

March 22, 2002

Mr. Donald A. Flater, Chief
Bureau of Radiological Health
Iowa Department of Public Health
401 S.W. 7th Street, Suite D
Des Moines, IA 50309

Dear Mr. Flater:

As requested, we have reviewed the proposed regulations in the Iowa Public Health Department, Notice of Intended Action, enclosed in your December 11, 2001 letter. The proposed regulations are in response to the amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 19, 20, 30, 34, 35, 39, 71 and 170. We discussed our review of the regulations with George Johns on January 28, 2002.

As a result of our review, we have two comments and three editorial suggestions that have been identified in the enclosures. 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 a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted incorporating the comments and without other significant change, they would meet the compatibility and health and safety categories established in Office of State and Tribal Programs (STP) Procedure SA-200.

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 STP Procedure SA-201, *Review of State Regulations* (November 10, 1998), please highlight the final changes and send one copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Iowa regulations. 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 STP Web Site: <http://www.hsrdrn.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me at (301) 415-2325 or James Lynch at (630) 829-9661 or e-mail: JLL2@NRC.GOV.

Sincerely,

/RA by Kathleen N. Schneider for/
Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Donald A. Flater

Distribution:

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***See**

previous concurrence.

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**COMMENTS ON PROPOSED IOWA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
38.2	20.1003	2000-2	A	<p>Definitions</p> <p>Definitions of “working level” and “working level month” were deleted.</p> <p>These definitions should be added to meet the compatibility requirement.</p> <p>Compatibility Category A requires adoption of program elements essentially identical to those of NRC.</p>
38.2	20.1003	1996-1		<p>Definitions</p> <p>The definition of “shipper” is added, specifically referring to waste transporters in Iowa. This definition appears to conflict with the DOT use of the term (e.g., 49 CFR 172.204 “shipper’s certification”).</p> <p>This term should be redefined as to not cause confusion with DOT regulations, which are referenced in Iowa regulations.</p>

Editorial Comments

1. Although implied, 41.2(33) "Use of radiopharmaceuticals, generators and reagent kits for imaging and localization studies" is missing an "or" clause between subparagraphs "a" and "b."
2. In the definition of HLW in 38.2, the word "operator" should be "operation."
3. The proposed change to Iowa State Regulation 40.112(1) contains an incorrect internal reference. The regulation as proposed lists 641-41.112(2) as the appropriate cross-reference for reporting requirements of radiation exposure. There is no section 41.112(2) in the Iowa State Regulation. It is possible that the intended reference was to 40.112(2) dealing with annual reporting requirements for individual radiation exposure dose notification.

STATE REGULATION STATUS

State: Iowa

**[2 amendments reviewed are identified by a ★
at the beginning of the equivalent NRC regulation.]**

Tracking Ticket Number: 1-236

Date: March 22, 2002

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
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; (1/1/94)	1991-3	F P	N 11/6/97 Y 3/5/01	10/6/96
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
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; (1/1/98)	1995-1	F P	Y 1/14/00 N 3/21/00	
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	Y 1/14/00	
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	Y 1/14/00	

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F P	Y 1/14/00 N 3/21/00	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/14/00	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/14/00	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/14/00	
★10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 62 FR 28724 (4/1/99)	1996-1	P P ML013470356	N 3/21/00 N 3/5/01 Y 3/22/02 ML020800579	
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 1/14/00	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 1/14/00	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4	P	N 3/21/00	Not required ³
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	P ML010750515	N 5/14/01 ML011350617	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F P	Y 1/14/00 N 3/21/00	
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	P P	Y 3/21/00 Y 3/5/01	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F P	Y 1/14/00 Y 3/21/00	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/14/00	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P	N 3/21/00	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2	P	N 3/21/00	Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³

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Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P	Y 3/21/00	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	P	N 3/21/00	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P	N 3/21/00	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
★New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML 013470356	Y 3/22/02 ML 020800579	

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number