



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

December 23, 2014

Ms. Julia A. Schmitt, Manager  
Office of Radiological Health  
Department of Health and Human Services  
301 Centennial Mall South  
P.O. Box 95026  
Lincoln, Nebraska 68509-5026

Dear Ms. Schmitt:

We have reviewed the proposed changes to the Nebraska regulations in Title 180 NAC 1, 3, 4, 5, 13, 14, 19, and 24, received by our office on October 1, 2014. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the nine amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Howard Shuman on December 22, 2014.

As a result of our review, we have six comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the Nebraska regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Nebraska regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other significant change, they would 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."

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in NMSS (formerly the Office of Federal and State Materials and Environmental Management Programs) Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, and provide a copy to the Division of Material Safety, State, Tribal, and Rulemaking Programs, NMSS.

The SRS Data Sheet summarizes our knowledge of the status of other Nebraska 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 Web site: <http://nrc-stp.ornl.gov/rulemaking.html>.

Additionally, please note that NRC has previously issued certain security Orders to four Nebraska licensees. We have not listed the names of the licensees 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 the NRC concurrent with Nebraska'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, Branch Chief, Source Management and Protection Branch, NMSS, for information regarding the affected Nebraska licensees and for coordination with rescission of the NRC-issued Orders for these licensees after Nebraska's promulgation and NRC's review of the final Nebraska regulations.

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 Janine Katanic, State Regulation Review Coordinator, at 817-200-1151 ([janine.katanic@nrc.gov](mailto:janine.katanic@nrc.gov)) or Torre Taylor at 301-415-7900 ([torre.taylor@nrc.gov](mailto:torre.taylor@nrc.gov)).

Sincerely,

***/RA Chris Einberg for/***

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

Enclosures:

1. Compatibility Comments
2. Nebraska SRS Data Sheet

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Pamela J. Henderson, Deputy Director  
 Division of Material Safety, State, Tribal  
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DISTRIBUTION:  
 DIR RF (14-56)  
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OFFICE	ASPB	ASPB	OGC	ASPB:BC	MSSA:DD
NAME	MBearsdley for TTaylor	MBeardsley for JKatanic	EHouseman for BJones	DWhite	CEinberg for PHenderson
DATE	12/1/14	12/1/14	12/17/14	12/23/14	12/23/14

**COMPATIBILITY COMMENTS ON NEBRASKA PROPOSED REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	Title 180 Chapter 13- 020.05	§71.97(e)	2012-2	B	<p><b>Advance notification of shipment of irradiated reactor fuel and nuclear waste</b></p> <p>Nebraska's regulation includes a requirement for licensees to maintain a record of the name of the individual contacted for 1 year.</p> <p>Nebraska needs to revise the 1 year requirement to 3 years.</p> <p>Nebraska needs to make the above change to meet the Compatibility Category B designation assigned to 10 CFR 71.97(e).</p>
2	Title 180 Chapter 3- 004.03 Item 5	§30.22	2012-4	B	<p><b>Certain industrial devices</b></p> <p>Nebraska needs to change "10 CFR 32.3" to "10 CFR 32.30" in Chapter 3-004.03, Item 5 a.</p> <p>Nebraska needs to change "CRF" to "CFR" in Chapter 3-004.03, Item 5.b.</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 30.22.</p>
3	Title 180 Chapter 3- 031.04	§32.210(d)	2012-4	B	<p><b>Registration of product information</b></p> <p>Nebraska needs to change "30" to "3" in the reference "30-014.10."</p> <p>Nebraska needs to make this change to meet the Compatibility Category B designation assigned to 10 CFR 32.210(d).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	Title 180 Chapter 24-007.03	§37.27(c)	2013-1	B	<p><b>Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material</b></p> <p>Nebraska needs to remove "TWB-" in the mail stop address in Section 24-007.03.</p> <p>Nebraska needs to change the phone number from 301-492-3531 to 301-415-7513 in Section 27-007.03B.</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 37.27(c).</p>
5	Title 180 Chapter 24-023	§37.77, (a)-(d)	2013-1	B	<p><b>Advance notification of shipment of category 1 quantities of radioactive material</b></p> <p>Nebraska needs to remove "NRC" as part of the entities to notify in Section 24-023.01A.</p> <p>Nebraska needs to remove the contact information for NRC in Section 24-023.01A.</p> <p>Nebraska needs to change the notification from the NRC to the Department in Section 24-023.03, "Revision notices," in paragraphs A and B; and in Section 24-024, "Cancelation notice."</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 37.77(a)-(d).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	Title 180 Chapter 3-007.02	§40.22(b)(1) – (3)	2013-2	B	<p><b>Small quantities of source material</b></p> <p>Nebraska needs to include an equivalent provision to 10 CFR 40.10, "Deliberate misconduct."</p> <p>Nebraska needs to correct the cross reference to Chapter 3-017.10 included in Chapter 3-007.02. This section of the regulation could not be found.</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 40.22(b)(1)-(3).</p>
7	Title 180 Chapter 3-004.03 Item 1.a.(2) (c)	§30.15(a)(2)	2012-4	B	<p><b>Certain items containing byproduct material</b></p> <p>Nebraska needs to revise the language in Chapter 3-004.03 Item 1.a.(2) (c) to delete the words "that" and the first instance of "the" because the section as written, is a fragment.</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 30.15(a)(2).</p>
8	Title 180 Chapter 3-003.03 Item 9	§40.13(c)(10)	2013-2	B	<p><b>Unimportant quantities of source material</b></p> <p>Nebraska needs to insert the word "transfer" between the words "initially" and "for sale."</p> <p>Nebraska needs to change "19 CFR 40.52" to "10 CFR 40.52."</p> <p>Nebraska needs to make the above changes to meet the Compatibility Category B designation assigned to 10 CFR 40.13(c)(10).</p>

**STATE REGULATION STATUS**

State: Nebraska

Tracking Ticket Number: 14-56

Date: December 23, 2014

[9 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 Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 ( <b>Superceded by 1997-5</b> )	01/10/1994	Final	10/7/97	Nebraska has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 ( <b>Superceded by 1997-5</b> )	none	Not Required	Not Required	Nebraska 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 10/07/1997	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980	10/15/1994	Final	10/7/97	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 ( <b>Superceded by 2002-2</b> )	01/27/1995			
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes

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	Parts 30, 35 57 FR 45566				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 ML022800655	No Comments 10/18/2002 ML022960258	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final ML022800655	No Comments 10/18/2002 ML022960258	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable <sup>i</sup>	Not Applicable	Nebraska does not 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	Nebraska does not have the 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 ML022800655	No Comments 10/18/2002 ML022960258	



RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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 ML022800655	No Comments 10/18/2002 ML022960258	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final	No Comments 05/19/1999	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final	No Comments 05/19/1999	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 <b>(Superceded by 1997-5)</b>	06/30/1998	Final ML003763184	No Comments 02/01/2001 ML010330318	Nebraska has adopted Final Regulations equivalent to RATS ID: 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final	No Comments 05/19/1999	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final ML022800566	No Comments 10/18/2002 ML022960258	
1995-7	Medical Administration of Radiation and Radioactive Materials	10/20/1998	Final ML022800566	No Comments 10/18/2002	

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	Parts 20, 35 60 FR 48623 <b>(Superceded by 2002-2 and 2005-2)</b>			ML022960258	
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 <b>(Superceded by 2004-1)</b>	04/01/1999	Final ML003763184	No Comments 02/01/2001 ML010330318	
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 ML022800566	No Comments 10/18/2002 ML022960258	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML003763184	No Comments 02/01/2001 ML010330318	
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 ML003763184	No Comments 02/01/2001 ML010330318	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material	05/29/2000	Final ML022800655	No Comments 10/18/2002	

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	Parts 20, 35 62 FR 4120			ML022960258	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 <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 Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final ML003763184	No Comments 02/01/2001 ML010330318	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final ML011130396	No Comments 07/20/2001 ML012010439	
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 ML003763184	No Comments 02/01/2001 ML010330318	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML031500771	No Comments 06/09/2003 ML031610005	
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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 <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 Part 34 63 FR 37059	07/09/2001	Final ML003763184	No Comments 02/01/2001 ML010330318	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML031500771	No Comments 06/09/2003 ML031610005	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML022800655	No Comments 10/18/2002 ML022960258	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	Nebraska 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.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML031500771	No Comments 06/09/2003 ML031610005	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML031500771	No Comments 06/09/2003 ML031610005	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML031500771	No Comments 06/09/2003 ML031610005	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML13114A244	No Comments 07/25/2013 ML13182A071	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML093110093	No Comments 01/14/2010 ML093431027	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML093110093	No Comments 01/14/2010 ML093431027	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML13114A244	No Comments 07/25/2013 ML13182A071	
2004-1	Compatibility With IAEA Transportation Safety	10/01/2007	Final	No Comments	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
	Standards and Other Transportation Safety Amendments Part 71 69 FR 3697		ML13114A244	07/25/2013 ML13182A071	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML093110093	No Comments 01/14/2010 ML093431027	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML093110093	No Comments 01/14/2010 ML093431027	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML053060118	No Comments 11/03/2005 ML053070551	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML093110093	No Comments 01/14/2010 ML093431027	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML093110093	No Comments 01/14/2010 ML093431027	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML093110093	No Comments 01/14/2010 ML093431027	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
			License Condition ML083520149	No Comments 12/30/2008 ML083530535	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML13114A244	No Comments 07/25/2013 ML13182A071	
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 ML13114A244	No Comments 07/25/2013 ML13182A071	
*2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML13114A244  Proposed Revised Final ML14275A246	Comments 07/25/2013 ML13182A071  No Comments 12/23/2014 ML14273A436	
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 ML081130768 ML081140539	No Comments 05/02/2008 ML081230143	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent	02/15/2011	Final ML13114A244	No Comments 07/25/2013	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
	Parts 19, 20 72 FR 68043			ML13182A071	
*2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML13114A244  Proposed Revised Final ML14275A246	Comments 07/25/2013 ML13182A071  No Comments 12/23/2014 ML14273A436	
*2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Proposed ML14275A246	No Comments 12/23/2014 ML14273A436	
*2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Proposed ML14275A246	No Comments 12/23/2014 ML14273A436	
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Final ML13114A244	No Comments 07/25/2013 ML13182A071	
*2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Proposed ML14275A246	Comments 12/23/2014 ML14273A436	



RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
*2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML14275A246	No Comments 12/23/2014 ML14273A436	
*2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML14275A246	Comments 12/23/2014 ML14273A436	
*2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016	Proposed ML14275A246	Comments 12/23/2014 ML14273A436	
*2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016	Proposed ML14275A246	Comments 12/23/2014 ML14273A436	
N/A	Change to statute on the definition of byproduct material	N/A	Final ML13109A232	No Comments 05/13/2013 ML13114A857	

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