

November 18, 2005

Clayton J. Bradt, Principal Radiophysicist
Radiological Health Unit
Division of Safety and Health
New York State Department of Labor
NYS Office Campus, Bldg. 12, Room 169
Albany, NY 12240

Dear Mr. Bradt:

We have reviewed the New York State Department of Labor legally binding license condition to implement increased controls for certain licensees that possess certain radioactive materials in quantities of concern, received by our office on November 16, 2005. This license condition was reviewed by comparison to the equivalent NRC requirements that were transmitted from this office on September 2, 2005. We discussed our review of the license condition with you on November 16, 2005.

We have determined that the proposed New York State Department of Labor license condition, if issued without significant change, would meet the compatibility category 'B' designation in NRC Order EA-05-090.

We appreciate receiving the final license condition issued to effected New York State Department of Labor licensees.

The SRS Data Sheet summarizes our knowledge of the status of other New York State Department of Labor regulations and legal binding requirements, 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, will be posted on the STP website: <http://www.hsr.d.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the review, the compatibility categories, or any of the NRC requirements used in the review, please contact Mr. Andrew Mauer of my staff at 301-415-3962 or e-mail: anm@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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Distribution:

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NAME	ANMauer		SATreby		DKRathbun	
	11/16/05*		11/18/05*		11/18/05*	

ML053220432

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STATE REGULATION STATUS

State: New York State Department of Labor

**[One license condition reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]**

Tracking Ticket Number: 5-351

Date: November 18, 2005

NRC Chronology Identification	FR Notice (Date Due for State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁴	NRC Review / Y, N² / Date / ML #⁴	Final State Regulation¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F		6/29/94
ANT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	F-Y	12/5/97 12/24/97	6/29/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 1/28/00	4/15/99
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			Not Applicable SECY-95-112 ⁴
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30, 35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	N 1/28/00	4/15/99
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 1/28/00	4/15/99
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not Applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not Applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 1/28/00	4/15/99

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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; (1/1/98)	1995-1	F	N 1/28/00	4/15/99
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 1/28/00	4/15/99
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	N 1/28/00	4/15/99
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 1/28/00	4/15/99
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/28/00	4/15/99
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/28/00	4/15/99
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			Not Applicable SECY-95-112 ⁴
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1	F	N 1/28/00	4/15/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Record keeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	covered by LC, but not reviewed		overdue
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 1/28/00	4/15/99
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F	see 2002 IMPEP report	

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Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			Not Applicable SECY-95-112 ⁴
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F-Y certification needed	see 2002 IMPEP report	overdue (certification portion)
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6			overdue
Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7			Not Applicable SECY-95-112 ⁴
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	cannot adopt per legal counsel	see 2002 IMPEP report	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			Not required ³
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			overdue
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F	N 1/28/00	4/15/99
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not Applicable SECY-95-112 ⁴

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Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524 (2/2/03)	1999-3	no licensees		Overdue, but Not Applicable SECY-95-112 ⁴
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	need to change reference date		Overdue
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			Overdue
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F-LC for 32.52 (a) & (b)	N 4/2/04 ML040930388	Not Applicable SECY-95-112 ⁴
Revision of the Skin Dose Limit -Part 20	67 FR 16298; 4/5/05	2002-1			Overdue
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; 10/24/05	2002-2	Pharmacy portions only		
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1			
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material--Recognition of Specialty Boards - Part 35	70 FR 16335; (04/29/08)	2005-2	Pharmacy portions only		

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★ Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128; (12/1/05)	2005-3	ML053210235	11/18/05 ML053220432	

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not Required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to the regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time From For Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number.
6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090.