

April 6, 2005

Mr. Donald A. Flater, Chief
Bureau of Radiological Health
Iowa Department of Public Health
401 SW 7th Street, Suite D
Des Moines, IA 50309

Dear Mr. Flater:

We have reviewed the proposed revisions to the Iowa Administrative Code received by our office on January 11, 2005. Our review included your response to our letter, dated February 4, 2004, addressing Nuclear Regulatory Commission (NRC) comments on previously issued final rules on Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150, and the changes associated with the Iowa annual review for compatibility. We reviewed these changes by comparison to the equivalent NRC regulations in 10 CFR Part 19, 20, 32, 34, 35, 39, 40, and the requirements of the one amendment identified in the enclosed States Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Charlene Craig on April 5, 2005.

As a result of our review, we have three comments that relate to the January 11, 2005 proposed rule changes based on the Iowa annual review of the regulations. We understand that you will address changes to 10 CFR Part 35, Medical Training and Experience that were identified in the February 4, 2004 letter in a future rule making session. 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. Please provide a final amended version of your rules showing the location of any changes made in response to our comments. If there are any comments which the State believes are in error, the State should identify the section of their regulations that meets the designated compatibility category. Please note that we have limited our review to regulations required for compatibility and/or health and safety, but have determined that if these regulations are adopted, incorporating our comments and without 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.

The SRS Data Sheet summarizes our knowledge of the status of other Iowa 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.hrsd.ornl.gov/nrc/rulemaking.htm>.

Mr. Donald A. Flater

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April 6, 2005

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 Bill Rautzen of my staff at (301) 415-7206 or WRR@NRC.GOV.

Sincerely,

\RA BY

Paul Lohaus, Director
Office of State and Tribal Programs

Enclosures:
As stated

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 Bill Rautzen of my staff at (301) 415-7206 or WRR@NRC.GOV.

Sincerely,

\RA BY

Paul Lohaus, Director
Office of State and Tribal Programs

Enclosures:
As stated

SISP Review Complete

- Publicly Available Non-Publicly Available
- Non-Sensitive Sensitive

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OFFICE	STP	OGC	STP:D
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DATE	3/22/05*	4/4/05*	4/06/05*

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**COMPATIBILITY COMMENTS ON
IOWA FINAL REGULATIONS**

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	38.2(136C)	20.1003	N/A	<p>Definitions</p> <p>In their definition of the word “Radiation”, the State omitted the prefix “micro-“ from the word “microwaves” when discussing the types of nonionizing radiation.</p> <p>The State needs to add this language to meet NRC Compatibility Category A for the definition of “Radiation” in 10 CFR 20.1003.</p>
2	40.37(1)	20.1502(a)	N/A	<p>Conditions requiring individual monitoring of external and internal occupational dose.</p> <p>In the State section 40.37(1)(b), they omitted the word “rem” when discussing the deep dose equivalent dosage that would require individual monitoring devices for Minors.</p> <p>The State needs to add the word “rem” to the units defining deep dose equivalent dosage requiring individual monitoring devices for Minors to meet the essential objectives of NRC Compatibility Category H&S.</p>
3	41.3(15)	35.3045	N/A	<p>Report and notification of a medical event.</p> <p>The State omitted the requirements of 35.3045(a)(2)(i), 35.3045(a)(2)(ii), and 35.3045(a)(2)(v) when listing the requirements for event reporting involving excess patient dose.</p> <p>The State needs to adopt the requirements of 35.3045(a)(2)(i), 35.3045(a)(2)(ii), and 35.3045(a)(2)(v) to meet NRC Compatibility Category C for 10 CFR 35.3045.</p>

STATE REGULATION STATUS

State: IOWA

**[One amendment reviewed are identified by a ★
at the beginning of each equivalent NRC regulation.]**

Tracking Ticket Number: 5-28

Date: April 6, 2005

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
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 P	N 11/6/97 Y 3/5/01	10/6/96
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
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
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			
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			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
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 P	Y 1/14/00 N 3/21/00	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	Y 1/14/00	
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	Y 1/14/00	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F P	Y 1/14/00 N 3/21/00	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/14/00	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/14/00	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/14/00	
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 ML03640452	N 2/04/04 ML040360241	
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	N 1/14/00	
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 1/14/00	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4	F ML03640452	N 2/04/04 ML040360241	Not required ³
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 ML03640452	N 2/04/04 ML040360241	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML03640452	N 2/04/04 ML040360241	
★ 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 ML03640452 F ML050320039	Y 2/04/04 ML040360241 N 4/06/05 ML050960431	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML03640452	N 2/04/04 ML040360241	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/14/00	

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)
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML03640452	N 2/04/04 ML040360241	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2	F ML03640452	N 2/04/04 ML040360241	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	P	N 3/21/00	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	F ML03640452	N 2/04/04 ML040360241	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML03640452	N 2/04/04 ML040360241	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
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 ML03640452	N 2/04/04 ML040360241	
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML03640452	N 2/04/04 ML040360241	
New Dosimetry Technology- Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML03640452	N 2/04/04 ML040360241	
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML03640452	N 2/04/04 ML040360241	
Revision of the Skin Dose Limit - Part 20	67 FR 16298; (4/5/05)	2002-1	F ML03640452	N 2/04/04 ML040360241	
Medical Use of Byproduct Material - Parts 20, 32, and 35	67 FR 20249; (10/24/05)	2002-2	F ML03640452	Y 2/04/04 ML040360241	
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 (12/3/06)	2003-1			

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Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			

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