

January 23, 2006

Linda B. Bruemmer, Manager
Asbestos, Indoor Air, Lead & Radiation
Environmental Health Division
P.O. Box 64795
St. Paul, MN 55164-0975

Dear Ms. Bruemmer:

We have reviewed the Minnesota proposed license conditions that were submitted to address RATS 2004-1, 2005-1 and 2005-2, received by our office on December 27, 2005. These license conditions were reviewed by comparison to the equivalent NRC rules in 10 CFR 30, 35 and 71 and the requirements of the three amendments identified in the enclosed State's Regulation Status (SRS) Data Sheet. We discussed our review of the license condition with George Johns on January 20, 2006.

As a result of our review, we have no comments. However, the submission of these license conditions include two options for the 10 CFR Part 71 Transportation requirements. After review, NRC has determined that although both alternatives meet the compatibility criteria, the second option which clarifies NRC jurisdiction is preferred. We have determined that the Minnesota license conditions meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure [SA-200](#).

The SRS Data Sheet summarizes our knowledge of the status of other Minnesota regulations and legal binding requirements, 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.hsr.d.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the review results, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Jenny Tobin at 301-415-2328 or by e-mail at jct1@nrc.gov.

Sincerely,

IRA By KNSchneider For

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

Enclosures:
As stated

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As a result of our review, we have no comments. However, the submission of these license conditions include two options for the 10 CFR Part 71 Transportation requirements. After review, NRC has determined that although both alternatives meet the compatibility criteria, the second option which clarifies NRC jurisdiction is preferred. We have determined that the Minnesota license conditions meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

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Distribution:

DIR RF 5-390

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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:1/20/06

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule /License Condition/ ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML050140452	03/04/05 ⁶ ML050690100	
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	F ML050140452	03/04/05 ⁶ 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 ⁶ ML050690100	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F ML050140452	03/04/05 ⁶ ML050690100	
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	F ML050140452	03/04/05 ⁶ ML050690100	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F ML050140452	03/04/05 ⁶ 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 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	F ML050140452	03/04/05 ⁶ ML050690100	
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-	59 FR 61767; 59 FR 65243; 60 FR 322; (1/1/98)	1995-1	F ML050140452	03/04/05 ⁶ ML050690100	

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Parts 30, 32, 35					
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 ⁶ 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 ⁶ ML050690100	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML050140452	03/04/05 ⁶ ML050690100	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML050140452	03/04/05 ⁶ ML050690100	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML050140452	03/04/05 ⁶ ML050690100	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML050140452	03/04/05 ⁶ 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 ⁶ 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 ³
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 ⁶ 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 ⁶ 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 ⁶ 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 ⁶ ML050690100	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³

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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 ⁶ ML050690100	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML050140452	03/04/05 ⁶ 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 ⁶ 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 ⁶ 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 ³
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	F ML050140452	03/04/05 ⁶ 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 ⁶ 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 ⁶ 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 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	F ML050140452	03/04/05 ⁶ ML050690100	

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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 ⁶ ML050690100	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML050140452	03/04/05 ⁶ ML050690100	
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 ⁶ ML050690100	
Revision of the Skin Dose Limit-Part 20	67 FR 16298 (4/5/05)	2002-1	F ML050140452	03/04/05 ⁶ ML050690100	
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249 (10/24/05)	2002-2	F ML050140452	03/04/05 ⁶ 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	N 1/23/06 ML060200411 N 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 1/23/06 ML060200411 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	N 1/23/06 ML060200411 Y 1/20/06 ML060200281	
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁷	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.