



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

June 10, 2021

Mr. John Follette
Program Manager
Radiation Control Program
Nevada Division of Public
and Behavioral Health
675 Fairview Drive, Suite 218
Carson City, NV 89706

Dear Mr. Follette:

We have reviewed the proposed Nevada legally binding requirements, i.e., license conditions for 10 CFR Part 35 notifications, received by our office on May 19, 2021. The legally binding requirements were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules as identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the legally binding requirements with you on June 9, 2021.

As a result of our review, we have one comment that has been identified in the enclosure. Please note that we have limited our review to the legally binding requirements required for compatibility and/or health and safety. We have determined that if these requirements are revised, incorporating our comment and without other significant change, they would 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."

We request that when you revise your legally binding requirements to address our comments, a copy of the revised legally binding requirements be provided to us for review. As requested in NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Nevada, in response to our comments, and provide a copy to Division of Materials Safety, Security, State, and Tribal Programs, NMSS.

The SRS Data Sheet summarizes our knowledge of the status of other Nevada 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 301-415-0275 (michelle.beardsley@nrc.gov).

Sincerely,



Signed by Anderson, Brian
on 06/10/21

Brian C. Anderson, Chief
State Agreement and Liaison Programs Branch
Division of Material Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

SUBJECT: LETTER TO J. FOLLETTE RE: NEVADA PROPOSED LEGALLY BINDING
REQUIREMENTS, I.E., LICENSE CONDITIONS FOR 10 CFR PART 35
NOTIFICATIONS DATE June 10, 2021

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ADAMS Accession No. : ML21140A422 pk and ML21145A038 letter

OFFICE	SLPB	OGC	SLPB:BC
NAME	MBeardsley	JOlmstead	BAnderson
DATE	05/24/21	06/09/21	06/10/21

OFFICIAL RECORD COPY

COMPATIBILITY COMMENTS ON NEVADA LEGALLY BINDING REQUIREMENTS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	License Condition	10 CFR 35.3045 and 35.3047	NA	C	<p>Nevada's license condition needs to make the following revisions:</p> <p>The first sentence of the license condition should state, "In addition to the reporting requirements specified in 10 CFR 35.3045 and 35.3037, the licensee shall report all events listed in this license condition.";and</p> <p>Section 7(a)(1) contains language that can be interpreted differently, i.e., it is unclear what "inclusive, of paragraph (b) of subsection 1" means in this sentence. Please provide clarification to state either:</p> <ul style="list-style-type: none"> a) that the license condition requires that the report include: "the information required to be included in the written report pursuant to subparagraphs (1) to (6) of paragraph (b) to subsection 1." or b) that "the information required to be included in the written report pursuant to subparagraphs (1) to (6), which includes paragraph b of subsection 1." <p>Nevada needs to make the above changes to the license condition to meet the Compatibility Category C designation assigned to 10 CFR 35.3045 and 35.3047.</p>

STATE REGULATION STATUS

State: Nevada

Tracking Ticket Number: 21-30

Date: 06/10/2021

[# 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	Final	No Comments 09/21/1994	Nevada 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	Nevada 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 12/15/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40 and 70 56 FR 64980	10/15/1994	Final	No Comments 9/21/94	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Not Required	Not Required	Nevada has adopted Final Regulations equivalent to RATS ID: 2002-2.
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	Final ML101690074 License Condition ML092120075	No Comments 07/14/2010 ML101800043 No Comments 09/03/2009 ML092260209	Nevada has addresses the outstanding comment in the final regulation through the 2009 license condition.
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Not Applicable ¹	Not Applicable	Nevada 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	Nevada 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	Nevada 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 ML050960361	No Comments 05/19/2005 ML051390275	
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	R ² ML112130269	No Comments 10/19/2011 ML112560277	

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	Final ML101690074	No Comments 07/14/2010 ML101800043	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20 and 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML101690074	Comments 07/14/2010 ML101800043	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Proposed	No Comments 03/10/1999	Nevada has adopted Final Regulations equivalent to RATS ID: 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19 and 20 60 FR 36038	08/14/1998	Final ML101690074	No Comments 07/14/2010 ML101800043	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40 and 70 60 FR 38235	11/24/1998	Final ML101690074	No Comments 07/14/2010 ML101800043	
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	Final ML091820133	Comments 09/18/2009 ML092230010	
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1)	04/01/1999	Proposed	Comments 03/10/1999	Nevada has Final Regulations equivalent to RATS ID: 2004-1.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
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	Final ML033210100	No Comments 12/23/03 ML033580078	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML050960361	No Comments 05/19/2005 ML051390275	
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 ML033210100	No Comments 12/23/03 ML033580078	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20 and 35 62 FR 4120	05/29/2000	Final ML033210100	No Comments 12/23/03 ML033580078	
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)
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	Final ML033210100	No Comments 12/23/03 ML033580078	

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1997-6	Radiological Criteria for License Termination Parts 20, 30, 40 and 70 62 FR 39057	08/20/2000	Final ML033210100	No Comments 12/23/03 ML033580078	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final ML033210100	No Comments 12/23/03 ML033580078	
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 ML033210100	No Comments 12/23/03 ML033580078	
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) Nevada has adopted Final Regulations equivalent to RATS ID: 2002-2.
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML033210100	No Comments 12/23/03 ML033580078	
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	Final ML033210100	No Comments 12/23/03 ML033580078	

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 ML072490051	No Comments 10/29/2007 ML073020215	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	Nevada does not have the 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 ML101690074	No Comments 07/14/2010 ML101800043	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	License Condition ML031970217	No Comments 07/30/2003 ML032120269	
2000-2	New Dosimetry Technology Parts 34, 36 and 39 65 FR 63750	01/08/2004	Final ML072490051	No Comments 10/29/2007 ML073020215	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31 and 32 65 FR 79162	02/16/2004	Final ML072490051	Comments 10/29/2007 ML073020215	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML072490051	No Comments 10/29/2007 ML073020215	

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2002-2	Medical Use of Byproduct Material Parts 20, 32 and 35 67 FR 20249	10/24/2005	R ² ML112130269	No Comments 10/19/2011 ML112560277	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40 and 70 68 FR 57327	12/03/2006	Final ML072490051	No Comments 10/29/2007 ML073020215	
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML101690074	No Comments 07/14/2010 ML101800043	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML072490051	No Comments 10/29/2007 ML073020215	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML112130269	No Comments 10/19/2011 ML112560277	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML053130011	No Comments 11/10/2005 ML053180009	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML112130269	No Comments 10/19/2011 ML112560277	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML091820133	No Comments 09/18/2009 ML092230010	

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2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML083460193	No Comments 01/22/2009 ML083530067	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML112130269	No Comments 10/19/2011 ML112560277	
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	Final ML101690074	No Comments 07/14/2010 ML101800043	
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	Final ML112130269	No Comments 10/19/2011 ML112560277	
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 ML080430350	No Comments 2/28/2008 ML080580177	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19 and 20 72 FR 68043	02/15/2011	Final ML112130269	No Comments 10/19/2011 ML112560277	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Proposed ML112130269	No Comments 10/19/2011 ML112560277	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2011-1	Decommissioning Planning Parts 20, 30, 40 and 70 76 FR 35512	12/17/2015	Proposed ML112130269	No Comments 10/19/2011 ML112560277	
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70 and 150 76 FR 56951	11/14/2014	Proposed ML13196A006	No Comments 09/11/2013 ML13196A005	
2012-1	Change of Compatibility of Parts 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Proposed ML13196A006	No Comments 09/11/2013 ML13196A005	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Proposed ML13196A006	No Comments 09/11/2013 ML13196A005	
2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML13196A006	No Comments 09/11/2013 ML13196A005	
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML13196A006	No Comments 09/11/2013 ML13196A005	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2013-1	Physical Protection of Byproduct Material, Parts 20, 30, 32, 33, 34, 35, 36, 37, 39 and 71 78 FR 16922	03/19/2016	Proposed ML13196A007 Proposed License Condition ML15295A195 Final ML16327A558	No Comments 09/11/2013 ML13196A005 No Comments 11/02/2015 ML15295A193 Comments 01/12/2017 ML16327A557	Part 37 only
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	Proposed ML14013A156 Final ML16327A558	Comments 03/26/2014 ML14013A137 Comments 01/12/2017 ML16327A557	
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018	Proposed ML15027A439 Final ML16327A558	No Comments 02/09/15 ML15027A431 No Comments 01/12/2017 ML16327A557	
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	Proposed ML15041A416 Final ML16327A558	Comments 03/03/2015 ML15041A415 Comment 01/12/2017 ML16327A557	

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			
2015-5	Miscellaneous Corrections, Parts 19, 20, 30, 32, 37, 40, 61, 70, 71 and 150 80 FR 74974	12/31/2018			
2018-1	Medical Use of Byproduct Material – Medical Event Definitions, Training and Experience, and Clarifying Amendments Parts 30, 32 and 35	01/14/2022			
2018-2	Miscellaneous Corrections – Organizational Changes Parts 37, 40, 70 and 71	12/21/2021			
2018-3	Miscellaneous Corrections Parts 1, 2, 34, 37, 50, 71, 73, and 140	7/30/2022			
2019-1	Miscellaneous Corrections Parts 2, 21, 37, 50, 52, 73, and 110	12/18/2022			
2019-2	Organizational Changes and Conforming Amendments Parts 1, 2, 37, 40, 50, 51, 52, 55, 71, 72, 73, 74, 100, 140, and 150	12/30/2022			
2020-1	Individual Monitoring Devices 10 CFR Parts 34, 36, and 39	06/16/2023			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2020-2	Social Security Number Fraud Prevention 10 CFR Parts 9 and 35	08/17/2023			
2020-3	Miscellaneous Corrections 10 CFR Parts 1, 2, 19, 20, 21, 30, 34, 35, 40, 50, 51, 52, 60, 61, 62, 63, 70, 71, 72, 73, 74, 75, 76, 110, and 140	11/16/2023			
*NA	Legally Binding Requirements, i.e., license conditions for 10 CFR Part 35 notifications	NA	Proposed ML21140A424	Comments 06/10/2021 ML21140A422	
NA	Revised final legislation	NA	ML17200D147	No Comments 12/08/2017 ML17200D145	

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

² R stands for revisions to final rule