

June 26, 2007

Terry Frazee, Western Regional Director  
Office of Radiation Protection, Department of Health  
P.O. Box 47827  
Olympia, WA 98504

Dear Mr. Frazee:

We have reviewed the final changes to the Washington Administrative Code, Chapters 246-235 and 246-240, received by our office on May 15, 2007. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 32, and 35, and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on June 25, 2007.

As a result of our review, we have 10 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 Washington, 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 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 FSME website: <http://www.hsrdr.ornl.gov/nrc/rulemaking.htm>.

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 (email: [kxs@nrc.gov](mailto:kxs@nrc.gov)) or Randy Erickson at (817) 860-8143 (email: [rre@nrc.gov](mailto:rre@nrc.gov)).

Sincerely,

***RA By D.Moore\***

Scott W. Moore, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures:  
As stated

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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 Washington, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

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**IRA By D.Moore\**

Scott W. Moore, Deputy Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials and  
Environmental Management Programs

Enclosures: As stated

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**COMPATIBILITY COMMENTS ON WASHINGTON FINAL REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	WAC 246-240-072	35.51	2006-1	B	<p><b>Training for an authorized medical physicist.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-072(2)(b).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.51.</p>
2	WAC 246-240-154	35.190	2006-1	B	<p><b>Training for uptake, dilution, and excretion studies.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-154(3)(b).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.190.</p>
3	WAC 246-240-163	35.290	2006-1	B	<p><b>Training for imaging and localization studies.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-163(3)(b).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.290.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	WAC 246-240-210	35.390	2006-1	B	<p><b>Training for use of unsealed byproduct material for which a written directive is required.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-210(2)(b)(vii)(E).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.390.</p>
5	WAC 246-240-213	35.392	2006-1	B	<p><b>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).</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-213(2)(c).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.392.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	WAC 246-240-216	35.394	2006-1	B	<p><b>Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-216(2)(c).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.394.</p>
7	WAC 246-240-219	35.396	2006-1	B	<p><b>Training for the parenteral administration of unsealed byproduct material requiring a written directive.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-219(5).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.396.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
8	WAC 246-240-278	35.490	2006-1	B	<p><b>Training for use of manual brachytherapy sources.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-278(2)(c).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.490.</p>
9	WAC 246-240-281	35.491(b)(3)	2006-1	B	<p><b>Training for ophthalmic use of strontium-90.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-281(2)(c).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.491</p>
10	WAC 246-240-399	35.690	2006-1	B	<p><b>Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.</b></p> <p>Washington uses the word “certification” instead of the word “attestation” in WAC 246-240-399(2)(c).</p> <p>Washington needs to modify the current regulation by changing the word “certification” to the word “attestation” to meet the Compatibility Category B designation assigned to Section 10 CFR 35.690.</p>

**STATE REGULATION STATUS**

**STATE: Washington**

[1 amendment reviewed is identified by a ★  
at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 7-43

Date: June 26, 2007

<b>NRC Chronology Identification</b>	<b>FR Notice (Date Due For State Implementation)</b>	<b>RATS ID</b>	<b>Proposed (P) / Final (F)<sup>2</sup>Rule / License Condition (LC) ML #<sup>5</sup></b>	<b>NRC Review / Y, N<sup>2</sup> / Date / ML #<sup>5</sup></b>	<b>Final State Regulation<sup>1</sup> (Effective Date)<sup>6</sup></b>
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 7/14/98	1/9/94 <sup>6</sup>
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required <sup>3</sup>
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; (1/1/94)	1991-3	F	N 6/3/98 12/15/98	1/9/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 8/30/99	7/9/98
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 6/29/99	5/3/97
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required <sup>3</sup>
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F	N 5/28/97	3/6/97
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 <sup>4</sup>
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	N 10/13/98	1/20/97
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1			Not required <sup>3</sup>

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Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2	F	N 10/13/98	7/17/97
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 5/28/97	5/3/97
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; (1/1/98)	1995-1	F	N 6/29/99	7/9/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 6/29/99	7/9/98
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F	N 10/13/98	5/23/98
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 7/26/99	3/8/99
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 6/15/00	4/24/00
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 7/26/99	5/3/97
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 6/29/99	7/9/98
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1	F	N 10/25/99	8/21/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required <sup>3</sup>

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Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 10/25/99	8/21/99
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML062960292	N 11/28/06 ML063250177	8/21/99
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F	N 10/25/99	8/21/99
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 6/29/99	7/9/98
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required <sup>3</sup>
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5	F	N 6/15/00	4/24/00
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F	N 6/9/00	4/16/00
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F ML012770299	N 2/22/02 ML020570410	1/26/01
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML012770299	N 2/22/02 ML020570410	1/26/01
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>

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Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 3	63 FR 37059; (7/9/01)	1998-4	F	N 6/15/00	4/24/00
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML012770291	N 2/22/02 ML020570410	3/7/01
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F	N 7/28/99	5/23/98
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1	F ML022410086	N 9/17/02 ML022630066	8/26/02
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required <sup>3</sup>
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML012770291	N 2/22/02 ML020570410	3/7/01
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML030830470	N 4/18/03 ML031110100	7/3/03
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML030830470	N 4/18/03 ML031110100	7/3/03
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F <sup>8</sup> ML040430105	Y 8/31/06 ML062400063	
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1	F ML043510236	N 12/29/04 ML043650051	12/29/04

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Medical Use of Byproduct Material- Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2	F ML061790303	N 7/17/06 ML061990221	3/9/06
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1	F ML0707170180	N 2/01/07 ML070310005	02/12/07
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; 71 FR 1926 (4/29/08)	2005-2	F ML061790303	N 7/17/06 ML061990221	3/9/06
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) <sup>7</sup>	70 FR 72128; (12/1/05)	2005-3	LC ML053220233	11/18/05 ML053220464	
★Minor Amendments - Part 20,30,32,35,40 and 70	71FR15005 (3/27/09)	2006-1	F ML071370162	Y 6/26/07 ML071770049	
National Source Tracking System - Serialization Requirements - Part 32 with reference to Part 20 Appendix E	71 FR 65685 (2/6/07)	2006-2			

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National Source Tracking System - Part 20 <sup>9</sup>	71 FR 65865 (11/15/07) & (11/30/07)	2006-3			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number
6. The Final State Regulations (Effective Date) of some regulations may be the date of adoption with the effective date occurring 31 days after adoption according to Washington Statute.
7. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA
8. A re-review was completed on this item due to the change in compatibility category of 31.5 and 31.6. More information can be found in the All Agreement States Letter STP-05-072
9. RATS ID 2006-3 will not be considered under the Non-Common Performance Indicator "Compatibility Requirements" for IMPEP reviews until such time as the National Source Tracking System is ready for use. Revisions in the implementation date for Agreement States will be provided to the States under separate correspondence and the SRS sheet will be revised as appropriate.