



NARM Rule - Chapter 246-249 WAC
August 15, 2006

Washington Department of Health Sets Disposal Limit for Radioactive Waste

On August 15, 2006, a new state disposal limit for a type of low-activity radioactive waste became effective. The waste, known as NARM, is naturally occurring radioactive material found in soils, pipe scale from oil production, and water filters from public water wells in areas with elevated levels of radium. NARM also includes waste produced from an accelerator. Accelerators are used to do research and create medical isotopes. NARM is disposed of at the commercial low-level radioactive waste site in Richland. This site is licensed and regulated by the Department of Health. The new health-based limit is 100,000 cubic feet per year and allows unused volumes to be rolled over from previous years under strict conditions. This new limit gives the state more control over the disposal of NARM waste. This rule has been in the making for more than 10 years and is supported by an Environmental Impact Statement.

The rule was adopted on October 20, 2005. It was to become effective December 23, 2005, but was delayed so the state could evaluate potential conflicts with Initiative 297, known as the Cleanup Priority Act. On June 12, 2006, the U.S. District Court declared that the Cleanup Priority Act was unconstitutional. The state responded by filing an appeal to that court decision on July 12. The state has determined that the adoption of the NARM rule is not in conflict with the appeal and has decided it is in the state's interest to allow this rule to become effective at this time.

Any challenge to this rule on the grounds of noncompliance with the State Environmental Policy Act (SEPA) must be submitted to the Department of Health on or before September 12, 2006. For more information please contact Nancy Darling, Department of Health, at 360-236-3244 or e-mail her at nancy.darling@doh.wa.gov. You can also visit our web site at <http://doh.wa.gov/ehp/rp/waste/lwhtm.htm>.

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STP

SANSI Review Complete

RIDS: SPDS

STP-006 Complete

WAC 197-11-990 Notice of action.

NOTICE OF ACTION

Notice is given under SEPA, RCW 43.21C.080, that the Washington State Department of Health took the action described in (2) below on December 21, 2005.

1. Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced on or before September 12, 2006 in accordance with RCW 43.21C.080(2).

2. Description of agency action:

On October 19, 2005, the Department of Health adopted amendments to WAC 246-249, *Radioactive Waste – Use of Commercial Disposal Site*. On December 21, 2005, the Department of Health filed with the Code Reviser's Office a rulemaking order amending the order of adoption, WSR 05-21-128, which extended the effective date of the rule from December 23, 2005 to August 15, 2006. The effective date was extended based on a request from the Department of Ecology for time to evaluate potential issues arising from the application, if any, of the Cleanup Priority Act, RCW 70.105E, to the disposal of diffuse naturally occurring radioactive and accelerator produced material (NARM) at the commercial disposal site, before the rule takes effect. The Department of Health is allowing this rule to become effective on August 15 due to a recent court decision which invalidated the Cleanup Priority Act in its entirety.

The amendments to WAC 246-249 establish a disposal limit on NARM of 100,000 cubic feet per year at the commercial low-level radioactive waste disposal facility in Richland, Washington. Also included in the amendments is a case-by-case rollover option for carrying unused volumes from year to year. Use of rollover volume requires application by the site operator and approval from the Department of Health. The amendments also replace an individual generator limit of 1,000 cubic feet per year with a requirement that individual generators receive prior approval from the Department of Health for disposal volumes of greater than 1,000 cubic feet per year. WAC 246-249-080 contains the substantive amendments. WAC 246-249-001, -010, and -090 were also amended for clarity and consistency.

3. Description of proposal:

Pursuant to a 1996 settlement agreement between the Department of Health and the disposal facility operator, US Ecology Washington, Inc., the Department of Health agreed to conduct rulemaking for the purpose of amending WAC 246-249-080 with respect to volume limits for diffuse NARM at the commercial disposal facility.

4. Location of proposal:

The commercial low-level radioactive waste disposal facility is located on the U.S. Department of Energy Hanford Reservation, approximately 23 miles northwest of Richland, Washington, on 100 acres of land leased to the state of Washington and subleased by the Washington State Department of Ecology to US Ecology Washington, Inc.

5. Type of environmental review under SEPA:

The Departments of Health and Ecology prepared a Final Environmental Impact Statement, *Commercial Low-Level Radioactive Waste Disposal Site, Richland, Washington*, dated May 2004. The Final Environmental Impact Statement was issued on July 29, 2004.

6. Documents may be examined during regular business hours at:

Department of Health, 111 Israel Road S.E., Tumwater, Washington and
Department of Health, 309 Bradley Blvd, Suite 201, Richland, Washington
Documents may also be examined on the Department of Health's website: <http://www.doh.wa.gov/ehp/rp>

7. Name of agency, proponent, or applicant giving notice:

Washington State Department of Health, Office of Radiation Protection

8. This notice is filed by:

Gary Robertson, Director, Office of Radiation Protection  August 15, 2006