November 30, 2006

Mr. Robert Walker, Radiation Control Director
Department of Public Health
Center for Environmental Health
Radiation Control Program
Schrafft Center, Suite 1M2A
529 Main Street, Charlestown, MA 02129

Dear Mr. Walker:

We have reviewed the final revision to the Massachusetts regulations, *"Massachusetts Regulation for the Control of Radiation"*, received by our office on October 24, 2006. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 61,70, and 150 and the requirements of the 18 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Mr. Salifu Dakubu on November 29, 2006.

As a result of our review, we have two comments that have been identified in the enclosure. Both comments, were previously identified in the letter dated January 21, 2005. 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 State and Tribal Programs (STP) 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 STP Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Massachusetts, in response to our comments and provide a copy to Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs (FSME) (see letter FSME 06-94 dated October 6, 2006 for further information).

The SRS Data Sheet summarizes our knowledge of the status of other Massachusetts 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.hsrd.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 (e-mail: kxs@nrc.gov), or Andrea Jones at 301-415-2309 (e-mail: arj@nrc.gov).

Sincerely,

\RA BY SWMoore

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

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 (e-mail: kxs@nrc.gov), or Andrea Jones at 301-415-2309 (e-mail: arj@nrc.gov).

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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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DATE	11/15/06*		11/16/06*		11/28/06*		11/30/06*	

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COMPATIBILITY COMMENTS ON MASSACHUSETTS FINAL REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	120.282	§20.2202	1998-5	C	**Notification of incidents** In 120.282 (A)(1)(b), 'eye' should be replaced with 'lens' The State needs to replace 'eye' with 'lens' to meet the essential objectives for compatibility Category C. **COMMENT STANDS FROM LETTER DATED 01/21/05**
2	120.587	§35.690	2002-2	B	**Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units** Massachusetts has omitted the requirements in §35.690(b)(1)(ii) (E) and (F). Massachusetts needs to adopt the requirements of §35.690(b)(1)(ii) (E) and (F) to meet the essential objectives for compatibility Category B. **COMMENT STANDS FROM LETTER DATED 01/21/05**

STATE REGULATION STATUS

State: Massachusetts
[18 amendments reviewed identified by a ★ at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 6-277, 6-278, 6-279
Date: November 30, 2006

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)[2] Rule / License Condition (LC) ML #[5]	NRC Review / Y, N[2] / Date / ML #[5]	Final State Regulation[1] (Effective Date)[6]
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F	N 3/3/97	3/21/97
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not Required[2]
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 3/3/97	3/21/97
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 3/3/97	3/21/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F	N 3/3/97	3/21/97
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not Required[2]
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 3/3/97	3/21/97
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2	F	N 3/3/97	3/21/97
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	F	N 3/3/97	3/21/97
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1	F	N 3/3/97	3/21/97
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not Required[2]
★Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F ML062980638	N 11/30/06 ML063380019	
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 9/21/99	7/9/99
★Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F ML062980638	N 11/30/06 ML063380019	Not Required[2]
★Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F ML062980638	N 11/30/06 ML063380019	

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			Superceded by 1997-5
★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML062980638	N 11/30/06 ML063380019	
★Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML062980638	N 11/30/06 ML063380019	
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 9/21/99	7/9/99
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 9/21/99	7/9/99
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not Required[2]
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F	N 9/21/99	7/9/99
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F	N 9/21/99	7/9/99
★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 ML062980638	N 11/30/06 ML063380019	
★Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML062980638	N 11/30/06 ML063380019	7/9/99
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not Required[2]
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 9/21/99	7/9/99
★Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML062980638	N 11/30/06 ML063380019	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 9/21/99	7/9/99
★Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1	F ML062980638	N 11/30/06 ML063380019	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not Required[2]
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not Required[2]

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★Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML062980638	N 11/30/06 ML063380019	
★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 ML062980638	Y 11/30/06 ML063380019	
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML062980638	N 11/30/06 ML063380019	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not Required[2]
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[2]
★Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3	F ML062980638	N 11/30/06 ML063380019	
★ Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML062980638	N 11/30/06 ML063380019	
★New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	F ML062980638	N 11/30/06 ML063380019	
★Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML062980638	N 11/30/06 ML063380019	
★ Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1	F ML062980638	N 11/30/06 ML063380019 050250339	
★Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2	F ML062980638	Y 11/30/06 ML063380019	
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			
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			

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Medical Use of Byproduct Material - Recognition of Speciality Boards - Part 35	70 FR 16336; 71 FR 1926 (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090)[6]	70 FR 72128; (12/1/05)	2005-3	LC ML052780024	N 10/4/05 ML052780024	
Minor Amendments - Parts 20, 30, 32, 35, 40, and 70	71 FR 15005 (3/27/09)	2006-1			

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, May3, 1995.

5. ADAMS ML Number#.

6. 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-05-090.

7. 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.