragraphs) & 40.46	C and H&S	

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
				70.32(a), 70.36, & 70.41	C and H&S	
318	B and D	-	New	State specific	N/A	Fee enforcement
318	A, C, E - M	All	Revised	30.36 40.42 70.38	D and H&S	
319	All	-	Revised	30.37 and 30.39 40.43 and 40.45 70.33 and 70.35	D	Fee enforcement (State specific)
320	All	-	Revised	30.38 and 30.39 40.44 and 40.45 70.34 and 70.35	D	Fee enforcement (State specific)
321	Repealed					Old section incorporated in sections 20.3.3.319 NMAC and 20.3.3.320 NMAC
322	All	-	Revised	30.61 40.71 70.81	D	
323	All	All	Revised	30.41 40.51 70.42	C	
324	All	All	Revised	150.20	C	RATS 2007-2
325	All	All	Revised	30.50 40.60 70.50	C and D	Old section repealed (outdated) and replaced with 20.3.3.306 NMAC
326	All	All	Revised	30.51 40.61 70.51	C, D, and H&S C	Old section repealed (outdated) and replaced with 20.3.3.306 NMAC
327	Repealed					Old section repealed and replaced with 20.3.3.306 NMAC

1	2	3	4	5	6	7
20.3.3 NMAC Section	Sub- section	Para- graph	New/Revised	10 CFR Part.Section	Comparability Category	Comments
328	Repealed					Old section repealed (outdated) and replaced with 20.3.3.306 NMAC
329	-	-		30.70	B	
330	-	-		30.71	B	
331	All	-		State specific	N/A	Phasing-out language
332	-	-		33.100	D	RATS 2007-3 not incorporated (state already has requirement)
333	-	-	Revised	30.72	H&S	RATS 2007-3
334	All	All	Revised	Appendix A to Part 30	D	
335	All	All	Revised	Appendix C to Part 30	D	
336	All	All	New	Appendix D to Part 30	D	
337	All	All	New	Appendix E to Part 30	D	
338	-	-	New	Appendix B to Part 30	B	Transferred from 20.3.4 NMAC

ENCLOSURE 5
Cross Reference Table
20.3.4 NMAC to 10 CFR Part 20

1	2	3	4	5	6
20.3.4 NMAC Section	Subsection	New/Revised	10 CFR 20.Section	Comparability Category	Comments
1	-		State specific	N/A	
2	-	Revised	1002	D	RATS 2002-2
3	-		State specific	N/A	
4	-		State specific	N/A	
5	-	Revised	State specific	N/A	
6	All		1001	D	
7	All	Revised	1003	Various	Some definitions can be found in 20.3.1 NMAC; RATS 2002-2; RATS 2006-3; RATS 2007-3
8	All	New	1004	A	Transferred from 20.3.1.117 NMAC
9	All	New	1005	A	Transferred from 20.3.1.118 NMAC
10 - 402	Reserved				
403	All	Revised	1008	D	
404	All	Revised	1101	C, H&S	
405	A, B, C(1), D, E, & F		1201	A	
405	C(2)		State specific	N/A	State authority on radiation machines
406	All		1202	A	
407	All		1203	A	
408	All		1204	A	
409	All		2104	D	
410	All		1206	D	
411	All		1207	A	
412	All	Revised	1208	A	
413	All	Revised	1301	A, C, & D	RATS 2002-2
414	All	Revised	1302	D, H&S	
415	All	Revised	State specific	N/A	More latitude given for the leak testing frequency than previous rules
416	All	Revised	1501	H&S	More latitude given for calibration frequency than previous rules

1	2	3	4	5	6
20.3.4 NMAC Section	Subsection	New/Revised	10 CFR 20.Section	Comparability Category	Comments
417	All		1502	H&S	
418	All		1601	H&S	
419	All	Revised	1602	H&S	
420	All	Revised	State specific	N/A	Old text repealed (outdated).
421	All		1701	H&S	
422	All		1702	H&S	
423	A - I		1703	H&S	
423	J		1705	B	
424	All		1704	D	
425	A	Revised	1801	H&S	
425	B	Revised	1802	H&S	
425	C & D		State specific	N/A	State authority on radiation machines
426	A		1401	C	
426	B		1402	C	
426	C		1403	C	
426	D		1404	C	
427	All	Revised	1901	A	
428	All		1902	A	
429	A, B, C, and E	Revised	1903	D	
429	D	Revised	State specific	N/A	State authority on radiation machines
430	A & B		1904	A	
430	C		State specific	N/A	
431	All	Revised	1905	A	
432	All	Revised	1906	H&S	
433	All	Revised	2001	C	RATS 2007-3 N/A (new section was not created, see 20.3.4.437.C NMAC)
434	All	Revised	2002	D	
435	All	Revised	2003	A, C, D, & H&S	
436	All		2004	D	
437	A, B, & D	Revised	2005	D	

1	2	3	4	5	6
20.3.4 NMAC Section	Subsection	New/Revised	10 CFR 20.Section	Comparability Category	Comments
437	C	New	2008	B	RATS 2007-3
438	All	Revised	2006	B	RATS 2007-3
439	All	Revised	2007	D	
440	All		2101	C	
441	All		2102	D	
442	All	Revised	2103	D	
443	All		State specific	N/A	
444	All		2104(f)	D	
445	All		2105	D	
446	All	Revised	2106	C & D	
447	All		2107	D	
448	A & C	Revised	2108	D	
448	B	Revised	State specific	N/A	
449	All		State Specific	Revoked	
450	All	Revised	2110	D	
451	All, except A(3)	Revised	2201	C	
451	A(3)		State specific	N/A	State authority on radiation machines
452	All		2202	C	
453	All		2203	C	
454	All	Revised	2204	C	
455	All	New	2207	B	RATS 2006-3
456	All	Revised	2206	D & NRC	
457	All		2205	C	
458	-	Revised	State specific	N/A	
459	All	Revised	State specific	N/A	
460	All	Revised	Appendix A	B	
461	All	Revised	Appendix B	A	RATS 2007-3
462	-		Appendix C	A	
463	Reserved				
464	Reserved	Revoked	-		Duplicate of three sections in 20.3.13

1	2	3	4	5	6
20.3.4 NMAC Section	Subsection	New/Revised	10 CFR 20.Section	Comparability Category	Comments
					NMAC
465	Reserved	Revoked	-		This section was moved to 20.3.3 NMAC
466	All	Revoked	Appendix G	B & D	
467	-	New	Appendix E	B	RATS 2006-3

ENCLOSURE 7
Cross Reference Table
20.3.7 NMAC to 10 CFR Part 35

1 20.3.7 NMAC Section	2 Subsection	3 Revised/New	4 10 CFR 35 Section	5 Comparability Category	6 Comments	
1	-		State specific	N/A		
2	-	Revised	1	D		RATS 2002-2
3	-		State specific	N/A		
4	-		State specific	N/A		
5	-	Revised	State specific	N/A		
6	-		State specific	N/A		
7	All	Revised	2	Various	Some definitions were placed in 20.3.1 NMAC; RATS 2006-1; RATS 2007-1; RATS 2007-3	
8 - 699	Reserved					
700	A	Revised	6	C		
700	B		7	D		
700	C	Revised	10	D	RATS 2007-3 not incorporated (waiver not given); RATS 2006-1	
700	D		11	C	RATS 2007-3 not incorporated (NARM already in regs; waiver not given)	
700	E	Revised	12	D		
700	F	Revised	13	D	RATS 2006-1; RATS 2007-3	
700	G	Revised	14	D	RATS 2006-1; RATS 2007-3	
700	H	Revised	15	D	RATS 2007-3	
701	Reserved					
702	A through D	Revised	24	D and H&S		
702	E	Revised	26	D		
702	F		27	H&S		
702	G		40	D and H&S		
702	H	Revised	41	D and H&S	RATS 2007-1	
702	I	Revised	49	C	RATS 2006-1	
703	A	Revised	60	D and H&S	More prescriptive requirements than NRC	R A

1	2	3	4	5	6	
20.3.7 NMAC Section	Subsection	Revised/New	10 CFR 35 Section	Comparability Category	Comments	
703	B	Revised	63	D and H&S	RATS 2007-3	R A
703	C		61	D and H&S		
703	D		State specific	N/A		
703	E	Revised	65	D	RATS 2006-1	
703	F	Revised	67	D and H&S		
703	G	Revised	69	H&S		
703	H	Revised	70	D and H&S		
703	I	Revised	75	C and D	RATS 2007-1	
703	J	Revised	80	D and H&S		
703	K		State specific	N/A	More prescriptive requirements than NRC	
703	L		92	H&S	More prescriptive requirements than NRC; RATS 2007-1	
704	All	Revised	100	H&S	RATS 2006-1; RATS 2007-3	
705	All	Revised	200	H&S	RATS 2006-1; RATS 2007-3	
706	All	Revised	204	D and H&S	RATS 2007-3	
707	All	Revised	State specific	N/A	More prescriptive requirements than NRC	
708	All	Revised	300	H&S	RATS 2006-1; RATS 2007-3	
709	A and B	New	310	D and H&S		
709	C	New	315	H&S		
710	A	Revised	400	C		
710	B		404	D and H&S		
710	C	Revised	406	D and H&S		
710	D		410	D and H&S		
710	E		415	H&S		
710	F	New	432	D and H&S		
710	G	New	433	D and H&S		
710	H	New	457	H&S		
711	A	New	600	C		
711	B	New	604	D and H&S		
711	C	New	605	D and H&S		

1	2	3	4	5	6	
20.3.7 NMAC Section	Subsection	Revised/New	10 CFR 35 Section	Comparability Category	Comments	
711	D	New	610	D and H&S		
711	E	New	615	H&S		
711	F	New	630	D and H&S		
711	G	New	632	D and H&S		
711	H	New	633	D and H&S		
711	I	New	635	D and H&S		
711	J	New	642	D and H&S		
711	K	New	643	D and H&S		
711	L	New	645	D and H&S		
711	M	New	647	D and H&S		
711	N	New	652	D and H&S		
711	O	New	655	D and H&S		
711	P	New	657	H&S		
712	A	Revised	500	C		
712	B		State specific	N/A	More prescriptive requirements than NRC	
713	All	New	1000	D		
714	A	Revised	50	B	Incorporated by reference	RATS 2005-2
714	B	Revised	51	B	Incorporated by reference	
714	C	Revised	55	B	Incorporated by reference	
714	D	Revised	57	B	Incorporated by reference; RATS 2007-3 incorporated partially (see Subsection P)	
714	E	Revised	59	B		
714	F	Revised	190	B	Incorporated by reference	
714	G	Revised	290	B	Incorporated by reference	
714	H	Revised	390	B	Incorporated by reference	
714	I	Revised	392	B	Incorporated by reference	
714	J	Revised	394	B	Incorporated by reference	
714	K	Revised	396	B	Incorporated by reference	
714	L	Revised	490	B	Incorporated by reference	
714	M	Revised	491	B	Incorporated by reference	

1	2	3	4	5	6	
20.3.7 NMAC Section	Subsection	Revised/New	10 CFR 35 Section	Comparability Category	Comments	
714	N	Revised	590	B	Incorporated by reference	
714	O	Revised	690	B	Incorporated by reference	
714	P	New	State specific	N/A	Modifications to incorporated 10 CFR 35 sections	
715	All	Revised	Subpart L	D	RATS 2002-2; RATS 2007-3	
716	All	Revised	Subpart M	C	RATS 2002-2	