

October 12, 2010

Gary L. Robertson, Director  
Office of Radiation Protection  
Department of Health  
111 Israel Road, SE  
P.O. Box 47827  
Olympia, WA 98504-7827

Dear Mr. Robertson:

We have reviewed the proposed revisions to the final Washington regulations 246-220, 246-249, and 246-250, received by our office on August 10, 2010. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 31, 32, 33, 35, 61, 150 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 Traci Black on October 12, 2010.

As a result of our review, we have three new comments that have been identified in the enclosure. In addition, we have two comments that stand from our letter dated April 28, 2009. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the Washington regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final revised Washington regulations. However, we have determined that if your proposed revisions to the final regulations were adopted, 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 the proposed regulations are adopted and published as final regulations, 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 final changes, 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://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](mailto:kathleen.schneider@nrc.gov)) or Karen Meyer at (301) 415-0113 ([karen.meyer@nrc.gov](mailto:karen.meyer@nrc.gov)).

Sincerely,

***/RA A.D. White for/***

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 WASHINGTON PROPOSED REVISION TO FINAL REGULATIONS**

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	WAC 246-220-010	20.1003	2007-3	<p><b>Definition: Waste</b></p> <p>Washington needs to revise the second sentence of the definition of “waste” in WAC 246-220-010 to “For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material <b>as defined in paragraphs (b), (c), and (d) of the definition of By-product material</b> in this section.</p> <p>Washington needs to make the above change to WAC 246-220-010 in order to meet the Compatibility Category B designation assigned to 10 CFR 20.1003 definition Waste.</p>
2	WAC 246-249-090 (2)	20.2006 (e)	2007-3	<p><b>Transfer for disposal and manifests</b></p> <p>Washington needs to insert the phrase “WAC 246-249-010 (2) (c) and (d)” after “Any licensee shipping by-product as defined in” in WAC 246-249-090 (2) (c).</p> <p>Washington needs to make the above change to WAC 246-249-090 in order to meet the Compatibility Category B designation assigned to 10 CFR 20.2006(e).</p>
3	WAC 246-249-010(13)	61.2	2007-3	<p><b>Definition: Low Level Radioactive Waste</b></p> <p>In WAC 246-249-010(13), Washington had adopted a definition for low-level radioactive waste as a separate definition. This definition is in conflict with the second sentence of the definition of Waste in WAC 246-249-010(31) and WAC 246-250-010(24).</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
				<p>Washington should delete this definition, because it creates conflicts with the portion of the definition of "Waste" that redefines low-level radioactive waste after the passage of the Energy Policy Act of 2005.</p> <p>Washington needs to make the above change to WAC 246-249-010(13) in order to meet the Compatibility Category B designation assigned to 10 CFR 61.2 definition Waste.</p>
4	WAC 246-233-020	31.5	2007-3	<p><b>B</b></p> <p><b>Certain detecting, measuring, gauging, or controlling devices and/or an ionizing atmosphere</b></p> <p>Washington omitted in WAC 246-233-020(3)(k)(i) information for radium-226 corresponding to 10 CFR 31.5(c)(13)(i). Washington needs to include the phrase "3.7 megabecquerels (0.1 millicuries) of radium-226" in this sentence.</p> <p>Washington needs to revise the reference in section 246-233-020 (3)(k)(i) to paragraph (k)(ii) instead of paragraph (k)(i).</p> <p>Washington needs to make the above changes to WAC 246-233-020 in order to meet the Compatibility Category B designation assigned to 10 CFR 31.5.</p> <p><b>Comment stands from letter dated April 28, 2009</b></p>
5	WAC 246-235-100	32.72	2007-3	<p><b>B</b></p> <p><b>Manufacture, preparation, or transfer for commercial use of radioactive drugs containing byproduct material for medical use under part 35</b></p> <p>Washington omitted in WAC 246-235-100 the equivalent text from 10 CFR 32.72 (a)(2)(iv) and (a)(2)(v).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
					<p>In WAC 246-235-100(1)(b)(i) Washington omits the reference to 21 CFR 207.20(a).</p> <p>Washington needs to make the above changes to WAC 246-235-100 in order to meet the Compatibility Category B designation assigned to 10 CFR 32.72.</p> <p><b>Comment stands from letter dated April 28, 2009</b></p>

**STATE REGULATION STATUS**

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

Tracking Ticket Number: 10-36  
 Date: October 12, 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 <b>(Superceded by 1997-5)</b>	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 <b>(Superceded by 1997-5)</b>	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, 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 <b>(Superceded by 2002-2)</b>	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, 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	No Comments 05/28/1997	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	Not Applicable <sup>1</sup>	Not Applicable	Washington does not have any licensees subject to these regulations. (See SECY-95-112)

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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, 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	
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 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, 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, 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 <b>(Superceded by 1997-5)</b>	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, 20 60 FR 36038	08/14/1998	Final	No Comments 06/15/2000	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final	No Comments 07/26/1999	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 <b>(Superceded by 2002-2 and 2005-2)</b>	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 <b>(Superceded by 2004-1)</b>	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, 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	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	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 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 <b>(Superceded by 2004-1)</b>	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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	No Comments 06/15/2000	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000	Final	No Comments 06/09/2000	
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 ML012770299	No Comments 02/22/2002 ML020570410	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 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, 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 <b>(Superseded by 2002-2)</b>	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, 35, 36 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	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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.
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, 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, 32 65 FR 79162	02/16/2004	Final ML040430105	Comments 08/31/2006 ML062400063	
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, 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, 70 68 FR 57327	12/03/2006	Final ML0707170180	No Comments 02/01/2007 ML070310005	
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	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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	
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, 150 72 FR 58473	12/17/2010			
★2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	R <sup>2</sup> ML102240043	Comments 10/12/2010 ML102660418	

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
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, 20 72 FR 68043	02/15/2011			
2009-1	Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901	09/28/2012			

<sup>1</sup> IMPEP Team: verify that Washington does not have any licensees subject to these regulations during each review.

<sup>2</sup> R stands for proposed changes to a final rule.