



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 15, 2015

Sherrie Flaherty, MHP, DC, Supervisor
Radioactive Materials Unit
Minnesota Department of Health
PO Box 64975
St. Paul, MN 55164-0975

Dear Dr. Flaherty:

We have reviewed the final revisions to the Minnesota Rules Chapter 4731 radioactive material regulations received by our office on August 21, 2015. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) rules and the requirements of the eight amendments and one provision identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed the review of the regulations with you on October 13, 2015.

As a result of our review, we have three comments that are related to compatibility and two comments that are not required for compatibility purposes but should be addressed. These have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Minnesota, in response to our comments, and provide a copy to Division of Material Safety, State, Tribal, and Rulemaking Programs, NMSS.

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 NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

S. Flaherty

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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 Michelle Beardsley, State Regulation Review Coordinator, at 610-337-6942 (Michelle.Beardsley@nrc.gov) or Jim Lynch at 630-829-9661 (James.Lynch@nrc.gov).

Sincerely,

/RA/

CEinberg for PHenderson

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Comments: Compatibility
and Non-Compatibility
2. Minnesota SRS Data Sheet

COMPATIBILITY COMMENTS ON MINNESOTA FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	4731.8100(A)	37.71(a)	2013-1	B	<p>Additional requirements for transfer of category 1 and category 2 quantities of radioactive material</p> <p>For clarity and consistency in the Minnesota regulations, the phrase "...licensee of the commission or agreement state..." should be replaced with "...licensee of the commissioner, the NRC, or an agreement state...", as "the commissioner" is defined in the Minnesota regulations to be the Commissioner of the State of Minnesota.</p> <p>Minnesota needs to correct the above phrase in order to meet the Compatibility Category B designation assigned to 10 CFR 37.71(a).</p>
2	4731.8115 Subpart 5	37.77(d)	2013-1	B	<p>Advance notification of shipment of category 1 quantities of radioactive material</p> <p>Cancellation notices of shipments originating in the State of Minnesota should be sent to the State Agency, not the NRC.</p> <p>Minnesota needs to change the notification requirement to have the licensee contact the State rather than the NRC in order to meet the Compatibility Category B designation assigned to 10 CFR 37.77(d).</p>
3	4731.4030	34.20(a)(1)	2012-3	B	<p>Performance requirements for industrial radiography equipment</p> <p>Minnesota omits the address for the American National Standards Institute.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					Minnesota needs to include the ANSI address in Section 4731.4030 in order to meet the Compatibility Category B designation assigned to 10 CFR 34.20(a)(1).

COMMENTS NOT RELATED TO COMPATIBILITY

1	4731.8025 Subpart 3 (A)	37.27(c)(1)	2013-1	B	<p>Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material</p> <p>The NRC address and telephone number regarding ordering and submission of fingerprint cards listed in the State regulation is different than 10 CFR 37.27.</p> <p>Minnesota should correct the NRC address and telephone number as follows:</p> <p>U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852</p> <p>Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by email to FORMS.Resource@nrc.gov.</p> <p>Note: See FSME-13-081 dated August 16, 2013, for notification to Agreement States of the change of address from that published in the regulations.</p>
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2	4731.8115 Subpart 2.A. 4731.0419 Subpart 3.B.	37.77(a)(1)	2013-1	B	Advance notification of shipment of category 1 quantities of radioactive material Minnesota needs to update their regulations to read: “The list is available upon request from the Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards”.
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STATE REGULATION STATUS

State: Minnesota

Tracking Ticket Number: 15-65

Date: 10/15/2015

[9 amendment(s) reviewed identified by a * at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superseded by 1997-5)	01/10/1994	Final ML050140452	No Comments 03/04/2005 ML050690100	Minnesota has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superseded by 1997-5)	none	Not Required	Not Required	Minnesota has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-3	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;	01/01/1994	Final ML050140452	No Comments 03/04/2005 ML050690100	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final ML050140452	No Comments 03/04/2005 ML050690100	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superseded by 2002-2)	01/27/1995	Final ML050140452	No Comments 03/04/2005 ML050690100	Minnesota has adopted Final Regulations equivalent to RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Final ML050140452	No Comments 03/04/2005 ML050690100	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final ML050140452	No Comments 03/04/2005 ML050690100	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable	Not Applicable	Minnesota does not have authority to regulate this material under its Agreement.
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Not Applicable	Not Applicable	Minnesota does not have the authority to regulate this material under its Agreement.
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997	Final ML050140452	No Comments 03/04/2005 ML050690100	
1995-1	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	01/01/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5)	06/30/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	Minnesota has adopted Final Regulations equivalent to RATS ID: 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2)	10/20/1998	Final ML050140452	No Comments 03/04/2005 ML050690100	Minnesota has adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1)	04/01/1999	Final ML050140452	No Comments 03/04/2005 ML050690100	Minnesota has adopted Final Regulations equivalent to RATS ID: 2004-1.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1)	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078) Minnesota has adopted Final Regulations equivalent to RATS ID: 2004-1.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final ML050140452	No Comments 03/04/2005 ML050690100	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final ML050140452	No Comments 03/04/2005 ML050690100	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML050140452	No Comments 03/04/2005 ML050690100	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Minnesota has adopted Final Regulations equivalent to RATS ID: 2002-2.
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final ML050140452	No Comments 03/04/2005 ML050690100	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML050140452	No Comments 03/04/2005 ML050690100	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML050140452	No Comments 03/04/2005 ML050690100	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	Minnesota does not have the authority to regulate this material under its Agreement.
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML050140452	No Comments 03/04/2005 ML050690100	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML050140452	No Comments 03/04/2005 ML050690100	
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML050140452	No Comments 03/04/2005 ML050690100	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML050140452	No Comments 03/04/2005 ML050690100	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML050140452	No Comments 03/04/2005 ML050690100	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML050140452	No Comments 03/04/2005 ML050690100	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML073201223	No Comments 12/14/2007 ML073470558	
2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML073201223	No Comments 12/14/2007 ML073470558	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML073201223	No Comments 12/14/2007 ML073470558	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML073201223	No Comments 12/14/2007 ML073470558	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML053220236	No Comments 11/18/2005 ML053220444	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML073201223	No Comments 12/14/2007 ML073470558	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML090550203	No Comments 03/23/2009 ML090760101	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML090260708 License Condition ML090260708	No Comments 03/23/2009 ML090760101 No Comment 02/06/2009 ML090290322	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML090550203	No Comments 03/23/2009 ML090760101	
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Final ML090550203	No Comments 03/23/2009 ML090760101	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML090550203	No Comments 03/23/2009 ML090760101	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML080530108	No Comments 03/12/2008 ML080720050	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML090550203	No Comments 03/23/2009 ML090760101	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML113202693	No Comments 12/21/2011 ML113400191	
*2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	
*2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	
*2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	
*2012-3	Technical Corrections Part 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	
*2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/25/2015 ML15236A292	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016	Proposed ML14234A134 Final ML15237A085	Comments 10/21/2014 ML14232A319 Comments 10/15/2015 ML15236A292	
*2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016	Proposed ML14234A134 Final ML15237A085	No Comments 10/21/2014 ML14232A319 No Comments 10/15/2015 ML15236A292	
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018			
2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73, and 150 79 FR 58664, 80 FR 3865	01/28/2018			
2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987	07/13/2018			
2015-4	Miscellaneous Corrections, Parts 37 and 40 80 FR 45841	09/02/2018			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
*N/A	Provision corresponding to 10 CFR 19, 20, 30, 31, 35 not associated with specific RATS IDs	N/A	Proposed ML14234A134 Final ML15237A085	Comments 10/21/2014 ML14232A319 No Comments 10/15/2105 ML15236A292	