

October 5, 2010

Karen Beckley, Supervisor
Bureau of Health Protection
Nevada State Health Division
1179 Fairview Drive, Suite 201
Carson City, NV 89701-5405

Dear Ms. Beckley:

Thank you for your letter dated September 1, 2010, in which you submitted clarification of certain comments in State Regulation Status (SRS) Data Sheet, dated July 14, 2010. You requested our review of the entries for RATS ID 1995-3, 1995-7, 1996-1, 2001-1, and 2002-2.

Attached is the comment resolution documenting the results of our review. We agree with your comments regarding the entries for RATS 1995-7 and 1996-1, as noted in items 2 and 3. The SRS data sheet has been revised to reflect this change and is attached. Our comments on the remaining three items are noted in the comment resolution. 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 our review, please contact Kathleen Schneider, State Regulation Review Coordinator at 301-415-2320 (kathleen.schneider@nrc.gov) or Torre Taylor at 301-415-7900 (torre.taylor@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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COMMENT RESOLUTION ON SRS DATA SHEET

RATS ID		TITLE	STATE COMMENT	STAFF RESPONSE
1	1995-3	Low-Level Waste Shipment Manifest Information and Reporting, 10 CFR 20, 61	Nevada states that this regulation addressed in (1) Section 76 of R185-08A, effective May 7, 2010, and in (2) Appendix G to 10 CFR Part 20, as on November 16, 2005, and has been adopted in its entirety in NAC 459.0196.	<p>In our review of Nevada's comment, NRC staff is still unable to find the language that corresponds to Section 2006(a)(1).</p> <p>If Nevada sends the specific language for Section 2006(a)(1), NRC will conduct a formal review of that regulation under FSME Procedure SA-201, "Review of State Regulatory Requirements."</p>
2	1995-7	Medical Administration of Radiation and Radioactive Materials 10 CFR 20, 35	Nevada states that it has adopted 10 CFR Part 35 as it existed on November 30, 2007, in Section 74 in R185-08A, which came into effect on May 7, 2010.	Nevada is correct in that the SRS data sheet for this RATS ID incorrectly states that there are comments. The SRS data sheet will be corrected to accurately reflect the status of Nevada's regulations for RATS 1995-7.
3	1996-1	10 CFR 71: Compatibility with the IAEA	Nevada states that 10 CFR Part 71, as it existed on November 14, 2007 has been adopted in Section 25 of R185-08A, effective May 7, 2010.	Nevada is correct in that RATS 1996-1 was superseded by RATS 2004-1. Nevada has addressed the requirements of RATS 2004-1 and was notified, by letter dated July 14, 2010, that there were no comments. The SRS data sheet will be corrected to accurately reflect that Nevada has adopted final regulations equivalent to RATS ID 2004-1.

RATS ID		TITLE	STATE COMMENT	STAFF RESPONSE
4	2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material 10 CFR 30, 31, 32	Nevada stated that it has adopted this regulation and is in full compliance. The only comment is that it is more restrictive than the NRC's.	As noted in All Agreement States letter FSME-07-087, dated September 20, 2007, the NRC will continue to hold compatibility determinations in this area in abeyance until the final rule is published and the Agreement State implementation date becomes effective. NRC staff is tracking all States where there are comments even though the compatibility determinations are held in abeyance. With the issuance of the new "general license" rule and its effective implementation by Agreement States, NRC will supersede the entry for RATS 2001-1 for all States in this situation, including Nevada.
5	2002-2	Medical Use of Byproduct Material 10 CFR 20, 32, and 35	Nevada changed "authorized user" to "licensee," based on NRC's instruction. Please see SRS September 18, 2009, item 11. The terms will be again reversed in the next legislative cycle in 2011-2012.	Nevada made the revision based on previous direction by NRC. NRC staff regrets the error in the September 18, 2009 review and notes through this letter, which will be available to the public, that Nevada will correct this during the next revision of the regulations. NRC will track the comment until Nevada revises its regulation during the next legislative cycle in 2011-2012.

STATE REGULATION STATUS

State: Nevada

Tracking Ticket Number: 10-45

[No amendment(s) reviewed. State Regulations Status (SRS)

Date: October 5, 2010

Corrections are identified by a ★ 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 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, 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, 35 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 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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, 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, 35 59 FR 61767; 59 FR 65243; 60 FR 322	01/01/1998	Final	No Comments 09/18/2009 ML092230010	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment	03/13/1998	Final ML101690074	No Comments 07/14/2010 ML101800043	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 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, 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, 35 60 FR 48623 (Superceded by 2002-2 and 2005-2)	10/20/1998	Final	No Comments 09/18/2009 ML092230010 10/05/2010 ML102740221	
*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		Nevada has adopted Final Regulations equivalent to RATS ID: 2004-1. ML102740221
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 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, 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	

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1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 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 (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, 150 62 FR 28947	06/27/2000	Final ML033210100	No Comments 12/23/03 ML033580078	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 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 Micro curie 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,	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, 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		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	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 35, 36 63 FR 39477; 63 FR 45393	10/26/2001	Final ML033210100	No Comments 12/23/03 ML033580078	
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	Comments 09/18/2009 ML092230010	
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, 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	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, 35 67 FR 20249	10/24/2005	Final ML101690074	Comments 07/14/2010 ML101800043	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 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	04/29/2008	Proposed ML091940055	No Comments 08/18/2009 ML092100500	
2005-3	Increased Controls for Risk-Significant Radioactive Sources	12/01/2005	License Condition ML053130011	No Comments 11/10/2005 ML053180009	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70	03/27/2009	Proposed ML091940055	No Comments 08/18/2009 ML092100500	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final	No Comments 09/18/2009 ML092230010	
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	Proposed ML091940055	No Comments 08/18/2009 ML092100500	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 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, 150 72 FR 55864	11/30/2010	Proposed ML091940055	No Comments 08/18/2009 ML092100500	
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, 20 72 FR 68043	02/15/2011	Proposed ML091940055	No Comments 08/18/2009 ML092100500	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012			

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