

March 5, 2003

Ms. Linda Bruemmer, Manager
Section of Asbestos, Indoor Air, Lead, and Radiation
Division of Environmental Health
121 E. Seventh Place, Suite 220
St. Paul, Minnesota 55101

Dear Ms. Bruemmer:

As requested, we have reviewed the proposed changes to Chapter 4731 of the Minnesota Regulations, enclosed in your letter dated January 23, 2003. Each regulatory change listed in your letter was reviewed against the equivalent NRC regulations in 10 CFR Parts 20, 30, 31, 34, 35, 39, 61 and 150. We discussed our review of the regulations with Susan McClanahan and Tim Donakowski on March 4, 2003.

As a result of our review, we have three 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 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 the 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 attached summarizes our knowledge of the status of the required amendments to the Minnesota regulations. With this regulation submission, you have submitted proposed regulations for all required amendments up to, and including RATS ID# 2002-2. Please note that you will be required to adopt, and submit for review, rules covering any new amendments to the Code of Federal Regulations (CFR) Chapter 10 that are a matter of compatibility, from this date forward. 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.hsrdo.ornl.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 or John Zabko at (301) 415-2308 or JGZ@NRC.GOV.

Sincerely,

/RA For JMPiccone/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

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OFFICE	STP		OGC		STP	
NAME	JZabko		STreby		JPiccone	
DATE	2/03/03*		2/27/03*		3/05/03*	

ML030650234

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

State Regulation	NRC Regulation	Category	Subject and Comments
4731.0502 4731.0130 subpart 3	34.47 39.65 (a) 36.55	C	<p>Personnel Monitoring</p> <p>The State did not change the required TLD/Film Badge replacement periods suggested by the NRC. This time period is a matter of compatibility, the State's regulations cannot be less restrictive than the NRC rules. In addition, the State cannot rely on the TLD processor to set the replacement period frequency, as they may not have the same goals for TLD replacement as the intent of the dosimetry processing requirements in the NRC rules.</p> <p>The State needs to set the same dosimetry replacement period requirement as in 34.47(a)(3). 34.47 (a) (3) states "Film Badges to be replaced at periods not to exceed one month and other personnel dosimeters replaced not to exceed three months." These dosimetry requirements also appear in 39.65(a) and 36.55.</p>
4731.0316 subpart 4 (B)	150.20 (a)	C	<p>Recognition of Agreement State Licenses</p> <p>The State does not include areas of exclusive Federal jurisdiction in Paragraph B.</p> <p>The State needs to add the phrase "in areas of exclusive Federal jurisdiction to the end of paragraph B. ".....or the NRC in areas of exclusive Federal jurisdiction."</p>
4731.0812 Subpart 4	39.53	C	<p>Energy Compensation Source</p> <p>1110 MBq (30 Ci) should be 1110 GBq. 30 Ci = 1110 GBq This error occurs in 10 CFR 39.53 and is the probable source of this error in the State regulations. The NRC will correct the error and submit a change to the CFR.</p> <p>It is suggested that the State correct this error in its regulations.</p>

STATE REGULATION STATUS

State: Minnesota
All amendments reviewed

Tracking Ticket Number: 3-30
Date: March 5, 2003

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	P ML030300196	3/05/03 ⁶ ML030650234	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	P ML030300196	3/05/03 ⁶ ML030650234	
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	P ML030300196	3/05/03 ⁶ ML030650234	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	P ML030300196	3/05/03 ⁶ ML030650234	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P ML030300196	3/05/ 03 ⁶ ML030650234	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	P ML030300196	3/05/03 ⁶ ML030650234	
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
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			Not applicable SECY-95-112 ⁴
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	P ML030300196	3/05/03 ⁶ ML030650234	
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	P ML030300196	3/05/03 ⁶ ML030650234	
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	P ML030300196	3/05/03 ⁶ ML030650234	

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Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	P ML030300196	3/05/03 ⁶ ML030650234	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	P ML030300196	3/05/03 ⁶ ML030650234	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML030300196	3/05/03 ⁶ ML030650234	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	P ML030300196	3/05/03 ⁶ ML030650234	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P ML030300196	3/05/03 ⁶ ML030650234	
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	P ML030300196	3/05/03 ⁶ ML030650234	
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	P ML030300196	3/05/03 ⁶ ML030650234	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	P ML030300196	3/05/03 ⁶ ML030650234	
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 ML030300196	3/05/03 ⁶ ML030650234	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P ML030300196	3/05/03 ⁶ ML030650234	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
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 ML030300196	3/05/03 ⁶ ML030650234	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	P ML030300196	3/05/03 ⁶ ML030650234	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea- Part 30	62 FR 63634; (1/02/01)	1997-7	P ML030300196	3/05/03 ⁶ ML030650234	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	P ML030300196	3/05/03 ⁶ ML030650234	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³

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License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML030300196	3/05/03 ⁶ ML030650234	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	P ML030300196	3/05/03 ⁶ ML030650234	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML030300196	3/05/03 ⁶ ML030650234	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable SECY-95-112 ⁴
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	P ML030300196	3/05/03 ⁶ ML030650234	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML030300196	3/05/03 ⁶ ML030650234	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML030300196	3/05/03 ⁶ ML030650234	
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML030300196	3/05/03 ⁶ ML030650234	
Revision of the Skin Dose Limit-Part 20	67 FR 16298 (4/5/05)	2002-1	P ML030300196	3/05/03 ⁶ ML030650234	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249 (10/24/05)	2002-2	P ML030300196	3/05/03 ⁶ ML030650234	

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
6. The Minnesota proposed final regulations were submitted and reviewed on this date as part of their Agreement State application package.

