



Protecting, maintaining and improving the health of all Minnesotans

December 20, 2005

Dennis K. Rathbun
US Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike, 3rd Floor
Rockville, Maryland 20852

Dear Mr. Rathbun:

Subject: Minnesota Department of Health (MDH) License Conditions

During the conference call that was held on December 15, 2005, MDH committed to generating license conditions to address the requirements for transporting nuclear gauges (10 CFR 30.34), training and experience for medical users (10 CFR Part 35), and packaging and transportation of radioactive material (10 CFR Part 71). Because Minnesota's rules are being revised, the license conditions are necessary to assure continuity in regulations during Minnesota's transition to an Agreement State.

The first two license conditions in the enclosure have no identified jurisdictional issues. To address the concern raised by your staff regarding 10 CFR Part 71, Minnesota offers two alternatives. Option #1 is silent on jurisdictional matters. Option #2 was crafted specifically to address your staff's concern. It should be noted federal jurisdiction is also protected by Minnesota Rules, part 4731.0200, subpart 1, item B, which states: "Nothing in this chapter applies to the extent that the person is subject to rules of the NRC...."

MDH requests that your staff review the proposed license conditions and notify us if any changes need to be made. In the meantime, MDH is continuing to revise its current rules.

If you have any questions concerning this matter, please contact George F. Johns, Jr. at (651) 201-4530, or me at (651) 201-4602.

Sincerely,

Linda B. Bruemmer, Manager
Asbestos, Indoor Air, Lead & Radiation
Environmental Health Division
P.O. Box 64975
St. Paul, Minnesota 55164-0975

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STP

Enclosure: Proposed License Conditions

Enclosure

Proposed License Conditions

Part 30.34

Each portable gauge licensee must use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Training and Experience Requirements for Medical Uses

Authorized users of radioactive material in medical applications must meet the training and experience in 10 CFR 35 subparts D, E, F, G and H, and the recentness of experience requirements in Minnesota Rules, part 4731.4415. In addition, the requirements for the following users (as defined in 10 CFR 35.2) apply:

- A. 10 CFR 35.50 for Radiation Safety Officer (RSO)
- B. 10 CFR 35.51 for Authorized Medical Physicists
- C. 10 CFR 35.55 for Authorized Nuclear Pharmacists

Transportation

Option 1¹

The licensee is authorized to transport licensed material only in accordance with the provisions of 10 CFR Part 71 "Packaging and Transportation of Radioactive Material."

Option 2²

The licensee is authorized to transport licensed material only in accordance with the provisions of 10 CFR Part 71 "Packaging and Transportation of Radioactive Material." Nothing in this license condition applies to the extent that the person is subject to regulations of the NRC.

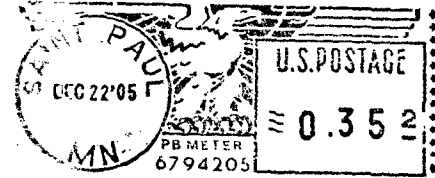
¹ This option is void of reference to federal jurisdiction.

² This option is presented to address STP concerns about federal jurisdiction.



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FIRST CLASS



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