

February 23, 2010

Steven Gavitt, CHP, Director  
Bureau of Environmental Radiation Protection  
New York State Health Department  
547 River Street  
Troy, NY 12180-2216

Dear Mr. Gavitt:

We have reviewed the New York license condition that was submitted to address Energy Compensation Sources for Well Logging and other Regulatory Clarifications Part 39, received by our office on January 12, 2010. This license condition was reviewed by comparison to the equivalent NRC rules in 10 CFR Part 39 and the requirements of the amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the license condition with Robert Dansereau on February 22, 2010.

As a result of our review, we have no comments. We have determined that the New York license condition meets 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 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, is posted on the FSME website:  
<http://nrc-stp.ornl.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 Kathleen Schneider, State Regulation Review Coordinator at (301) 415-2320 ([kathleen.schneider@nrc.gov](mailto:kathleen.schneider@nrc.gov)) or Carmen Rivera at (301) 415-6618 ([carmen.rivera@nrc.gov](mailto:carmen.rivera@nrc.gov)).

Sincerely,

*/RA/*

Terrence Reis, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosures:  
As stated

**[Concurrence Page]**

Enclosures: As stated

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| OFFICE | ASPB      | ASPB       | OGC        | ASPB:BC   | MSSA:DD  |
|--------|-----------|------------|------------|-----------|----------|
| NAME   | C. Rivera | KSchneider | BJones     | DWhite    | TReis    |
| DATE   | 01/21 /10 | 02/04 /10  | 02/ 18 /10 | 02/ 23/10 | 02/23/10 |

**ML100350729**

**OFFICIAL RECORD COPY**

**Package ML100350697**

**STATE REGULATION STATUS**

State: New York State Health Department

Tracking Ticket Number: 10-3

[1 amendment(s) reviewed is identified by a ★  
at the beginning of the equivalent NRC requirement.]

Date: February 23, 2010

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package | Outgoing Package          | Notes   |
|---------|--|-----------------------------|------------------|---------------------------|---|
| 1991-1  | Safety Requirements for Radiographic Equipment<br>Part 34<br>55 FR 843<br><b>(Superceded by 1997-5)</b>  | 01/10/1994                  | Final            | No Comments               | NYSHD has not yet adopted Final Regulations equivalent to RATS ID: 1997-5.<br><br>Adopted by NYS DOL which has since merged with the NYS DOH ML092190342. |
| 1991-2  | ASNT Certification of Radiographers<br>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<br>Part 20<br>56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877;<br>58 FR 67657; 59 FR 41641; 60 FR 20183; | 01/01/1994                  | Final            | Comments<br>12/24/1997    | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.   |
| 1991-4  | Notification of Incidents<br>Parts 20, 30, 31, 34, 39, 40, 70<br>56 FR 64980;  | 10/15/1994                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.   |
| 1992-1  | Quality Management Program and Misadministrations<br>Part 35<br>56 FR 34104<br><b>(Superceded by 2002-2)</b>   | 01/27/1995                  |                  |                           | NYSHD has not yet adopted Final Regulations equivalent to RATS ID: 2002-2.  |
| 1992-2  | Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions<br>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.  |

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|---------|---|-----------------------------|------------------|---------------------------|---|
| 1993-1  | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]<br>Parts 30, 40<br>58 FR 39628            | 10/25/1996                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.                             |
| 1993-2  | Licensing and Radiation Safety Requirements for Irradiators<br>Part 36<br>58 FR 7715  | 07/01/1996                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.                             |
| 1993-3  | Definition of Land Disposal and Waste Site QA Program<br>Part 61<br>58 FR 33886   | 07/22/1996                  | Not Applicable   | Not Applicable            | NYSHD does not have authority to regulate this material under its portion of the Agreement. (NYDEC) |
| 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            | NYSHD 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                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.                             |
| 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                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.                             |
| 1995-2  | Frequency of Medical Examinations for Use of Respiratory Protection Equipment<br>Part 20<br>60 FR 7900  | 03/13/1998                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH ML092190342.                             |

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|---------|--|-----------------------------|------------------|---------------------------|--|
| 1995-3  | Low-Level Waste Shipment Manifest Information and Reporting<br>Parts 20, 61<br>60 FR 15649; 60 FR 25983                                  | 03/01/1998                  | Not Applicable   | Not Applicable            | NYSHD does not have authority to regulate this material under its portion of the Agreement.  |
| 1995-4  | Performance Requirements for Radiography Equipment<br>Part 34<br>60 FR 28323<br><b>(Superseded by 1997-5)</b>                            | 06/30/1998                  | Final            | No Comments<br>01/28/2000 | NYSHD has not yet adopted Final Regulations equivalent to RATS ID: 1997-5.<br><br>Adopted by NYS DOL which has since merged with the NYS DOH<br>ML092190342. |
| 1995-5  | Radiation Protection Requirements: Amended Definitions and Criteria<br>Parts 19, 20<br>60 FR 36038                                       | 08/14/1998                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH<br>ML092190342.   |
| 1995-6  | Clarification of Decommissioning Funding Requirements<br>Parts 30, 40, 70<br>60 FR 38235   | 11/24/1998                  | Final            | No Comments<br>01/28/2000 | Adopted by NYS DOL which has since merged with the NYS DOH<br>ML092190342.   |
| 1995-7  | Medical Administration of Radiation and Radioactive Materials<br>Parts 20, 35<br>60 FR 48623<br><b>(Superseded by 2002-2 and 2005-2)</b> | 10/20/1998                  |                  |                           |  |
| 1996-1  | Compatibility with the International Atomic Energy Agency<br>Part 71<br>60 FR 50248; 61 FR 28724<br><b>(Superseded by 2004-1)</b>        | 04/01/1999                  | Final            | No Comments<br>01/28/2000 | NYSHD has not yet adopted Final Regulations equivalent to RATS ID: 2004-1.<br><br>Adopted by NYS DOL which has since merged with the NYS DOH<br>ML092190342. |

| RATS ID | NRC Chronology Identification   | Date Due for State Adoption | Incoming Package   | Outgoing Package   | Notes   |
|---------|---|-----------------------------|--|--|---|
| 1996-2  | One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses<br>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<br>Parts 20, 30, 40, 61, 70<br>61 FR 24669                              | 06/17/1999                  |  |  |   |
| 1997-1  | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act<br>Part 20<br>61 FR 65120                               | 01/9/2000                   | Not Applicable   | Not Applicable   | NYSHD does not have authority to regulate this material under its portion of the Agreement.             |
| 1997-2  | Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State<br>Part 150<br>62 FR 1662           | 02/27/2000                  | Final<br>ML092260295<br><br>License Condition<br>ML092260295 | No Comments<br>09/08/2009<br>ML092310687<br><br>No Comments<br>09/08/2009<br>ML092310687 |   |
| 1997-3  | Criteria for the Release of Individuals Administered Radioactive Material<br>Parts 20, 35<br>62 FR 4120   | 05/29/2000                  |  |  |   |
| 1997-4  | Fissile Material Shipments and Exemptions<br>Part 71<br>62 FR 5907<br><b>(Superseded 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) |
| 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                  |  |  |   |

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package                 | Outgoing Package                         | Notes   |
|---------|--|-----------------------------|----------------------------------|--|---|
| 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                  | License Condition<br>ML080170561 | No Comments<br>03/20/2008<br>ML080800306 |   |
| 1998-1  | Deliberate Misconduct by Unlicensed Persons<br>Parts 30, 40, 61, 70, 71, 150<br>63 FR 1890; 63 FR 13773                                | 02/12/2001                  |                                  |  |   |
| 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>(Superseded 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) |
| 1998-4  | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations<br>Part 34<br>63 FR 37059 | 07/09/2001                  |                                  |  |   |
| 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                  | Not Applicable                   | Not Applicable                           | NYSHD does not have authority to regulate this material under its portion of the Agreement.             |

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|---------|--|-----------------------------|---|--|---|
| 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                           | NYSHD 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                  | License Condition<br>ML092260298                          | No Comments<br>09/03/2009<br>ML092320011 |   |
| ★2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications<br>Part 39<br>65 FR 20337   | 05/17/2003                  | License Condition<br>ML100120053                          | No Comments<br>02/23/2010<br>ML100350697 |   |
| 2000-2  | New Dosimetry Technology<br>Parts 34, 36, 39<br>65 FR 63750  | 01/08/2004                  |   |  |   |
| 2001-1  | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material<br>Parts 30, 31, 32<br>65 FR 79162                        | 02/16/2004                  | License Condition for 32.52 (a) & (b) only<br>ML040770455 | No Comments<br>04/02/2004<br>ML040930388 | Adopted by NYS DOL which has since merged with the NYS DOH<br>ML092190342.                  |
| 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                  | License Condition<br>ML080170561                          | No Comments<br>03/20/2008<br>ML080800306 | Part 35 with respect to gamma stereotactic radiosurgery and HDR only                        |



| RATS ID | NRC Chronology Identification   | Date Due for State Adoption | Incoming Package                 | Outgoing Package                         | Notes   |
|---------|---|-----------------------------|----------------------------------|--|---|
| 2003-1  | Financial Assurance for Materials Licensees<br>Parts 30, 40, 70<br>68 FR 57327  | 12/03/2006                  |                                  |  |   |
| 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>ML092590171             | Comments<br>10/23/2009<br>ML092710056    |   |
| 2005-1  | Security Requirements for Portable Gauges Containing Byproduct Material<br>Part 30<br>70 FR 2001                            | 07/11/2008                  | License Condition<br>ML092590174 | No Comments<br>10/07/2009<br>ML092710325 |   |
| 2005-2  | Medical Use of Byproduct Material - Recognition of Specialty Boards<br>Part 35<br>70 FR 16336; 71 FR 1926                   | 04/29/2008                  |                                  |  |   |
| 2005-3  | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090)<br>70 FR 72128                            | 12/01/2005                  | License Condition<br>ML053120138 | No Comments<br>11/10/2005<br>ML053180041 |   |
| 2006-1  | Minor Amendments<br>Parts 20, 30, 32, 35, 40 and 70<br>71 FR 15005  | 03/27/2009                  |                                  |  |   |
| 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 <sup>1</sup>      | Not Applicable                           | NYSHD responded on 02/02/2007 to FSME-06-110 stating that they currently had no licensees applicable to this rule.<br>ML070330060 |
| 2006-3  | National Source Tracking System<br>Part 20<br>71 FR 65685, 72 FR 59162  | 01/31/2009                  | License Condition<br>ML083240082 | No Comments<br>12/11/2008<br>ML083390393 |   |

| RATS ID | NRC Chronology Identification  | Date Due for State Adoption | Incoming Package     | Outgoing Package                      | Notes |
|---------|--|-----------------------------|----------------------|---------------------------------------|-------|
| 2007-1  | Medical Use of Byproduct Material - Minor Corrections and Clarifications<br>Parts 32 and 35<br>72 FR 45147, 54207  | 10/29/2010                  |                      |                                       |       |
| 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                  |                      |                                       |       |
| 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                  | Final<br>ML091730154 | Comments<br>08/04/2009<br>ML091820407 |       |
| 2008-1  | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent<br>Parts 19, 20<br>72 FR 68043   | 02/15/2011                  |                      |                                       |       |
| 2009-1  | Medical Use of Byproduct Material – Authorized User Clarification<br>Part 35<br>74 FR 33901  | 09/28/2012                  |                      |                                       |       |

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