

RESOLUTION OF COMMENTS IN WISCONSIN FINAL REGULATIONS, Effective Date: May 1, 2010

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
1	N/A	31.5(c)(13)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Wisconsin does not exclude the registration requirements for devices used in areas subject to NRC jurisdiction for less than 180 days.</p> <p>Wisconsin's rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule.</p> <p>As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State petition and State of Florida's request on compatibility changes for the GL rule.</p>	No action taken.
2	157.09 (2)(c)	30.15(a)(7)	2007-2	B	<p>Certain items containing byproduct material</p> <p>The State omitted the exemption for ionization chamber smoke detectors containing not more than 1 microcurie of americium-241 per detector in the form of a foil and designed to protect life and property from fires equivalent to 10 CFR 30.15(a)(7).</p> <p>Wisconsin needs to adopt a requirement equivalent to 10 CFR 30.15(a)(7) to meet the Compatibility Category B designation of 10 CFR 30.15.</p>	Accepted. See DHS 157.09(2)(c)2.4.

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3	157.09 (2)(c)	30.15	2007-2	B	<p>Certain items containing byproduct material</p> <p>The State's regulations continue to allow exemptions for automobile lock illuminators, automobile shift quadrants, thermostat dials, and spark gap irradiators that were removed from 10 CFR 30.15 because these items have been determined to be obsolete.</p> <p>Wisconsin needs to remove the regulatory exemptions for automobile lock illuminators, automobile shift quadrants, thermostat dials, and spark gap irradiators in their regulations in order to meet the Compatibility Category B designation for 10 CFR 30.15.</p>	Accepted. Deleted from DHS 157.09(2)(c)
4	157.09 (2)(f)	30.16	2007-2	B	<p>Resins containing scandium-46 and designed for sand consolidation in oil wells</p> <p>The State's regulations continue to allow an exemption for resins containing scandium-46 and designed for sand-consolidation in oil wells that was removed from 10 CFR Part 30 because this technology has been rendered obsolete.</p> <p>Wisconsin needs to remove the exemption in their regulations for resins containing scandium-46 and designed for sand-consolidation in oil wells in order to meet the Compatibility Category B designation for 10 CFR 30.15.</p>	Accepted. Deleted from DHS 157.09(2)

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5	157.11 (2)(b)	31.5	2007-2	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>The State does not have a provision equivalent to 10 CFR 31.5(c)(8)(iii) that allows transfers to specific licensees not identified in 10 CFR 31.5(c)(8)(i) with agency approval.</p> <p>Wisconsin needs to adopt a provision equivalent to 10 CFR 31.5(c)(8)(iii) in order to meet the Compatibility Category B designation of 10 CFR 31.5.</p>	No action taken as 10 CFR 31.5 is currently under revision. Proposal will be evaluated during the next Rule revision.
6	157.13 (4)(a)	32.11	2007-2	NRC	<p>Introduction of byproduct material in exempt concentrations into products or materials, and transfer of ownership or possession: Requirements for license.</p> <p>The State's regulations include requirements equivalent to 10 CFR 32.11, which is designated as an NRC-only requirement.</p> <p>Wisconsin needs to remove the requirements in 157.13(4)(a), which impose NRC-only requirements, in order to meet the Compatibility Category NRC designated for 10 CFR 32.11.</p>	Accepted. See DHS 157.13(4)(a) (Added "excluding byproduct material")
7	157.09 (2)(a)	32.12	2007-2	NRC	<p>Same: Records and material transfer reports</p> <p>The State's regulations include requirements equivalent to 10 CFR 32.12, which is designated as an NRC-only requirement.</p>	Accepted. See DHS 157.09(2)(a)2. (Added "under 10 CFR 32.11" and deleted reference to general license.)

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					Wisconsin needs to remove the requirements in 157.09(2)(a), which impose NRC-only requirements, in order to meet the Compatibility Category NRC designated for 10 CFR 32.12.	
8	157.09 (2)(a)	32.13	2007-2	C	<p>Same: Prohibition of introduction</p> <p>DHS 157.09(2)(a) references another requirement in Wisconsin's regulations that imposes on exclusive NRC jurisdiction.</p> <p>Wisconsin needs to revise DHS 157.09 (2)(a) to reference 10 CFR 32.11 instead of its own requirements in order to meet the Compatibility Category C designation of 10 CFR 32.13.</p>	Accepted. See DHS 157.09(2)(a) (Added "under 10 CFR 32.11 and deleted reference to general license.)
9	157.30 (8)	20.2008	2007-3	B	<p>Disposal of 11e.(3) and 11e.(4) byproduct material</p> <p>The State references 10 CFR 20.2006 in its requirement in DHS 157.30 (8); however, the State has an equivalent requirement to 10 CFR 20.2006 in DHS 157.30 (6). The State needs to reference its own regulatory requirement in DHS 157.30 (6), as opposed to referencing 10 CFR 20.2006, to avoid duplication of regulations.</p> <p>Wisconsin needs to revise 157.30(8) as noted above, in order to meet the Compatibility Category B designated for 20.2008</p>	Accepted. See DHS 157.30(8) (Added reference to sub. (6). This is DHS 157.30(6))
10	DFS 157 Appendix E	Part 20 Appendix B	2007-3	A	Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational	Accepted. See Appendix E.

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					<p>Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage</p> <p>The State added Nitrogen and Oxygen to the list of elements in DHS 157, Appendix E; however, the State omitted these new limits for these elements in the tables for “Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage.” Using the limits for elements not listed in Appendix E causes the State to be less restrictive than Federal requirements in Part 20, Appendix B.</p> <p>Wisconsin needs to include the limits for Nitrogen and Oxygen in the tables for “Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage” in order to meet the Compatibility Category A assigned to Part 20 Appendix B.</p>	
11	157.09 (2)(c)	30.15 (a)(1)(iv)	N/A	B	<p>Certain items containing byproduct material</p> <p>DHS 157.09(2)(c)1.d contains a calculational error. The limit for activity of Promethium-147 per timepiece is listed as “200 millicuries” in the State’s rules when it should be “200 microcuries.” The State’s correctly lists the SI units for the limit.</p>	Accepted. See DHS 157.09(2)(c)

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					Wisconsin must correct the limit for activity of Promethium-147 per timepiece to 200 microcuries to meet the Compatibility Category B designation for 10 CFR 30.15.	
12	157.09 (2)(c)3	30.15 (a)(1)(viii)	2007-3	B	<p>Certain items containing byproduct material</p> <p>The exemption for radium-226 in timepieces is for timepieces acquired prior to the effective date of the State's regulation, as opposed to manufactured prior to the effective date of NRC's regulations incorporating the authority for naturally occurring and accelerator-produced radioactive materials added by the Energy Policy Act of 2005.</p> <p>Wisconsin needs to amend its regulation in DHS 157.09 (2)(c)3 to reflect that the exemption is for radium-226 timepieces manufactured before November 30, 2007, in order to meet the Compatibility Category B designation for 10 CFR 30.15.</p>	Accepted. See 157.09(2)(c)3
13	157.09 (2)(b)	30.18(b)	2007-3	B	<p>Exempt quantities</p> <p>The State omitted a provision equivalent to 10 CFR 30.18(b), providing a historic exemption to persons who possess byproduct materials received or acquired before September 25, 1971, under the general license then provided in 10 CFR 31.4 or equivalent State requirement.</p> <p>Wisconsin needs to adopt a requirement equivalent to 10 CFR 30.18(b) in order to meet the</p>	Accepted. See 157.09(2)(b)3.

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
					Compatibility Category B designation assigned to 10 CFR 30.18.	
14	157.13 (1)(j)	30.32(j)	2007-3	B	<p>Application for specific licenses</p> <p>The State has omitted the introductory text equivalent to 10 CFR 30.32(j).</p> <p>Wisconsin needs to adopt equivalent text to the introductory text of 10 CFR 30.32(j) in order to meet the Compatibility Category B designation assigned to 10 CFR 30.32(j).</p>	Accepted. See DHS 157.13(1)(j)
15	157.68	32.72 (a)(2)(i), (iii), (iv), (v), and (b)	2007-3	B	<p>Manufacture, preparation, or transfer for commercial distribution of radioactive drugs, containing byproduct material for certain in vitro clinical or laboratory testing under general license</p> <p>The State has omitted the provisions found in 10 CFR 32.72(b)(4) that recognize individuals that prepared only radioactive drugs containing accelerator-produced radioactive materials at pharmacies at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or an earlier date noticed by the NRC, as eligible to be noticed as authorized nuclear pharmacists. The State has also omitted the documentation requirements found in 10 CFR 32.72(b)(5)(v).</p> <p>Wisconsin needs to adopt equivalent requirements to 10 CFR 32.72(b)(4) and (b)(5)(v) in order to meet the Compatibility Category B designation assigned to 10 CFR 32.72.</p>	Accepted. See DHS 157.68

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS	
16	N/A	35.2	2007-3	H&S	<p>Definition: Positron Emission Tomography (PET) radionuclide production facility</p> <p>The State has omitted the definition for "Positron Emission Tomography (PET) radionuclide production facility."</p> <p>Wisconsin needs to adopt a compatible definition for "Positron Emission Tomography (PET) radionuclide production facility" in order to meet the Compatibility Category H&S designation for this definition.</p>	Accepted. See DHS 157.03(264r)