



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

June 13, 2018

Ann Marie Gray
Environmental Radiation Specialist 2
New York State Department of
Environmental Conservation
Division of Materials Management
Bureau of Hazardous Waste and
Radiation Management
Radiation Control Permit Section
625 Broadway
Albany, NY 12233-7255

Dear Ms. Gray:

We have reviewed the final revisions to the New York State Department of Environmental Conservation regulations 6 NYCRR Part 380, received by our office on April 13, 2018. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and Regulation Amendment Tracking System Identification Numbers (RATS IDs) 1991-4, 1995-5, 1997-1, 1998-1, 1998-5, 2007-3, and 2008-1 as identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Sandra Hinkel on June 6, 2018.

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 Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

The SRS Data Sheet summarizes our knowledge of the status of other New York State 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 NMSS State Communication Portal: <https://scp.nrc.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 Michelle Beardsley, State Regulation Review Coordinator, at 267-884-2305 (Michelle.Beardsley@nrc.gov) or John Miller at 610-337-5089 (John.Miller@nrc.gov).

Sincerely,

/RA Paul Michalak for/

Christian Einberg, Acting Deputy Director
Division of Materials Safety, Security, State
and Tribal Programs
Office of Nuclear Material
and Safeguards

Enclosure:
NYS DEC SRS Data Sheet

SUBJECT: NYS-DEC FINAL REGULATIONS TO RATS IDS: 1991-4, 1995-5, 1997-1, 1998-1, 1998-5, 2007-3 AND 2008-1

DISTRIBUTION: SP[05]
John Miller, RSAO
NY DEC File

OFFICE	DNMS, RI	ASPB	OGC	ASPB:BC	MSTR:DD
NAME	John Miller	MBeardsley	TCampbell NLO via email	PMichalak	PMichalak for CEinberg
DATE	6/7/18	6/7/18	6/8/18	6/13/18	6/13/18

ML18159A250

OFFICIAL RECORD COPY

Package ML18107A056

STATE REGULATION STATUS

State: New York Department of Environmental Conservation

Tracking Ticket Number: 18-35

Date: 06/13/2018

[7 amendment(s) reviewed identified by a * at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	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 and 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 (ML18107A073).
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 and 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30 and 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)
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 ¹	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 and 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 and 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 and 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 and 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.
*1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19 and 20 60 FR 36038	08/14/1998	Proposed ML17089A343 Final ML18107A073	Comment 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40 and 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 and 35 60 FR 48623 (Superceded 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 and 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 and 70 61 FR 24669	06/17/1999	Not Applicable ¹	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 Proposed ML17089A343 Final ML18107A073	No Comment ML082100009 No Comments 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	
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 Letter	Outgoing Package	Notes
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20 and 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 (Superceded 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 and 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71 and 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML061150561 Proposed ML17089A343 Final ML18107A073	Comments 04/25/2006 ML061150021 Comment 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40 and 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	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 and 39 63 FR 39477; 63 FR 45393	10/26/2001	Proposed ML17089A343 Final ML18107A073	No Comments 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 and 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.
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31 and 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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 and 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 and 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 Letter	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 and 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 and 150 72 FR 55864	11/30/2010	Proposed ML17089A343 Final ML18107A073	No Comments 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	
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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19 and 20 72 FR 68043	02/15/2011	Proposed ML17089A343 Final ML18107A073	No Comments 05/09/2017 ML17089A338 No Comments 06/13/2018 ML18107A056	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2011-1	Decommissioning Planning Parts 20, 30, 40 and 70 76 FR 35512	12/17/2015	ML17055A724	02/24/2017 ML17055A711	NYDEC does not have authority to regulate this material under its portion of the Agreement.
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 Parts 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Not Applicable	Not Applicable	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	02/24/2017 ML17055B014	02/24/2017 ML17055A711	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 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.
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018	ML17055A724	02/24/2017 ML17055A711	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73 and 150 79 FR 58664, 80 FR 3865	01/28/2018	ML17055A724	02/24/2017 ML17055A711	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 Letter	Outgoing Package	Notes
2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987	07/13/2018 *extended to 08/15/2020 See STC 17-060			
2015-4	Miscellaneous Corrections, Parts 37 and 40 80 FR 45841	09/02/2018	ML17055A724	02/24/2017 ML17055A711	NYDEC does not have authority to regulate this material under its portion of the Agreement.
2015-5	Miscellaneous Corrections, Parts 19, 20, 30, 32, 37, 40, 61, 70, 71 and 150 80 FR 74974	12/31/2018	ML17055A724	02/24/2017 ML17055A711	NYDEC does not have authority to regulate this material under its portion of the Agreement.

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