

DEC - 7 1999

Ms. M. Sue Semerena, Administrator  
Consumer Health Services  
Nebraska Health and Human Services Systems  
Department of Regulation and Licensure  
301 Centennial Mall South, P.O. Box 95007  
Lincoln, NE 68509-5007

Dear Ms. Semerena:

We have reviewed the proposed Nebraska regulations which are contained in Chapter 1, Sections 001, 003, 004 and 005 submitted to us in your letter dated October 12, 1999. The proposed regulations are in response to the seven amendments identified in the enclosed Regulation Assessment Tracking System (RATS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 20, 30, 32, 34, 40, 70 and 150. We also discussed our review of the regulations with Ms. Cheryl Rogers and Mr. Bryan Miller on November 2, 1999.

As a result of our review we have identified seven comments, as enclosed. Please note that we are only providing comments on issues that we believe affect the compatibility of your regulations. Under our current procedure, a finding that a State regulation meets the compatibility criteria 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 enclosed comments and without other significant changes, they would meet the compatibility and health and safety categories established in the Office of State Programs (OSP) 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 OSP Procedures SA-201, Review of State Regulations (November 10, 1998), please highlight the final changes and send one copy in a computer readable format, if possible.

We have also summarized on the RATS Data Sheet our knowledge of the status of other Nebraska regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the RATS Data Sheet.

If you have any questions regarding the comments, the compatibility criteria, or any of the NRC regulations used in the review, please contact me at (301) 415-2325 or Kevin Hsueh of my staff at (301)415-2598.

Sincerely,

Original signed by:

Frederick C. Combs, Deputy Director  
Office of State Programs

Enclosures:  
As stated

Distribution: See next page

\*See previous concurrence

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Ms. M. Sue Semerena

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SP-AG-16



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 7, 1999

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Sincerely,

A handwritten signature in black ink, appearing to read "F. C. Combs", written over a horizontal line.

Frederick C. Combs, Deputy Director  
Office of State Programs

Enclosures:  
As stated

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

<b>Category</b>	<b>State Regulation</b>	<b>NRC Regulation</b>	<b>RATS ID</b>	<b>NRC- approved SSR</b>	<b>Subject and Comments</b>
C	3.28	150.20	1997-2		<p>Recognition of Agreement State Licenses.</p> <p>The statement in 150.20(b)(2) regarding the changes in work locations, radioactive material, or work activities different from the previously submitted information is omitted and should be adopted to meet the compatibility category</p>
B	005.28A	34.71	1997-5	Part E	<p>Utilization logs.</p> <p>A phrase in paragraph 005.28A2, equivalent to that in 34.71(a)(2), "The identity <u>or</u> signature of the radiographer to whom assigned." should be changed to "The identity <u>and</u> signature of the radiographer to whom assigned." to meet the compatibility category.</p>
C	1.02	20.1003	1997-6		<p>Definitions.</p> <p>The phrase "or release of the property under restricted conditions and termination of the license." is omitted in the definition of Decommission. Given that Nebraska's regulations address restricted release, the missing phrase should be adopted to meet the compatibility category.</p>
C	004.16C	20.1401	1997-6		<p>General provisions and scope.</p> <p>Paragraph 004.16C, equivalent to 20.1401(b)(3), does not specify any limited period of time for a licensee to submit a sufficient LTP or decommissioning plan to the State agency nor for the State agency to approve the licensee submittals. A limited period time, e.g., within 1 year for the licensee to submit information and within 2 years for the State agency to approve the submittals after the effective date of these regulations, should be specified to meet the compatibility category.</p>

<b>Category</b>	<b>State Regulation</b>	<b>NRC Regulation</b>	<b>RATS ID</b>	<b>NRC- approved SSR</b>	<b>Subject and Comments</b>
NRC	003.14N	32.21	1997-7		<p>Radioactive drug: Manufacture, preparation, or transfer for commercial distribution of capsules containing carbon-14 urea each for "in vivo" diagnostic use for humans to persons exempt from licensing; Requirement for a license.</p> <p>Section 003.14N, equivalent to section 32.21, contains NRC program elements reserved to exclusive NRC authority. The State should not adopt this section of the regulation</p>
NRC	003.14O	32.21a	1997-7		<p>Same: Conditions of license.</p> <p>Section 003.14O, equivalent to section 32.21a, contains program elements reserved to exclusive NRC authority. The State should not adopt this section of regulation.</p>
B	003.06C	30.21	1997-7		<p>Radioactive drug: Capsules containing carbon-14 urea for "in vivo" diagnostic use for human.</p> <p>Since the regulations 003.14N and 003.14O should not be adopted by the State, the regulations in paragraph 003.06C, equivalent to 30.21(c), should be referred to 10 CFR section 32.21 to meet compatibility category.</p>

**REGULATION ASSESSMENT TRACKING SYSTEM  
RATS DATA SHEET**

State: Nebraska

Tracking Ticket Number: 9-221

[7 proposed amendments identified by ★]

Date: December 7, 1999

<b>NRC Chronology Identification</b>	<b>FR Notice (State Due Date)</b>	<b>RATS ID</b>	<b>Proposed/ Final- Comment (Y/N)<sup>1</sup></b>	<b>NRC Review Date</b>	<b>Final State Regulation<sup>2</sup> (Effective Date)</b>
Standards for Protection Against Radiation- Part 20	56 FR 23360 plus others (1/1/94)	1991-3			5/30/94
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843 (1/10/94)	1991-1			5/30/94
ASNT Certification of Radiographers-Part 34	56 FR 11504 (none)	1991-2			Not Required <sup>3</sup>
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980 (10/15/94)	1991-4			5/30/94
Quality Management Program and Misadministrations - Part 35	56 FR 34104 (1/27/95)	1992-1			
Eliminating the Recordkeeping Require-ments for Departures from Manufacturer's Instructions- Parts 30,35	57 FR 45566 (none)	1992-2			Not required
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715 (7/1/96)	1993-2			10/30/96
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886 (7/22/96)	1993-3			QA portion 9/17/97
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628 (10/25/96)	1993-1	P-Y	5/29/97	
Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70	58 FR 68726 59 FR 1618 (none)	1994-1			Not required 12/17/97
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220 (7/1/97)	1994-2			Not applicable
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026 (8/15/97)	1994-3	P-N	5/29/97	12/17/97
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			12/17/97
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900 (3/13/98)	1995-2	F-N	5/19/99	12/15/98
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649 60 FR 25983 (3/1/98)	1995-3	F-N	5/19/99	12/15/98
★ Performance Requirements for Radiography Equipment- Part 34	60 FR 28323 (6/30/98)	1995-4	P-N	12/7/99	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038 (8/14/98)	1995-5	F-N	5/19/99	12/15/98

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed/ Final- Comment (Y/N) <sup>1</sup>	NRC Review Date	Final State Regulation <sup>2</sup> (Effective Date)
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235 (11/24/98)	1995-6			
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623 (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248 61 FR 28724 (4/1/99)	1996-1	F-Y	5/19/99	12/15/98
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109 (none)	1996-2			Not required
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669 (6/17/99)	1996-3			
★ Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65119 (1/9/00)	1997-1	P-N	12/7/99	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907 (none)	1997-4			Not required
★ 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-Y	12/7/99	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120 (5/29/00)	1997-3			
★ Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948 (6/27/00)	1997-5	P-Y	12/7/99	
★ Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057 (8/20/00)	1997-6	P-Y	12/7/99	
★ Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634 (1/02/01)	1997-7	P-Y	12/7/99	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890 63 FR 13773 (2/12/01)	1998-1			
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535 (none)	1998-2			Not required
License Term for Medical Use Licenses- Part 35	63 FR 31604 (none)	1998-3			Not required
★ Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059 (7/9/01)	1998-4	P-N	12/7/99	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed/ Final- Comment (Y/N) <sup>1</sup>	NRC Review Date	Final State Regulation <sup>2</sup> (Effective Date)
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39347 63 FR 45393 (10/26/01)	1998-5			
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127 (11/20/01)	1998-6			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506 (6/11/02)	1999-1			

1. (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.
2. Or other generic Legally Binding Requirement.
3. Not required means these regulations are not required for purposes of compatibility.