

June 29, 2012

Michael Ortiz, Bureau Chief
Radiation Control Bureau
Environmental Protection Division
New Mexico Environment Department
525 Camino de los Marquez Building, Suite 1
P.O. Box 5469
Santa Fe, NM 87502-5469

Dear Mr. Ortiz:

We have reviewed the final revisions to the New Mexico regulations "Licensing of Radioactive Materials," "Standards for Protection Against Radiation," "Notices, Instructions and Reports to Workers: Inspections," and "Licenses and Radiation Safety Requirements for Well Logging" received by our office on June 7, 2012. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 33, 35, 39, 61, 71 and 150 and the requirements of the four amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on June 28, 2012.

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 Mexico 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 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 (kathleen.schneider@nrc.gov) or Joan Olmstead at (301) 415-2859 (joan.olmstead@nrc.gov).

Sincerely,

/RA K. Schneider for/

Chris Einberg, Acting Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs

Enclosures:
As stated

[Concurrence Page]

Enclosures: As stated

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Incoming ML12157A103

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|--------|----------------|------------|-----------------|--------------|----------------|
| OFFICE | ASPB | ASPB | OGC | ASPB:BC | MSSA:DD |
| NAME | JOlmostead/kns | KSchneider | BJones/jbiggins | DWhite / kns | CEinberg / kns |
| DATE | 06/15/12 | 06/15/12 | 06/26/12 | 06/29/12 | 06/29/12 |

ML12166A332

OFFICIAL RECORD COPY

Package ML12166A296

STATE REGULATION STATUS

State: New Mexico

[4 amendment(s) reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 12-16

Date: June 29, 2012

| 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 (★ Superceded by 1997-5) | 01/10/1994 | Final | No Comments 09/15/1997 | New Mexico has adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1991-2 | ASNT Certification of Radiographers Part 34 56 FR 11504 (★ Superceded by 1997-5) | none | Not Required | Not Required | New Mexico has adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 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 08/18/1997 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980; | 10/15/1994 | Final | No Comments 09/15/1997 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (★ Superceded by 2002-2) | 01/27/1995 | | | New Mexico has adopted Final Regulations equivalent to RATS ID: 2002-2. |
| 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. |

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|---------|---|-----------------------------|-----------------------------|---------------------------|--|
| 1993-1 | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628 | 10/25/1996 | Final | No Comments 07/14/2000 | |
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Not Applicable ¹ | Not Applicable | New Mexico does not have any licensees subject to these regulations. (See SECY-95-112) |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Not Applicable ¹ | Not Applicable | New Mexico 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 | Final | No Comments 07/14/2000 | 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 | New Mexico does not have authority to regulate this material under its Agreement. |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026 | 08/15/1997 | Final | No Comments 07/14/2000 | |
| 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 | Final | No Comments 07/14/2000 | |

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|---------|--|-----------------------------|----------------------|--|---|
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Final | No Comments 07/14/2000 | |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final | No Comments 07/14/2000 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5) | 06/30/1998 | Final ML021550112 | No Comments 06/12/2002 ML021650055 | New Mexico has adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1995-5 | Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038 | 08/14/1998 | Final | No Comments 07/14/2000 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235 | 11/24/1998 | Final | No Comments 07/14/2000 | |
| 1995-7 | Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2) | 10/20/1998 | Final | No Comments 07/14/2000 | New Mexico has adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2. |
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1) | 04/01/1999 | Final | No Comments 07/14/2000 | |

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|---------|---|-----------------------------|----------------------|--|---|
| 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 | Final | No Comments 07/14/2000 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 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 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120 | 05/29/2000 | Final | No Comments 07/14/2000 | |
| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1) | 02/10/2000 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078) |
| 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 | Final ML021550112 | No Comments 06/12/2002 ML021650055 | |

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|---------|--|-----------------------------|----------------------|--|---|
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057 | 08/20/2000 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 1997-7 | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634 | 01/02/2001 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 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 (Superceded by 2002-2) | 07/10/2001 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) |
| 1998-4 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059 | 07/09/2001 | Final ML021550112 | No Comments 06/12/2002 ML021650055 | |
| 1998-5 | Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393 | 10/26/2001 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |

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|---------|--|-----------------------------|----------------------|--|--|
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Not Applicable | Not Applicable | New Mexico does not have authority to regulate this material under its 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 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36, 39 65 FR 63750 | 01/08/2004 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162 | 02/16/2004 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249 | 10/24/2005 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |

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|---------|---|-----------------------------|----------------------------------|--|--|
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327 | 12/03/2006 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | Currently in place as a LC see NRC response letter ML072470593 dated 09/05/2007. |
| *2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML080650711 | No Comments 03/27/2008 ML080870430 | New Mexico chose to revise its IC License Condition at the time of the Fingerprinting Order EA-07-305 License Condition Implementation. These were only minor editorial updates. The original license condition can be seen at ML053070159. The response letter sent 11/03/2005 can be seen at ML053080022 |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |

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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 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Final ML091280050 License Condition ML083080004 | No Comments 07/16/2009 ML091680237 No Comments 11/18/2008 ML083120010 | |
| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207 | 10/29/2010 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 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 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| *2007-3 | Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864 | 11/30/2010 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 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 | License Condition ML080650711 | No Comments 03/27/2008 ML080870430 | |

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| *2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043 | 02/15/2011 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| *2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512 | 12/17/2015 | | | |
| 2011-2 | Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951 | 11/14/2014 | | | |
| 2012-1 | Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640 | 01/25/2015 | | | |
| 2012-2 | Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194 | 08/10/2015 | | | |
| *N/A | 10 CFR 39 | N/A | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |

¹ IMPEP Team: verify that New Mexico does not have any licensees subject to these regulations during each review.