

July 14, 2010

Paul S. Schmidt, Manager
Radiation Protection Section
Division of Public Health
Department of Health and Family Services
P.O. Box 2659
Madison, WI 53701-2659

Dear Mr. Schmidt:

We have reviewed the final revision to the Wisconsin regulations, Radiation Protection, received by our office on May 25, 2010. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 33, 35, 40, 61, 70, 71, and 150 and the requirements of the 11 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Cheryl Rogers on July 9, 2010.

As a result of our review, we have seven 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. 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 Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

We request that when you revise your regulations to address our comments, a copy of the "as published" regulations be provided to us for review. As requested in FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Wisconsin, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The SRS Data Sheet summarizes our knowledge of the status of other Wisconsin 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 FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

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 Kathleen Schneider, State Regulation Review Coordinator, at (301) 415-2320 (Kathleen.Schneider@nrc.gov) or Maria Arribas-Colon at (301) 415-6026 (Maria.Arribas-Colon@nrc.gov).

Sincerely,

/RA/

Terrence Reis, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As stated

CONCURRENCE PAGE

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COMPATIBILITY COMMENTS ON *Wisconsin* FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	157.61 (7) and (12)	§ 35.50	2009-1	B	<p>Training for Radiation Safety Officer</p> <p>Wisconsin omits reference to 10 CFR 35.57 in DHS 157.61(7)(2)(b) equivalent to 10 CFR 35.50(a)(2)(ii)(B).</p> <p>Wisconsin needs to adopt the reference as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.50.</p>
2	157.61 (8) and 12(b)	§ 35.51	2009-1	B	<p>Training for an authorized medical physicist</p> <p>Wisconsin omits reference to 10 CFR 35.57 in DHS 157.61(8)(b) equivalent to 10 CFR 35.51(a)(2)(ii).</p> <p>Wisconsin needs to adopt the reference as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.51.</p>
3	157.61 (10)	§ 35.57	2005-2 2009-1	B	<p>Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist</p> <p>Wisconsin needs to remove the modifier “authorized” from the phrase “authorized medical physicist” in DHS 157.61(10)(a), which corresponds to 10 CFR 35.57(a)(1).</p> <p>Wisconsin needs to remove the modifier “a teletherapy or” from DHS 157.61(10)(b), which corresponds to 10 CFR 35.57(a)(2).</p> <p>Wisconsin does not include the phrase “before October 24, 2002” in DHS 157.61(10)(c), which</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>corresponds to 10 CFR 35.57(b)(1).</p> <p>Wisconsin omits the equivalent requirements to 10 CFR 35.57(c).</p> <p>Wisconsin needs to make the above changes in order to meet Compatibility Category B designation assigned to 10 CFR 35.57.</p>
4	157.63 (4) and (6)(a)	§ 35.190	2009-1	B	<p>Training for uptake, dilution, and excretion studies.</p> <p>Wisconsin omit reference to 10 CFR 35.290 in DHS 167.63(4)(c)(2) equivalent to 10 CFR 35.190(c)(1)(ii).</p> <p>Wisconsin reference in DHS 157.63(6)(a) to "...who meets the requirements of subs. (4) or (5), s. DHS 157.64(4), s. DHS 157.61(10) or equivalent agreement state requirements" is not equivalent to "...who meets the requirements in §§ 35.57, 35.190, 35.290, or 35.390, or equivalent Agreement State requirements." in 10 CFR 35.190(2).</p> <p>Wisconsin need to adopt and revise the references as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.190.</p>
5	157.64 (5) and (8)(b)	§ 35.392	2009-1	B	<p>Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).</p> <p>Wisconsin reference in DHS 157.64(5)(c)(2) to "...who meets the requirements of sub. (4)(a) or (b), (5) or (6), s. DHS 157.61(10) or equivalent agreement state requirements" is not equivalent to "...who meets the requirements in §§ 35.57, 35.390, 35.392, 35.394, or equivalent Agreement State</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>requirements.” in 10 CFR 35.392.</p> <p>Wisconsin needs to revise the references as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.392.</p>
6	157.64 (6) and (8)(c)	§ 35.394	2009-1	B	<p>Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).</p> <p>Wisconsin in DHS 157.64 (6)(c)(2) refers to “...who meets the requirements in sub. (4)(a) or (d), this subsection, s. DHS 157.61(10) or equivalent...” not equivalent to reference in 10 CFR 35.394(c)(2) to “...who meets the requirements in §§ 35.57, 35.390, 35.394, or equivalent...”.</p> <p>Wisconsin in DHS 157.64 (8)(c) refers to “...who meets the requirements in sub (4) or (6), s. DHS 157.61(10), or equivalent...” not equivalent to reference in 10 CFR 35.394(3) to “...who meets the requirements in §§ 35.57, 35.390, 35.394, or equivalent...”.</p> <p>Wisconsin needs to revise the references as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.394.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
7	157.64 (7) and (8)(d)	§ 35.396	2009-1	B	<p>Training for the parenteral administration of unsealed byproduct material requiring a written directive</p> <p>Wisconsin omits reference to 10 CFR 35.390 in DHS 157 (7) and (8)(d).</p> <p>Wisconsin needs to adopt the references as noted above, in order to meet Compatibility Category B designation assigned to 10 CFR 35.396.</p>

STATE REGULATION STATUS

State: Wisconsin

Tracking Ticket Number: 10-26

[11 amendment(s) reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]

Date: July 14, 2010

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superseded by 1997-5)	01/10/1994	Not Required	Not Required	Wisconsin has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superseded by 1997-5)	none	Not Required	Not Required	Wisconsin has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-3	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;	01/01/1994	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980;	10/15/1994	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superseded by 2002-2)	01/27/1995	Final	08/01/02	Wisconsin has adopted Final Regulations equivalent to RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable	Not Applicable	Wisconsin does not have authority to regulate this material under its Agreement.
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Not Applicable	Not Applicable	Wisconsin does not have authority to regulate this material under its Agreement.
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-1	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	01/01/1998	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5)	06/30/1998	Not Required	Not Required	Wisconsin has adopted Final Regulations equivalent to RATS ID: 1997-5.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2)	10/20/1998	Final	08/01/02	Wisconsin has adopted Final Regulations equivalent to RATS IDs: 2002-2 and 2005-2.
1996-1	Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superseded by 2004-1)	04/01/1999	Final	08/01/02	Wisconsin has adopted Final Regulations equivalent to RATS ID: 2004-1.
1996-2	One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.

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1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1)	02/10/2000	Final	08/01/02	Wisconsin has adopted Final Regulations equivalent to RATS ID: 2004-1. (See STP-97-078)
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) Wisconsin has adopted Final Regulations equivalent to RATS ID: 2002-2.

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1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 35, 36 63 FR 39477; 63 FR 45393	10/26/2001	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	Wisconsin does not have authority to regulate this material under its Agreement.
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final	08/01/02	Regulations adopted with the package including Wisconsin's application to become an Agreement State.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
*2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML101400048	No Comments 07/14/2010 ML101580437	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML063120323	No Comments 01/09/2007 ML070090076	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML070530037	No Comments 03/13/2007 ML070720431	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML063120323	No Comments 01/09/2007 ML070090076	
*2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML101400048	No Comments 07/14/2010 ML101580437	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML063120323	No Comments 01/09/2007 ML070090076	
*2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML101400048	No Comments 07/14/2010 ML101580437	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML052560315	No Comments 09/14/2005 ML052580010	
*2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML101400048	No Comments 07/14/2010 ML101580437	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
*2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML101400048	No Comments 07/14/2010 ML101580437	
*2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML101400048 License Condition ML082600587	No Comments 07/14/2010 ML101580437 No Comments 09/29/2008 ML082620071	
*2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML101400048	No Comments 07/14/2010 ML101580437	
*2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Final ML101400048	No Comments 07/14/2010 ML101580437	
*2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML101400048	No Comments 07/14/2010 ML101580437	
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML081080577 ML081230699	No Comments 05/02/2008 ML081221031	
*2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML101400048	No Comments 07/14/2010 ML101580437	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
*2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML101400048	Comments 07/14/2010 ML101580437	