

August 26, 2008

Sandra Hinkel, Chief  
Radiation Control Permit Section  
Bureau of Hazardous Waste & Radiation Management  
Division of Solid and Hazardous Materials  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-8646

Dear Ms. Hinkel:

We have reviewed the New York Department of Environmental Conservation permit condition that was submitted to address Resolution of Dual Regulations of Airborne Effluents of Radioactive Materials; Clean Air Act, received by our office on July 14, 2008. These requirements were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 20 and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on August 26, 2008.

As a result of our review, we have no comments. We have determined that the New York Department of Environmental Conservation license condition 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 York 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 FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

If you have any questions regarding the comments, 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 (email: [Kathleen.schneider@nrc.gov](mailto:Kathleen.schneider@nrc.gov)).

Sincerely,

**/RA/ by KN Schneider for**

James G. Luehman, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures: As stated



**STATE REGULATION STATUS**

State: New York Department of Environmental Conservation

Tracking Ticket Number: 8-70

[ 1 amendment(s) reviewed is identified by a ★

Date: August 26, 2008

at the beginning of the equivalent NRC requirement.]

| RATS ID | NRC Chronology Identification   | Date Due for State Adoption | Incoming Package | Outgoing Package          | Notes   |
|---------|---|-----------------------------|------------------|---------------------------|---|
| 1991-1  | Safety Requirements for Radiographic Equipment Part 34<br>55 FR 843<br><b>(Superceded by 1997-5)</b>  | 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<br>56 FR 11504<br><b>(Superceded by 1997-5)</b>   | 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<br>56 FR 23360; 56 FR 61352;<br>57 FR 38588; 57 FR 57877;<br>58 FR 67657; 59 FR 41641;<br>60 FR 20183; | 01/01/1994                  | Final            | No Comments<br>11/06/1997 |   |
| 1991-4  | Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70<br>56 FR 64980;  | 10/15/1994                  |                  |                           |   |
| 1992-1  | Quality Management Program and Misadministrations Part 35<br>56 FR 34104<br><b>(Superceded by 2002-2)</b>   | 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<br>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<br>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<br>Part 36<br>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<br>Part 61<br>58 FR 33886   | 07/22/1996                  | Not Applicable <sup>i</sup> | 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<br>Parts 30, 40, 70<br>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<br>Part 40<br>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<br>Parts 30, 40, 70<br>59 FR 36026  | 08/15/1997                  |                             |                  |   |
| 1995-1  | Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use<br>Parts 30, 32, 35<br>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   | 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<br>Parts 20, 61<br>60 FR 15649; 60 FR 25983   | 03/01/1998                  |                             |                  |   |
| 1995-4  | Performance Requirements for Radiography Equipment<br>Part 34<br>60 FR 28323<br><b>(Superseded by 1997-5)</b>   | 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<br>60 FR 36038  | 08/14/1998                  |                                   |                        |   |
| 1995-6  | Clarification of Decommissioning Funding Requirements Parts 30, 40, 70<br>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<br>60 FR 48623<br><b>(Superceded by 2002-2 and 2005-2)</b>  | 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<br>60 FR 50248; 61 FR 28724<br><b>(Superceded by 2004-1)</b>         | 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<br>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<br>61 FR 24669                    | 06/17/1999                  | Not Applicable <sup>i</sup>       | 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<br>61 FR 65120                     | 01/9/2000                   | License Condition ML08221004<br>4 | No Comment ML082100009 |   |
| 1997-2  | Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150<br>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<br>Parts 20, 35<br>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<br>Part 71<br>62 FR 5907<br><b>(Superceded by 2004-1)</b>   | 02/10/2000                  | Not Required             | Not Required                          | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)<br><br>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<br>Parts 30, 34, 71, 150<br>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<br>Parts 20, 30, 40, 70<br>62 FR 39057  | 08/20/2000                  |                          |                                       |  |
| 1997-7  | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea<br>Part 30<br>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<br>Parts 30, 40, 61, 70, 71, 150  | 02/12/2001                  | Final<br>ML06115056<br>1 | Comments<br>04/25/2006<br>ML061150021 |  |
| 1998-2  | Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees<br>Parts 30, 40, 70<br>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<br>Part 35<br>63 FR 31604<br><b>(Superceded by 2002-2)</b>  | 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<br>Part 34<br>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<br>Parts 20, 35, 36<br>63 FR 39477; 63 FR 45393                                       | 10/26/2001                  |                          |  |   |
| 1998-6  | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment<br>Part 20<br>63 FR 50127  | 11/20/2001                  | Final<br>ML06033021<br>0 | No Comments<br>02/28/2006<br>ML060720035 |   |
| 1999-1  | Radiological Criteria for License Termination of Uranium Recovery Facilities<br>Part 40<br>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<br>Part 31<br>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<br>Part 20<br>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<br>Part 39<br>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<br>Parts 34, 36, 39<br>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   | 02/16/2004                  | Not Applicable           | Not Applicable                           | NYDEC does not have authority to regulate this material under its portion of the Agreement. |

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| 2002-1  | Revision of the Skin Dose Limit<br>Part 20<br>67 FR 16298   | 04/05/2005                  |                          |  |   |
| 2002-2  | Medical Use of Byproduct Material<br>Parts 20, 32, 35<br>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<br>Parts 30, 40, 70<br>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<br>Part 71<br>69 FR 3697 | 10/01/2007                  | Final<br>ML06033021<br>0 | No Comments<br>02/28/2006<br>ML060720035 |   |
| 2005-1  | Security Requirements for Portable Gauges Containing Byproduct Material<br>Part 30<br>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<br>Part 35  | 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-   | 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<br>Parts 20, 30, 32, 35, 40 and 70   | 03/27/2009                  | Not Applicable           | Not Applicable                           | NYDEC does not have authority to regulate this material under its portion of the Agreement. |
| 2006-2  | National Source Tracking System - Serialization Requirements<br>Part 32 with reference to Part 20 Appendix E<br>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<br>Part 20<br>71 FR 65865, 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. |



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|---------|--|-----------------------------|------------------|------------------|---|
| 2007-1  | Medical Use of Byproduct Material - Minor Corrections and Clarifications<br>Parts 32 and 35<br>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<br>Parts 30, 31, 32, 150<br>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<br>Parts 20, 30, 31, 32, 33, 35, 61, 150<br>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<br>NRC Order EA-07-305<br>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<br>Parts 19, 20<br>72 FR 68043   | 02/15/2011                  |                  |                  |   |

<sup>i</sup> IMPEP Team: verify that NY DEC does not have any licensees subject to these regulations during each review.