



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 15, 2022

Mr. Earl Fordham, Deputy Director
Office of Radiation Protection
Washington Department of Health
111 Israel Road, SE
P.O. Box 47827
Olympia, WA 98504-7827

Dear Mr. Fordham:

We have reviewed the Washington proposed legally binding requirement (license condition) which allows for radioactive material with a half life greater than 120 days to be held for decay in storage (DIS) until survey results are indistinguishable from background, received by our office on June 1, 2022. We discussed our review of the license condition with you on July 14, 2022.

The Standing Committee on Compatibility (Committee) reviewed the Washington proposed license condition. The Committee's review was conducted in accordance with the "Agreement State Program Policy Statement" (82 FR 48535); October 18, 2017 and the categorization process for NRC program elements in NRC Management Directive 5.9 "Adequacy and Compatibility of Program Elements for Agreement State Programs."

The Committee determined the following:

- Washington did not provide a technical analysis for justifying the use of this generic condition.
- Current NRC requirements limits the disposal of waste by DIS to radionuclides with half-lives less than 120 days. NRC has issued exemptions to allow for the disposal of radionuclides with half-lives greater than 120 days by DIS on a licensee by licensee basis with appropriate analysis and justification. Factors to consider include those found in Regulatory Issue Summary 2008-12 *Considerations for Extended Interim Storage of Low-Level Radioactive Waste by Fuel Cycle and Materials Licensees* (ADAMS Accession No. ML073330725)
- An alternative to the use of DIS in 10 CFR 20.2001 is the use of 10 CFR 20.2002. The license condition provided by Washington does not contain all criteria for using an alternative disposal by DIS as stated in 10 CFR 20.2002. Additional guidance for the disposal of very low-level radioactive waste using 20.2002 can be found at <https://www.nrc.gov/waste/llw-disposal/very-llw.html>.

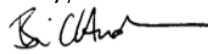
The Committee noted that Washington does not have regulations equivalent to 10 CFR 20.2002, however, Washington may wish to promulgate equivalent provisions in order to approve such exemption requests for alternate disposal procedures on a case by case basis.

It was the consensus of all members of the Committee that Washington's proposed license condition cannot be approved as presented.

Please find enclosed a copy of the Washington State Regulation Status (SRS) Data Sheet which summarizes our knowledge of the status of this and 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 NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

If you have any questions regarding the review results, the compatibility and health and safety categories or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at (301) 415-0275 (Michelle.Beardsley@nrc.gov).

Sincerely,



Signed by Anderson, Brian
on 07/15/22

Brian C. Anderson, Chief
State Agreement and Liaison Programs Branch
Division of Materials Safety, Security, State
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

Enclosure:
Washington SRS Data Sheet

SUBJECT: WASHINGTON PROPOSED LEGALLY BINDING REQUIREMENTS (LICENSE
CONDITION FOR DECAY IN STORAGE) DATE July 15, 2022

DISTRIBUTION: SP 08

DIR RF 22-44

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WA File

ADAMS Accession No. ML22157A426 pkg and ML22196A041 letter

OFFICE	NMSS/MSST	NMSS/MSST	OGC	NMSS/MSST
NAME	MBeardsley	DWhite	BHarris NLO via email	BAnderson
DATE	6/27/22	6/29/22	7/14/22	7/15/22

OFFICIAL RECORD COPY

STATE REGULATION STATUS

State: Washington

Tracking Ticket Number: 22-44

Date: July 15, 2022

[# amendment(s) reviewed identified by a *at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5)	01/10/1994	Final	No Comments 07/14/1998	Washington has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5)	none	Not Required	Not Required	Washington 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	No Comments 06/03/1998 12/15/1998	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40 and 70 56 FR 64980	10/15/1994	Final	No Comments 08/30/1999	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Final	No Comments 06/29/1999	Washington has adopted Final Regulations equivalent to RATS ID: 2002-2.
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30 and 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30 and 40 58 FR 39628	10/25/1996	Final	No Comments 05/28/1997	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Proposed ML18044A469 License Condition ML18124A092 Final ML18228A702	No Comments 03/16/2018 ML18044A467 No Comments 5/24/2018 ML18124A091 No Comments 09/07/2018 ML18228A699	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Final	No Comments 10/13/1998	
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40 and 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	Final	No Comments 10/13/1998	

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1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40 and 70 59 FR 36026	08/15/1997	Final	No Comments 05/28/1997	
1995-1	Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use Parts 30, 32 and 35 59 FR 61767; 59 FR 65243; 60 FR 322	01/01/1998	Final	No Comments 06/29/1999	
1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final	No Comments 06/29/1999	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20 and 61 60 FR 15649; 60 FR 25983	03/01/1998	Final	No Comments 10/13/1998	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5)	06/30/1998	Final	No Comments 07/26/1999	Washington has adopted Final Regulations equivalent to RATS ID: 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19 and 20 60 FR 36038	08/14/1998	Final	No Comments 06/15/2000	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40 and 70 60 FR 38235	11/24/1998	Final	No Comments 07/26/1999	

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1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20 and 35 60 FR 48623 (Superceded by 2002-2 and 2005-2)	10/20/1998	Final	No Comments 06/29/1999	Washington 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 (Superceded by 2004-1)	04/01/1999	Final	No Comments 10/25/1999	Washington 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 and 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: Recordkeeping Requirements Parts 20, 30, 40, 61 and 70 61 FR 24669	06/17/1999	Final	No Comments 10/25/1999	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML062960292	No Comments 11/28/2006 ML063250177	
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	No Comments 10/25/1999	

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1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20 and 35 62 FR 4120	05/29/2000	Final	No Comments 06/29/1999	
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superseded by 2004-1)	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71 and 150 62 FR 28947	06/27/2000	Final	No Comments 06/15/2000	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40 and 70 62 FR 39057	08/20/2000	Final	No Comments 06/09/2000	
1997-7	Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final ML012770299	No Comments 02/22/2002 ML020570410	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71 and 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML012770299	No Comments 02/22/2002 ML020570410	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40 and 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

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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) Washington has adopted Final Regulations equivalent to RATS ID: 2002-2.
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059	07/09/2001	Final	No Comments 06/15/2000	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36 and 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML012770291	No Comments 02/22/2002 ML020570410	
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final	No Comments 07/28/1999	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Final ML022410086	No Comments 09/17/2002 ML022630066	
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.

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1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML012770291	No Comments 02/22/2002 ML020570410	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337	05/17/2003	Final ML030830470	No Comments 04/18/2003 ML031110100	
2000-2	New Dosimetry Technology Parts 34, 36 and 39 65 FR 63750	01/08/2004	Final ML030830470	No Comments 04/18/2003 ML031110100	
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31 and 32 65 FR 79162	02/16/2004	Final ML13345A414	No Comments 02/20/2014 ML13345A370	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML043510236	No Comments 12/29/2004 ML043650051	
2002-2	Medical Use of Byproduct Material Parts 20, 32 and 35 67 FR 20249	10/24/2005	Final ML061790303	No Comments 07/17/2006 ML061990221	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40 and 70 68 FR 57327	12/03/2006	Final ML0707170180	No Comments 02/01/2007 ML070310005	

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2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML101930066	No Comments 08/05/2010 ML102010129	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	Final ML071580618	No Comments 01/23/2008 ML080230413	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML061790303	No Comments 07/17/2006 ML061990221	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML053220233	No Comments 11/18/2005 ML053220464	
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML101930066	No Comments 08/05/2010 ML102010129	
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685	02/06/2007	Final ML090680060	No Comments 04/28/2009 ML090970038	
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML090680060	No Comments 04/28/2009 ML090970038	

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2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML090680060	No Comments 04/28/2009 ML090970038	
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32 and 150 72 FR 58473	12/17/2010	Final ML13345A414 Revised Final ML14316A422 Revised Final ML15037A538	Comments 02/20/2014 ML13345A370 No Comments 12/19/2014 ML14316A106 No Comments 03/06/2015 ML15037A522	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61 and 150 72 FR 55864	11/30/2010	Final ML12216A122	No Comments 09/05/2012 ML12228A415	
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 ML080430011	No Comments 02/26/2008 ML080560453	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19 and 20 72 FR 68043	02/15/2011	Final ML13352A110	No Comments 01/23/2014 ML13352A103	

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2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012	Final ML14062A117	No Comments 04/14/2014 ML14062A109	
2011-1	Decommissioning Planning Parts 20, 30, 40 and 70 76 FR 35512	12/17/2015	Proposed ML14316A422 Final ML15037A538	No Comments 12/19/14 ML14316A106 No Comments 03/06/2015 ML15037A522	
2011-2	Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70 and 150 76 FR 56951	11/14/2014	Proposed ML14316A422 Final ML15037A538	No Comments 12/19/14 ML14316A106 No Comments 03/06/2015 ML15037A522	
2012-1	Change of Compatibility Parts 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015	Final ML13345A414	No Comments 02/20/2014 ML13345A370	
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015	Final ML14062A117	No Comments 04/14/2014 ML14062A109	

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2012-3	Technical Corrections Parts 30, 34, 40 and 71 77 FR 39899	08/06/2015	Proposed ML16125A484 Final ML17089A298	No Comments 6/13/2016 ML16125A478 No Comments 04/11/2017 ML17088A647	
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015	Proposed ML16125A484 Final ML17040A466	Comments 6/13/2016 ML16125A478 No Comments 03/22/2017 ML17040A444	
2013-1	Physical Protection of Byproduct Material, Parts 20, 30, 32, 33, 34, 35, 36, 37, 39 and 71 78 FR 16922	03/19/2016	Proposed ML15252A335 Proposed ML16125A484 Final ML17040A466	Comments 11/02/2015 ML15252A322 Comments 6/13/2016 ML16125A478 No Comments 03/22/2017 ML17040A444	Part 37 only All Parts All Parts

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2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, Parts 30, 40 and 70 78 FR 32310	08/27/2016	Proposed ML16125A484 Final ML17040A466	Comments 6/13/2016 ML16125A478 No Comments 03/22/2017 ML17040A444	
2015-1	Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143	01/26/2018	Proposed ML16125A484 Final ML17089A298	No Comments 6/13/2016 ML16125A478 No Comments 04/11/2017 ML17088A647	
2015-2	Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73 and 150 79 FR 58664, 80 FR 3865	01/28/2018	Proposed ML15273A326 Proposed ML16125A484 Final ML17089A298	Comments 11/02/2015 ML15252A322 No Comments 6/13/2016 ML16125A478 No Comments 04/11/2017 ML17088A647	Part 37 only All Parts All Parts
2015-3	Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987	07/13/2018 *extended to 08/15/2020 See STC 17-060	Proposed ML16230A482 Final ML16363A140	Comments 09/16/2016 ML16230A481 No Comments 1/31/2017 ML16363A131	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Letter	Outgoing Package	Notes
2015-4	Miscellaneous Corrections, Parts 37 and 40 80 FR 45841	09/02/2018	Proposed ML15273A326	No Comments 11/02/2015 ML15252A322	Part 37 only
			Proposed ML16125A484	Comment 6/13/2016 ML16125A478	All Parts
			Final ML17040A466	No Comments 03/22/2017 ML17040A444	All Parts
2015-5	Miscellaneous Corrections, Parts 19, 20, 30, 32, 37, 40, 61, 70, 71 and 150 80 FR 74974	12/31/2018	Proposed ML16230A482	No Comments 09/16/2016 ML16230A481	
			Final ML16363A140	No Comments 1/31/2017 ML16363A131	
2018-1	Medical Use of Byproduct Material – Medical Event Definitions, Training and Experience, and Clarifying Amendments, Parts 30, 32 and 35	01/14/2022	Proposed ML22067A167	No Comments 03/16/2022 ML22067A161	
2018-2	Miscellaneous Corrections - Organizational Changes 10 CFR Parts 37, 40, 70 and 71	12/21/2021	Proposed ML21326A161	No Comments 12/07/2021 ML21326A135	
2018-3	Miscellaneous Corrections 10 CFR Parts 1, 2, 34, 37, 50, 71, 73, and 140	07/30/2022	Proposed ML21326A161	No Comments 12/07/2021 ML21326A135	

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2019-1	Miscellaneous Corrections 10 CFR Parts 2, 21, 37, 50, 52, 73, and 110	12/18/2022	Proposed ML21326A161	No Comments 12/07/2021 ML21326A135	
2019-2	Organizational Changes and Conforming Amendments 10 CFR Parts 1, 2, 37, 40, 50, 51, 52, 55, 71, 72, 73, 74, 100, 140, and 150	12/30/2022	Proposed ML21326A161	Comments 12/07/2021 ML21326A135	
2020-1	Individual Monitoring Devices 10 CFR Parts 34, 36, and 39	06/16/2023	Proposed ML21326A161	No Comments 12/07/2021 ML21326A135	
2020-2	Social Security Number Fraud Prevention 10 CFR Parts 9 and 35	08/17/2023			
2020-3	Miscellaneous Corrections 10 CFR Parts 1, 2, 19, 20, 21, 30, 34, 35, 40, 50, 51, 52, 60, 61, 62, 63, 70, 71, 72, 73, 74, 75, 76, 110, and 140	11/16/2023			
2021-1	Miscellaneous Corrections 10 CFR Parts 2, 11, 20, 25, 32, 35, 37, 50, 52, 55, 70, 72, 73, 95, and 110	09/08/2024			
2021-2	Miscellaneous Corrections 10 CFR Parts 9, 37, 40, 50, 51, 52, 55, 71, 73, and 110	12/30/2024			
2022-1	Miscellaneous Corrections 10 CFR 1, 2, 20, 30, 40, 50, 55, 70, 73, and 170	none			Provisions are not required for compatibility.

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N/A	Part 20.1003	N/A	Proposed ML13122A287	No Comments 01/12/2015 ML15007A232	
N/A	Part 20.1201(a)(1)(ii)	N/A	Final ML19017A149	No Comments 01/30/2019 ML19017A148	
*N/A	Proposed license condition for DIS RAM with greater than 120 day half life	N/A	Proposed LC ML22157A430	Comment 07/15/2022 ML22157A426	LC was not approved.