



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 12, 2014

Sandra Hinkel, Chief
Radiation Control Permit Section
12th Floor
Division of Environmental Remediation
New York State Department of
Environmental Conservation
625 Broadway, Albany, NY 12233-7255

Dear Ms. Hinkel:

In response to your April 4, 2014, letter, corrections and updates were identified on the State Regulation Status (SRS) Data Sheet for New York State Department of Environmental Conservation (NYDEC). We have reviewed your request and agree to all changes and updates to the SRS Data Sheet except for Regulation Action Tracking System (RATS) ID: 2012-2 which addresses changes to 10 CFR Part 71, *Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste* and the 10 CFR Part 71 portion of RATS ID: 2012-3, *Technical Corrections, Parts 30, 34, 40 and 71*. Our understanding is that NYDEC is the agency responsible for the issuance of the compatible transportation requirements for implementation in the State of New York and therefore needs to address 10 CFR Part 71 requirements.

Agreement States are expected to adopt the Compatibility provisions of 10 CFR Part 71, including the Compatibility Category B provisions of 10 CFR 71.97, *Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste*, for the requirements pertaining to the shipment of licensed material other than irradiated fuel, meeting the conditions as listed in 10 CFR 71.97(b). This licensed material, which is nuclear waste, is part of authority that the Agreement States have under their 274b. Agreements including the requirements for advance notification to Indian Tribes of these shipments. Agreement States do not have regulatory jurisdiction over irradiated reactor fuel as noted in your letter and should not address that material in the adoption of RATS ID: 2012-2. NYDEC should also address the corrections to 10 CFR Part 71 as noted in RATS ID: 2012-3.

S. Hinkel

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As a result of our review of your request, we have attached a revision to your SRS sheet. This letter, including the SRS Data Sheet, will be posted on the FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>. If you have any questions regarding the revision, please contact me at (301) 415-2320 (Kathleen.Schneider@nrc.gov).

Sincerely,

/RA/

Kathleen Schneider, Sr. Project Manager
State Regulation Review Coordinator
Agreement State Program Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
NYDEC SRS Data Sheet

cc: Timothy Rice, NYDEC

S. Hinkel

-2-

As a result of our review of your information, we have attached a revision to your SRS sheets. This letter, including the SRS Data Sheet, will be posted on the FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>. If you have any questions regarding the revision, please contact me at (301) 415-2320 (Kathleen.Schneider@nrc.gov).

Sincerely,

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Kathleen Schneider, Sr. Project Manager
State Regulation Review Coordinator
Agreement State Program Branch
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
NYDEC SRS Data Sheet

cc: Timothy Rice, NYDEC

DISTRIBUTION: SP05
D. Janda, RSAO
M. Ford, RSAO
JKatanic
NYDEC File: 14-21

Incoming Document: ML14100A020

OFFICE	ASPB
NAME	KSchneider
DATE	06/12/14

ML14162A169

OFFICIAL RECORD COPY

Package ML14100A011

STATE REGULATION STATUS

State: New York Department of Environmental Conservation
 [Corrections are reviewed is identified by a *
 at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 14-21
 Date: June 12, 2014

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	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 (Superceded by 1997-5)	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	Not Applicable	Not Applicable	NYDEC does not need to implement this provision under its portion of the Agreement (ML14100A011).
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	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)

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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 ⁱ	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	Final ML083200009	No Comments 12/05/2008 ML083290560	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	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 (Superseded by 2002-2 and 2005-2)	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 (Superseded by 2004-1)	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 ⁱ	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.

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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 (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) 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 (Superseded 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)

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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, 32, 35, 36, 39 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	Not Applicable	Not Applicable	NYDEC does not need to implement this provision under its portion of the Agreement (ML14100A011).
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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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 65685, 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			
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35	09/28/2012	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
	74 FR 33901				
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	Not Applicable	Not Applicable	NYDEC does not need to implement this provision under its portion of the Agreement (ML14100A011).
*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	Not Applicable	Not Applicable	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015			
*2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015			NYDEC does not need to implement the Part 30, 34 and 40 changes of this requirement under its portion of the Agreement. However, the Part 71 provisions need to be addressed (ML14100A011).
*2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Not Applicable	Not Applicable	NYDEC does not need to implement this provision under its portion of the Agreement (ML14100A011).
2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.

ⁱ IMPEP Team: verify that New York DEC does not have any licensees subject to these regulations during each review.