

October 13, 2005

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 the Washington Administrative Code (WAC), Chapters 246-220, 246-221, 246-232, 246-235, 246-239 and 246-240, received by our office on August 29, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 32, and 35 and the requirements of the two amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on October 11, 2005.

As a result of our review, we have 9 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the Washington regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Washington regulations. However, we have determined that if your proposed regulations were adopted, 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 final changes 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.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-Perez at 301-415-2307 or by e-mail at OSP@NRC.GOV.

Sincerely,

IRA By KNSchneider For
Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Dennis Rathbun, Deputy Director
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Distribution:

SISP Review Complete

DIR RF(5-243) DCD (SP08) : Publicly Available Non-Publicly Available

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OFFICE	STP		STP		OGC		STP:D	
NAME	OSiurano		WRautzen		STreby		KNSchneider for DRathbun	
DATE	09/28/05*		09/28/05*		10/03/05*		10/13/05*	

COMPATIBILITY COMMENTS ON WASHINGTON'S PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	246-240-010	35.2	2005-2	B	<p>Preceptor</p> <p>Washington did not include the word "verifies" in the definition of Preceptor.</p> <p>Washington needs to add the word "verifies" to the definition of Preceptor to meet the Compatibility Category B designation of 10 CFR 35.2.</p>
2	246-240-072	35.51	2005-2	B	<p>Training for an authorized medical physicist</p> <p>Washington omitted reference to certain written requirements necessary for the preceptor authorized medical physicist to certify. Specifically, to function independently as an authorized medical physicist, written certification must be obtained for sections 246-240-072(3) and (1)(a) and (1)(b) or 246-240-072(2)(a) and (3) from the preceptor authorized medical physicist.</p> <p>Washington needs to add preceptor authorized medical physicist certification of sections 246-240-072(3) and (1)(a) and (1)(b) or 246-240-072(2)(a) and (3) to meet the Compatibility Category B designation for 10 CFR 35.51.</p>
3	246-240-075	35.55	2005-2	B	<p>Training for an authorized nuclear pharmacist</p> <p>Washington currently requires 700 hours of classroom and laboratory training. The number of hours should be changed to 200 to reflect the requirements of 10 CFR 35.55.</p> <p>Washington needs to change the number or hours of classroom and laboratory training for authorized nuclear pharmacists from 700 to 200 to meet the Compatibility Category B designation for 10 CFR 35.55.</p>

4	246-240-075	35.55	2005-2	B	<p>Training for an authorized nuclear pharmacist</p> <p>Washington omitted reference to certain written requirements necessary for the preceptor authorized nuclear pharmacist to certify. Specifically, to function independently as an authorized nuclear pharmacist, written certification must be obtained for sections 246-240-075(1)(a), (1)(b) and (1)(c) or 246-240-075(2)(a) from the preceptor authorized nuclear pharmacist.</p> <p>Washington needs to add preceptor authorized nuclear pharmacist certification of sections 246-240-075(1)(a), (1)(b) and (1)(c) or 246-240-075(2)(a) to meet the Compatibility Category B designation for 10 CFR 35.55.</p>
5	246-240-154	35.190	2005-2	B	<p>Training for uptake, dilution, and excretion studies</p> <p>Washington did not include the requirement for a minimum of 8 hours of classroom and laboratory training.</p> <p>Washington needs to add the number of hours of classroom and laboratory training to meet the Compatibility Category B designation for 10 CFR 35.190.</p>
6	246-240-163	35.290	2005-2	B	<p>Training for imaging and localization studies</p> <p>Washington did not include the requirement for a minimum of 80 hours of classroom and laboratory training.</p> <p>Washington needs to add the number of hours of classroom and laboratory training to meet the Compatibility Category B designation for 10 CFR 35.290.</p>

7	246-240-210	35.390	2005-2	B	<p>Training for use of unsealed byproduct material for which a written directive is required</p> <p>Washington requires the length of the residency program to be 3 years. In 10 CFR 35.390, there is no specific time period for the length of the residency program.</p> <p>Washington needs to omit the length of 3 years from the residency program requirement to meet the Compatibility Category B designation for 10 CFR 35.390.</p>
8	246-240-210	35.390	2005-2	B	<p>Training for use of unsealed byproduct material for which a written directive is required</p> <p>Washington did not include the requirement for a minimum of 200 hours of classroom and laboratory training.</p> <p>Washington needs to add the number of hours of classroom and laboratory training to meet the Compatibility Category B designation for 10 CFR 35.390.</p>
9	Omitted	35.396	2005-2	B	<p>Training for the parenteral administration of unsealed byproduct material requiring a written directive.</p> <p>Washington omitted the requirements of 10 CFR 35.396, Training for the parenteral administration of unsealed byproduct material requiring a written directive.</p> <p>Washington needs to add the requirements for training for the parenteral administration of unsealed byproduct material requiring a written directive to meet the Compatibility Category B designation for 10 CFR 35.396.</p>

STATE REGULATION STATUS

State: Washington

[Two amendments reviewed are identified by a i at the beginning of the equivalent NRC regulation.]

Tracking Ticket Number:

Date: October 13, 2005

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
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

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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
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

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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
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
i Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2	P ML052510066	N 10/13/05 ML052870111	
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			
i Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; (4/29/08)	2005-2	P ML052510066	Y 10/13/05 ML052870111	

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.