

January 20, 2006

Mr. George F. Johns, Jr., Supervisor  
Radiation Control Unit  
Minnesota Department of Health  
625 Robert Street N-PO Box 64975  
St. Paul MN 55164-0975

Dear Mr. Johns:

We have reviewed the proposed changes to the Minnesota Department of Health Radiation Rules, Chapter 47341, received by our office on November 28, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 31 and 71 and the requirements of the three amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on January 19, 2006.

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 Minnesota 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 Minnesota 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 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 Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Minnesota 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 STP website: <http://www.hsrd.ornl.gov/nrc/rulemaking.htm>.

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 me, or Mr. Osiris Siurano at 301-415-2307 or by e-mail at [osp@nrc.gov](mailto:osp@nrc.gov).

Sincerely,

***IRA By KNSchneider Forl***

Dennis K. Rathbun, Deputy Director  
Office of State and Tribal Programs

Enclosures:  
As stated

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***IRA By KNSchneider For***

Dennis K. Rathbun, Deputy Director  
Office of State and Tribal Programs

Enclosures: As stated

Distribution:

DIR RF (5-362) **SISP Review Complete**  
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CMaupin, ASPO JTobin **Minnesota File**

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OFFICE	STP		OGC		STP:DD	
NAME	O.Siurano		STreby		KSchneider for DRathbun	
DATE	1/17/2006*		1/18/2006*		1/20/2006*	

ML060200281

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**COMPATIBILITY COMMENTS ON MINNESOTA PROPOSED REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	4731.4412	§35.51	2005-2	B	<p><b>Training for an Authorized Medical Physicist</b></p> <p>Minnesota's proposed regulations have incorrectly referenced training requirements for an Authorized Medical Physicist.</p> <p>Minnesota needs to change State regulations in 4731.4412 from requirements included in (A)(2) to also include parts C and D. This change needs to be made to meet the Compatibility Category B designation assigned to Section 10 CFR 35.51.</p>
2	4731.4445	§35.394	2005-2	B	<p><b>Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).</b></p> <p>Minnesota's proposed regulations have omitted the reference to the training requirement in item E of 4731.4445.</p> <p>Minnesota needs to add the reference to item E in 4731.4445. This addition needs to be made to meet the Compatibility Category B designation assigned to Section 10 CFR 35.394.</p>
3	4731.0402	§71.5(a)	2004-1	B	<p><b>Transportation of Licensed Material</b></p> <p>Minnesota's proposed regulations exclude language requiring compliance with 49 CFR Parts 107 and 390-397.</p> <p>Minnesota needs to add these references to 4731.0402 to meet the Compatibility Category B designation assigned to Section 10 CFR 71.5.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	4731.0402	§71.5(a)(a)(ii)	2004-1	B	<p><b>Transportation of Licensed Material</b></p> <p>Minnesota's proposed regulations excluded the reference to 10 CFR 172.441 concerning marking and labeling with regard to transportation of licensed material.</p> <p>Minnesota needs to add the reference to Section to 172.441 to 4731.0402 to meet the Compatibility Category B designation assigned to Section 10 CFR 71.5.</p>
5	4731.0402	§71.5(a)(1)(vii)	2004-1	B	<p><b>Transportation of Licensed Material</b></p> <p>Minnesota's proposed regulations excluded a provision for the security plan requirement for the transportation of licensed material.</p> <p>Minnesota needs to add the requirements of §71.5(a)(1)(vii) to 4731.0402 to meet the Compatibility Category B designation assigned to Section 10 CFR 71.5.</p>
6	4731.0403 Part 2	§71.14	2004-1	B	<p><b>Exemption for Low-level Materials</b></p> <p>Minnesota's proposed regulations for exemption for low-level materials incorrectly references subpart 6 of 4731.0423.</p> <p>Minnesota needs to change the reference from 4731.0423 subpart 6 to 4731.0422 subpart 3 in 4731.0403 part 2(A). This change must be made to meet the Compatibility Category B designation assigned to Section 10 CFR 71.14(a).</p>

**STATE REGULATION STATUS**

**State: Minnesota**

**[3 amendments reviewed identified by a ★ at the beginning of the equivalent NRC requirement.]**

**Tracking Ticket Number: 5-362  
Date:1/20/20/06**

<b>NRC Chronology Identification</b>	<b>FR Notice (State Due Date)</b>	<b>RATS ID</b>	<b>Proposed (P) / Final (F)<sup>1</sup> Rule /License Condition/ ML #<sup>5</sup></b>	<b>NRC Review / Y, N<sup>2</sup> / Date / ML #<sup>5</sup></b>	<b>Final State Regulation<sup>1</sup> (Effective Date)</b>
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required <sup>3</sup>
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 ML050140452	03/04/05 <sup>6</sup> ML050690100	
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required <sup>3</sup>
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1			Not required <sup>3</sup>
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 <sup>4</sup>
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
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 ML050140452	03/04/05 <sup>6</sup> ML050690100	

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
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 ML050140452	03/04/05 <sup>6</sup> ML050690100	
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required <sup>3</sup>
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
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	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
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	F ML050140452	03/04/05 <sup>6</sup> ML050690100	

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Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable SECY-95-112 <sup>4</sup>
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 <sup>3</sup>
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML050140452	03/04/05 <sup>6</sup> ML050690100	

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Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Revision of the Skin Dose Limit-Part 20	67 FR 16298 (4/5/05)	2002-1	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249 (10/24/05)	2002-2	F ML050140452	03/04/05 <sup>6</sup> ML050690100	
Financial Assurance for Materials Licensees - Parts 30, 40, 70	68 FR 56327 (12/3/06)	2003-1			
★ Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1	P ML060200165	Y 1/20/06 ML060200281	
★ Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1	P ML060200165	N 1/20/06 ML060200281	
★ Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; 71 FR 1926; (4/29/08)	2005-2	P ML060200165	Y 1/20/06 ML060200281	
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) <sup>7</sup>	70 FR 72128; (12/1/05)	2005-3	LC ML053220236	11/18/2005 ML053220444	

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.
7. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090.