

January 4, 2006

Mr. Terry C. Frazee, Western Regional Director
Division of Radiation Protection
Washington Department of Health
7171 Clearwater Lane, Bldg. 5
P.O. Box 47827
Olympia, WA 98504-7827

Dear Mr. Frazee:

We have reviewed the proposed revisions to the Washington Administrative Code (WAC), Chapters 246-220 and 246-240, received by our office on December 8, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Part 35 and the requirements of the 2 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Mr. Arden Scroggs on December 15, 2005.

As a result of our review, we have one comment that has 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 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 location of any changes made by Washington, in response to our comment and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Washington's 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 review results, 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.

Sincerely,

IRA By KNSchneider For

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

Enclosures:
As stated

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| DATE | 12/14/05* | 12/19/05* | 01/04/06* |

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COMPATIBILITY COMMENTS ON WASHINGTON FINAL REGULATIONS

| STATE SECTION | | NRC SECTION | RATS ID | CATEGORY | SUBJECT and COMMENTS |
|---------------|-----------------|-------------|---------|----------|---|
| 1 | WAC 246-240-219 | §35.396 | 2005-2 | B | <p>Training for the parenteral administration of unsealed byproduct material requiring a written directive</p> <p>In sections WAC 246-240-219 (4)(b) and (5) the reference to WAC 246-240-210 (2)(b)(vii)(D) and (E) is incorrect. The correct reference should be to WAC 246-240-210 (2)(b)(vii)(C) and (D).</p> <p>The State needs to correct these references to meet the compatibility Category B designation assigned to Section 10 CFR 35.396.</p> |

STATE REGULATION STATUS

STATE: WASHINGTON

[2 License Conditions reviewed are identified by a ★ at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 5-375
Date: January 4, 2006

| NRC Chronology Identification | FR Notice (Date Due For State Implementation) | RATS ID | Proposed (P) / Final (F)²Rule / ML #⁵ | NRC Review / Y, N² / Date / ML #⁵ | Final State Regulation¹ (Effective Date)⁶ |
|--|--|----------------|--|--|--|
| Safety Requirements for Radiographic Equipment-Part 34 | 55 FR 843; (1/10/94) | 1991-1 | F | N 7/14/98 | 1/9/94 ⁶ |
| 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 | N 6/3/98 12/15/98 | 1/9/94 |
| Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70 | 56 FR 64980; (10/15/94) | 1991-4 | P F | N 8/30/99 N | 7/9/98 |
| Quality Management Program and Misadministrations-Part 35 | 56 FR 34104; (1/27/95) | 1992-1 | F | N 6/29/99 | 5/3/97 |
| 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 | N 5/28/97 | 3/6/97 |
| 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 | F | N 10/13/98 | 1/20/97 |
| 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 | F | N 10/13/9 | 7/17/97 |
| Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70 | 59 FR 36026; (8/15/97) | 1994-3 | F | N 5/28/97 | 5/3/97 |
| 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 | N 6/29/99 | 7/9/98 |

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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 | N 6/29/99 | 7/9/98 |
| Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61 | 60 FR 15649; 60 FR 25983; (3/1/98) | 1995-3 | F | N 10/13/98 | 5/23/98 |
| Performance Requirements for Radiography Equipment-Part 34 | 60 FR 28323; (6/30/98) | 1995-4 | F | N 7/26/99 | 3/8/99 |
| Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20 | 60 FR 36038; (8/14/98) | 1995-5 | F F | N 7/26/99 N 6/15/00 | 3/8/99 4/24/00 |
| Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70 | 60 FR 38235; (11/24/98) | 1995-6 | F | N 7/26/99 | 5/3/97 |
| Medical Administration of Radiation and Radioactive Materials-Parts 20, 35 | 60 FR 48623; (10/20/98) | 1995-7 | F | N 6/29/99 | 7/9/98 |
| 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 | N 10/25/99 | 8/21/99 |
| 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 10/25/99 | 8/21/99 |
| 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 10/25/99 | 8/21/99 |
| 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 | N 10/25/99 | 8/21/99 |
| Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35 | 62 FR 4120; (5/29/00) | 1997-3 | F | N 6/29/99 | 7/9/98 |
| Fissile Material Shipments and Exemptions-Part 71 | 62 FR 5907; (none) | 1997-4 | | | Not required ³ |
| 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 | N 6/15/00 | 4/24/00 |

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| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (8/20/00) | 1997-6 | F | N 6/9/00 | 4/16/00 |
| Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30 | 62 FR 63634; (1/02/01) | 1997-7 | F ML012770299 | N 2/22/02 ML020570410 | 1/26/01 |
| Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150 | 63 FR 1890; 63 FR 13773; (2/12/01) | 1998-1 | F ML012770299 | N 2/22/02 ML020570410 | 1/26/01 |
| 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 | N 6/15/00 | 4/24/00 |
| 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 ML012770291 | N 2/22/02 ML020570410 | 3/7/01 |
| Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20 | 63 FR 50127; (11/20/01) | 1998-6 | F | N 7/28/99 | 5/23/98 |
| Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40 | 64 FR 17506; (6/11/02) | 1999-1 | F ML022410086 | N 9/17/02 ML022630066 | 8/26/02 |
| 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 ML012770291 | N 2/22/02 ML020570410 | 3/7/01 |
| Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39 | 65 FR 20337; (5/17/03) | 2000-1 | F ML031110100 | N 4/18/03 ML030830470 | 7/3/03 |
| New Dosimetry Technology-Parts 34, 36, 39 | 65 FR 63750; (1/8/04) | 2000-2 | F ML031110100 | N 4/18/03 ML030830470 | 7/3/03 |

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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 ML040430105 | Y 3/11/04 ML040710270 | |
| Revision of the Skin Dose Limit-Part 20 | 67 FR 16298; (4/5/05) | 2002-1 | F ML043510236 | N 12/29/04 ML043650051 | 12/29/04 |
| ★Medical Use of Byproduct Material-Parts 20, 32, and 35 | 67 FR 20249; (4/24/05) | 2002-2 | P ML053430263 | N 1/04/06 ML060060002 | |
| Financial Assurance for Materials Licensees – Parts 30, 40, 70 | 68 FR 57327 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 | | | |
| Security Requirements for Portable Gauges Containing Byproduct Material - Part 30 | 70 FR 2001; (7/11/08) | 2005-1 | | | |
| ★Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35 | 70 FR 16336; (4/29/08) | 2005-2 | P ML053430263 | Y 1/04/06 ML060060002 | |
| Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁷ | 70 FR 72128; (12/1/05) | 2005-3 | ML053220233 | 11/18/05 ML053220464 | |

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 Final State Regulation (Effective Date) of some regulations may be the date of adoption with the effective date occurring 31 days after adoption according to Washington statute.
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.