

March 11, 2004

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 changes to the Washington Administrative Code (WAC), Chapter 246, "*Radiation Protection*", received by our office on February 9, 2004. Our review and comments are in response to the State's request for Nuclear Regulatory Commission (NRC) evaluation of the changes to Washington's radiation control rules that incorporated the amendments identified on the States Regulation Status Data Sheet (SRS). These regulations were reviewed by comparison to the equivalent NRC rules in 10 CFR Parts 30, 31 and 32, and the requirements of the amendment identified in the enclosed SRS. We discussed our review of the regulations with you on March 11, 2004.

As a result of our review, we have four comments and two editorial suggestions. Please provide an amended final version of your rules showing the location of any changes made, by the State, in response to our comments. If there are any comments which Washington believes are in error, the State should identify the section of their regulations that meet the designated compatibility category. 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 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 Washington 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>.

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 Osiris Siurano of my staff at (301) 415-2307 or OSP@NRC.GOV.

Sincerely,

/RA By K.N. Schneider For/

Josephine Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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DIR RF [4-27]

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Response to Incoming Document:

ML003696531

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML040710270.wpd

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DATE	2/26/04*		2/26/04*		3/10/04*		3/11/04*	

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Editorial Suggestions

1. WAC 246-232-020-(k)(i) states: "... in accordance with k(i) and (k)(iii)." It should read: "...in accordance with (k)(ii) and (k)(iii)."
2. WAC 246-233-020(k)(ii) states at the end: "...is subject to the bankruptcy notification requirement in WAC 246-232-050." The State regulation equivalent to 10 CFR 30.34(h) should be WAC 246-232-050(5).

COMPATIBILITY COMMENTS ON WASHINGTON PROPOSED REGULATIONS (cont.)
COMPATIBILITY COMMENTS ON WASHINGTON PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	246-233-020(h)(i)	31.5(c)(9)(i)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>The State doesn't have a specific section equivalent to 10 CFR 30.51. Equivalent State provisions are spread under other sections of the State code. However, an equivalent provision for 10 CFR 30.51(e) was not found [this section requires that "each licensee authorized to possess radioactive material, with a half life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and..."].</p> <p>The State needs to include this requirement to meet Category B compatibility which requires essentially identical language.</p>
2	246-233-020(3)(h)(ii)	31.5(c)(9)(ii)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>The State regulation does not include the term "an intermediate person."</p> <p>The State needs to include this to meet Category B compatibility which requires essentially identical language</p>

3	246-235-093(4)	32.51a(5)	2001-1	B	<p>Same: Conditions of licenses.</p> <p>There is no State equivalent regulation for 10 CFR 32.51a(5) - State's policy for improper disposal within its jurisdiction.</p> <p>The State needs to include this to meet Category B compatibility which requires essentially identical language.</p>
4	246-235-093 (4)(d)(iii)(D) and 246-235-093 (4)(c)	32.52(b)(1)(iv)	2001-1	B	<p>Same: material transfer reports and records</p> <p>The State has not included the requirement for providing the serial number of the device in the quarterly report. This could be an editorial error.</p> <p>The State needs to include this to meet Category B compatibility which requires essentially identical language.</p>

STATE REGULATION STATUS

State: Washington

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

Tracking Ticket Number: 4-27

Date: March 11, 2004

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ² Rule / 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	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	P ML021010310	N 5/10/02 ML021350051	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
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

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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
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

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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	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML031110100	N 4/18/03 ML030830470	
★ 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			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			

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
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.