

requirement for the AMP to perform the calibration in § 35.432.

In the proposed rule (63 FR 43516; August 13, 1998), § 35.2432 would have provided that the record of calibration must contain “the name of the individual or the source manufacturer who performed the calibration.” This language was consistent with the language of proposed § 35.432.

In the final rule, (67 FR 20249; April 24, 2002), § 35.432 was changed from that in the proposed rule to allow the licensee to rely on measurements provided by a calibration laboratory, in addition to those provided by a manufacturer. The language in § 35.2432 was also changed but was not consistent with § 35.432.

The Supplementary Information to the final rule includes a discussion of the changes made to § 35.2432 between the proposed rule and the final rule. That discussion does not include any rationale for changing the proposed rule language requiring “the name of the individual or the source manufacturer who performed the calibration” to the final rule language requiring “the signature of the authorized medical physicist.” Section 35.2432(b)(5) is therefore modified to replace the phrase “the signature of the authorized medical physicist” with the phrase “the name of the individual, the source manufacturer, or the calibration laboratory who performed the calibration.” This modification resolves inconsistency between § 35.2432 and § 35.432.

Agreement State Compatibility

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this direct final rule is a matter of compatibility between NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. A Compatibility Category “B” designation means the requirement has significant direct transboundary implications. Compatibility Category “B” designated Agreement State requirements should be essentially identical to those of NRC. A Compatibility Category “D” designation means the requirement does not need to be adopted by an Agreement State for purposes of compatibility. The Compatibility Category Health and Safety (H&S) identifies requirements that are not required for compatibility, but which have particular health and safety significance. Agreement States should adopt the essential objectives of

such requirements in order to maintain an adequate program.

The Compatibility Categories for the sections amended in this direct final rule are the same as the sections in the current regulations. The revisions to §§ 35.2, 35.51, 35.190, 35.290, 35.390, 35.392, 35.394, 35.490, 35.491, and 35.690 are classified as Category B. The revisions to §§ 35.100, 35.200, 35.300, 35.310(a), 35.315, and 35.630 are classified as Category H&S. The revision to § 35.2432 is classified as Category D.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, NRC is amending 10 CFR part 35 to clarify certain inconsistencies with the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Environmental Impact: Categorical Exclusion

The Commission has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this direct final rule.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). However, the rule makes a technical change to correct an error in a record requirement that appeared in the Part 35 final rule. Existing requirements were approved by the Office of Management and Budget, approval number 3150–0010.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule. The clarifying amendments are for ease of

understanding of certain aspects of part 35. The minor amendment on ophthalmic treatment is to provide flexibility that clinical training can be conducted under supervision of an authorized user in clinics or private practices, in addition to medical institutions. This flexibility could potentially result in a small reduction in burden for an individual who is undertaking the clinic training.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule simply amends present regulations to clarify certain inconsistencies with the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions. The companies that own these facilities do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the size standards adopted by NRC (10 CFR 2.810).

Backfit Analysis

NRC has determined that the backfit rule does not apply to this direct final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter 1.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

■ For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; NRC is adopting the following amendments to 10 CFR part 35.