



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

February 17, 2016

Mr. Santiago Rodriguez, Bureau Chief
New Mexico Department of Environment
Radiation Control Bureau
1100 St. Francis Drive
P.O. Box 5469
Sante Fe, NM 87502-5469

Dear Mr. Rodriguez:

We have reviewed the New Mexico legally binding requirements for the Physical Protection of Byproduct Material, 10 CFR Part 37, received by our office on January 11, 2016. These requirements were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the legally binding requirements with Victor Diaz on February 10, 2016.

As a result of our review, we have no comments. We have determined that New Mexico's legally binding requirements 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 Mexico 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>.

Additionally, please note that NRC has previously issued certain security Orders to one New Mexico licensee. We have not listed the name of the licensee in this letter because that information is Official Use Only and cannot be made publicly available. Because the NRC-issued Orders are still legally binding, they must be rescinded by NRC concurrent with New Mexico's promulgation of final regulations. Accordingly, close coordination is needed between NRC and your office to ensure there are no conflicts, duplications, or gaps regarding the security-related requirements for these licensees. Please contact Adelaide Giantelli, Chief, Source Management and Protection Branch, NMSS (Adelaide.Giantelli@nrc.gov) for information regarding the affected New Mexico licensee and for coordination with rescission of the NRC-issued Orders and New Mexico's imposition of the legally binding requirement on this licensee.

S. Rodriguez

-2-

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 Joe O'Hara at (301) 415-6854 (Joe.OHara@nrc.gov).

Sincerely,

/RA/

PMichalak for PHenderson

Pamela Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosure:
New Mexico SRS Data Sheet

STATE REGULATION STATUS

State: New Mexico

Tracking Ticket Number: 16-36

Date: 02/17/2016

[1 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 09/15/1997 | New Mexico 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 | New Mexico 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 08/18/1997 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40 and 70 56 FR 64980 | 10/15/1994 | Final | No Comments 09/15/1997 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2) | 01/27/1995 | | | New Mexico 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. |

Enclosure

| 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 | No Comments 07/14/2000 | |
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Final ML13123A091 | Comments 07/29/2013 ML13182A285 | |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Not Applicable ¹ | Not Applicable | New Mexico 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 | Final | No Comments 07/14/2000 | 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 | New Mexico does not have authority to regulate this material under its Agreement. |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40 and 70 59 FR 36026 | 08/15/1997 | Final | No Comments 07/14/2000 | |
| 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 | Final | No Comments 07/14/2000 | |

| 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 | No Comments 07/14/2000 | |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20 and 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final | No Comments 07/14/2000 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Final ML021550112 | No Comments 06/12/2002 ML021650055 | New Mexico 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 | No Comments 07/14/2000 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40 and 70 60 FR 38235 | 11/24/1998 | Final | No Comments 07/14/2000 | |
| 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 | No Comments 07/14/2000 | New Mexico has adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2. |
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1) | 04/01/1999 | Final | No Comments 07/14/2000 | |

| 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 | No Comments 07/14/2000 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 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 ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20 and 35 62 FR 4120 | 05/29/2000 | Final | No Comments 07/14/2000 | |
| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded 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 ML021550112 | No Comments 06/12/2002 ML021650055 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|--|-----------------------------|----------------------|--|---|
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40 and 70 62 FR 39057 | 08/20/2000 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 1997-7 | Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634 | 01/02/2001 | Final ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 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 ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 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 | Final ML021550112 | No Comments 06/12/2002 ML021650055 | |
| 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 ML040640597 | No Comments 03/11/2004 ML040760219 | |

| 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 ML040640597 | No Comments 03/11/2004 ML040760219 | |
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Not Applicable | Not Applicable | New Mexico does not have 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 ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | inal ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36 and 39 65 FR 63750 | 01/08/2004 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31 and 32 65 FR 79162 | 02/16/2004 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |

| 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 | Final ML052020072 | No Comments 08/23/2005 ML052360017 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32 and 35 67 FR 20249 | 10/24/2005 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40 and 70 68 FR 57327 | 12/03/2006 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | Currently in place as a LC see NRC response letter ML072470593 dated 09/05/2007. |
| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|---|-----------------------------|--|--|--|
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML080650711 | No Comments 03/27/2008 ML080870430 | New Mexico chose to revise its IC License Condition at the time of the Fingerprinting Order EA-07-305 License Condition Implementation. These were only minor editorial updates. The original license condition can be seen at ML053070159. The response letter sent 11/03/2005 can be seen at ML053080022 |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685 | 02/06/2007 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Final ML091280050 License Condition ML083080004 | No Comments 07/16/2009 ML091680237 No Comments 11/18/2008 ML083120010 | |
| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207 | 10/29/2010 | Final ML091280050 | No Comments 07/16/2009 ML091680237 | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|--|-----------------------------|----------------------------------|--|-------|
| 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 ML091280050 | No Comments 07/16/2009 ML091680237 | |
| 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 ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 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 ML080650711 | No Comments 03/27/2008 ML080870430 | |
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19 and 20 72 FR 68043 | 02/15/2011 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40 and 70 76 FR 35512 | 12/17/2015 | | | |
| 2011-2 | Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70 and 150 76 FR 56951 | 11/14/2014 | | | |

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|---|-----------------------------|----------------------------------|--|--------------|
| 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 | | | |
| 2012-2 | Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194 | 08/10/2015 | | | |
| 2012-3 | Technical Corrections Parts 30, 34, 40 and 71 77 FR 39899 | 08/06/2015 | | | |
| 2012-4 | Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666 | 10/23/2015 | | | |
| *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 | License Condition ML16019A248 | No Comments 02/17/2016 ML16019A243 | 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 | | | |
| 2015-1 | Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143 | 01/26/2018 | | | |
| 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 | | | |

| 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 | | | |
| 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 | | | |
| N/A | Part 39 | N/A | Final ML12157A103 | No Comments 06/29/2012 ML12166A296 | |

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