

October 2, 2000

Mr. Edgar D. Bailey, C.H.P., Chief
Radiologic Health Branch
Division of Food, Drug & Radiation Safety
California Department of Health Services
P.O. Box 942732
Sacramento, CA 94234-7320

Dear Mr. Bailey:

As requested, we have reviewed the California proposed regulations (R-31-98) Title 17, Public Health, Article 7, Reciprocal Recognition of Licenses of Group 2, Licensing of Radioactive Materials and Article 1, General of Group 3, Standards for Protection Against Radiation, dated October 27, 1999 (sent August 22, 2000) and the errata dated August 23, 2000 (received September 11, 2000). The proposed regulations are in response to the 11 amendments identified in the enclosed Regulations Assessment Tracking System (RATS) Data Sheet. The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 20 and 150. We also discussed our review of the regulations with Phillip L. Scott on September 15, 2000.

As a result of our review we have two 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. Under our current procedure, a finding that a State regulation meets the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final State regulation. However, we have determined that if your proposed regulations were adopted incorporating the 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 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 STP Procedure SA-201, *Review of State Regulations*, November 10, 1998, please highlight the final changes and send one copy in a computer readable format, if possible.

We have also summarized on the RATS Data Sheet our knowledge of the status of other California regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the RATS Data Sheet.

If you have any questions regarding the comments, the compatibility and health categories, or any of the NRC regulations used in the review, please contact me or Vivian Campbell of the Region IV staff at (817) 860-8143 or VHC@NRC.GOV.

Sincerely,

/RA Lance J. Rakovan Acting For/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

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DCD (SP08)
 PDR (YES✓)

Response to Incoming:
 ML003745164
 ML003749101

DOCUMENT NAME: G:\SNS\State regs\CA\proposed regs ltr 10-27-99 R.wpd

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DATE	9/18/00	9/19/00	9/27/00	9/20/00	

STP-AG-4

**COMMENTS ON PROPOSED CALIFORNIA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation	NRC Regulation	RATS ID	Category	Subject and Comments
Title 17, Group 3, Article 1., §30253(a) (10)	10 CFR 20.1405	1997-6	C	<p>Standards for Protecting Against Radiation</p> <p>The word “may” was substituted for the word “shall” in the following phrase: “Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site pursuant to §§20.1403 or 20.1404, or whenever the Commission deems such notice to be in the public interest, the Commission shall...”</p> <p>The State will need to use the word “shall” or substitute a term with the same meaning such as “must” in order to meet the essential objectives of the compatibility category.</p>
Title 17, Group 3, Article 1, §30253(a) (11)	10 CFR 20.1405(a)(1) and (2)	1997-6	C	<p>Standards for Protecting Against Radiation</p> <p>The words “and/or” were substituted for the word “and” between Subdivision (a)(1) and (a)(2) of 10 CFR 20.1405. The word “or” does not meet the essential objective of the text of 10 CFR 20.1405(a)(1) and (2).</p> <p>Unless the word “and” is adopted, the regulation would not meet the essential objectives of the compatibility category.</p>

REGULATION ASSESSMENT TRACKING SYSTEM
RATS DATA SHEET

State: California

[Eleven proposed amendments (10/27/99) reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 0-203

Date: October 2, 2000

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed/ Final-Comment (Y/N)¹	NRC Review Date	Final State Regulation² (Effective Date)
★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 P-N	10/25/97 10/2/00	3/3/94
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843 (1/10/94)	1991-1	P-N	7/24/97	
ASNT Certification of Radiographers-Part 34	56 FR 11504 (none)	1991-2			Not required ³
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980 (10/15/94)	1991-4	F-N	4/1/99	9/9/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104 (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566 (none)	1992-2			Not required ³
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715 (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886 (7/22/96)	1993-3			
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628 (10/25/96)	1993-1	P-N	5/7/97	
Self-Guarantee as an Additional Financial Mechanism- Parts 30, 40, 70	58 FR 68726 59 FR 1618 (none)	1994-1	F-N	4/1/98	Not required ³ 9/9/97
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220 (7/1/97)	1994-2			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026 (8/15/97)	1994-3			
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	11/16/99	11/12/99
★Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900 (3/13/98)	1995-2	P-N	10/2/00	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed/ Final-Comment (Y/N)¹	NRC Review Date	Final State Regulation² (Effective Date)
★Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649 60 FR 25983 (3/1/98)	1995-3	P-N	10/2/00	
Performance Requirements for Radiography Equipment- Part 34	60 FR 28323 (6/30/98)	1995-4			
★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038 (8/14/98)	1995-5	P-N	10/2/00	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235 (11/24/98)	1995-6	F-N	4/1/98	9/9/97
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623 (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248 61 FR 28723 (4/1/99)	1996-1			
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109 (none)	1996-2			Not required ³
★Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669 (6/17/99)	1996-3	P-N	10/2/00	
★Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120 (1/9/00)	1997-1	P-N	10/2/00	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907 (none)	1997-4			Not required ³
★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	P-N	10/2/00	
★Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120 (5/29/00)	1997-3	P-N	10/2/00	
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948 (6/27/00)	1997-5			
★Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058 (8/20/00)	1997-6	P-Y	10/2/00	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634 (1/02/01)	1997-7			
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 150	63 FR 1890 63 FR 13773 (2/12/01)	1998-1			

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed/ Final- Comment (Y/N)¹	NRC Review Date	Final State Regulation² (Effective Date)
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees-Parts 30, 40, 70	63 FR 29535 (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604 (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059 (7/9/01)	1998-4			
★Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477 63 FR 45393 (10/26/01)	1998-5	P-N	10/2/00	
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127 (11/20/01)	1998-6	P-N	10/2/00	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506 (6/11/02)	1999-1			
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 ³
Respiratory Protection and Controls to Restrict Internal Exposure - Part 20	64 FR 54543 64 FR 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications - Part 39	65 FR20337 (5/17/03)	2000-1			

1. (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.
2. Or other generic Legally Binding Requirement.
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.