

August 26, 2008

Sandra Hinkel, Chief  
Radiation Control Permit Section  
Bureau of Hazardous Waste & Radiation Management  
Division of Solid and Hazardous Materials  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-8646

Dear Ms. Hinkel:

We have reviewed the New York Department of Environmental Conservation permit condition that was submitted to address Resolution of Dual Regulations of Airborne Effluents of Radioactive Materials; Clean Air Act, received by our office on July 14, 2008. These requirements were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 20 and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on August 26, 2008.

As a result of our review, we have no comments. We have determined that the New York Department of Environmental Conservation license condition 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 Department of Environmental Conservation 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://nrc-stp.ornl.gov/rulemaking.html>.

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 Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (email: [Kathleen.schneider@nrc.gov](mailto:Kathleen.schneider@nrc.gov)).

Sincerely,

**/RA/ by KN Schneider for**

James G. Luehman, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures: As stated

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James G. Luehman, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and Environmental  
Management Programs

Enclosures: As stated

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DATE	08/08/08		08/20/08		08/26/08		08/26/08		

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Package ML082390720

**STATE REGULATION STATUS**

State: New York Department of Environmental Conservation  
 [ 1 amendment(s) reviewed is identified by a ★  
 at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 8-70  
 Date: August 26, 2008

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 <b>(Superseded by 1997-5)</b>	01/10/1994	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 <b>(Superseded by 1997-5)</b>	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1991-3	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;	01/01/1994	Final	No Comments 11/06/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994			
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 <b>(Superseded by 2002-2)</b>	01/27/1995	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Not Required	Not Required	NYDEC does not have the authority for this requirement under its portion of the Agreement (ML081960629)

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable <sup>i</sup>	Not Applicable	NYDEC does not have any licensees subject to these regulations. (See SECY-95-112)
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997			
1995-1	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	01/01/1998	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998			
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 <b>(Superceded by 1997-5)</b>	06/30/1998	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.

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1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998			
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 <b>(Superseded by 2002-2 and 2005-2)</b>	10/20/1998	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 <b>(Superseded by 2004-1)</b>	04/01/1999	Not Required	Not Required	NYDEC has adopted final regulations equivalent to RATS ID: 2004-1.
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Not Applicable <sup>i</sup>	Not Applicable	NYDEC does not have any licensees subject to these regulations. (See SECY-95-112)
★1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	License Condition ML082210044	No Comment ML082100009	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 <b>(Superseded by 2004-1)</b>	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)  NYDEC has adopted final regulations equivalent to RATS ID: 2004-1
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000			
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML061150561	Comments 04/25/2006 ML061150021	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 <b>(Superseded by 2002-2)</b>	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074)

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1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 35, 36 63 FR 39477; 63 FR 45393	10/26/2001			
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML060330210	No Comments 02/28/2006 ML060720035	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005			
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML060330210	No Comments 02/28/2006 ML060720035	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.

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2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2006-3	National Source Tracking System Part 20 71 FR 65865, 72 FR 59162	01/31/2009	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010			
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011			

<sup>1</sup> IMPEP Team: verify that NY DEC does not have any licensees subject to these regulations during each review.