

DEPARTMENT OF HEALTH SERVICES
 RADIOLOGIC HEALTH BRANCH
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November 21, 2001

Paul H. Lohaus, Deputy Director
 Office of State and Tribal Programs
 U.S. NRC
 Mailstop 03C10
 Washington, D.C. 20555

Dear Deputy Director:

REVIEW OF AGREEMENT STATE REGULATIONS

As requested in the Office of State and Tribal Programs (STP) Procedure SA-201, *Review of State Regulations*, the enclosed final regulation, effective November 14, 2001, is submitted for your review.

The regulation establishes compatibility with the amendments of 10 C.F.R. Part 20 as noted in the following publications of the Federal Register:

58 Fed.Reg. 67659 (Dec. 22, 1993),	58 Fed.Reg. 69219 (Dec. 30, 1993),
60 Fed.Reg. 7900 (Feb. 10, 1995),	60 Fed.Reg. 15649 (Mar. 27, 1995),
60 Fed.Reg. 20183 (Apr. 25, 1995),	60 Fed.Reg. 25983 (May 16, 1995),
60 Fed.Reg. 36038 (Jul. 13, 1995),	61 Fed.Reg. 65120 (Dec. 10, 1996),
61 Fed.Reg. 24669 (May 16, 1996),	62 Fed.Reg. 4120 (Jan. 29, 1997),
62 Fed.Reg. 39058 (Jul. 21, 1997),	63 Fed.Reg. 39477 (Jul. 23, 1998),
63 Fed.Reg. 45393 (Aug. 26, 1998),	63 Fed.Reg. 50128 (Sep. 21, 1998).

Your letter dated October 2, 2000 included comments regarding changes to 10 C.F.R. section 20.1405. It is our understanding that that section was promulgated, partially, to satisfy issues with the U.S. EPA. Also, it is Department policy to not regulate the Department within regulations. Our intent in modifying the text of that section was to follow NRC's practice of implementation of public notification. We believe that our implementation of 10 C.F.R. 20.1405 is consistent with the responses given during promulgation of the final rule on Radiological Criteria for License Termination. (62 Fed.Reg. 39076-39077, Sec. IV. E.2.2. (Jul. 21, 1997).) Further, we intend to release only for unrestricted use.

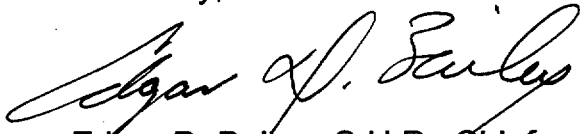
We believe the regulation and implementation of 10 C.F.R. 20.1405 satisfies the compatibility and health and safety component criteria in Handbook 5.9 and the assigned designations set out in STP Procedure, SA-200.

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If you have any questions regarding the regulations, please contact me or Phillip Scott,
Senior Health Physicist at (916) 324-3727.

Sincerely,



Edgar D. Bailey, C.H.P., Chief

cc: Phillip L. Scott, Senior Health Physicist
Regulation Unit
Radiologic Health Branch
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CALIFORNIA CODE OF REGULATIONS
TITLE 17. PUBLIC HEALTH
GROUP 3. STANDARDS FOR PROTECTION AGAINST RADIATION
ARTICLE 1. GENERAL

§ 30253. Standards for Protecting Against Radiation.

(a) The regulations governing standards for protection against radiation in title 10, Code of Federal Regulations, part 20, sections 20.1001 through 20.2402 and Appendices A through G, (January 1, 1999) are hereby incorporated by reference with the following exceptions:

(1) Title 10, Code of Federal Regulations, sections 20.1001, 20.1002, 20.1006, 20.1007, 20.1008, 20.1009, 20.2106(d), 20.2302, 20.2401, and 20.2402, and Appendix D are not incorporated by reference.

(2) Any references to the United States Nuclear Regulatory Commission or any component thereof shall be deemed to be a reference to State Department of Health Services.

(3) The definition of the term "Byproduct material" in title 10, Code of Federal Regulations, section 20.1003 is modified to mean any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear material.

(4) The definition of the term "License" in title 10, Code of Federal Regulations, section 20.1003 is replaced by the definition of the term "License" as defined in title 17, California Code of Regulations, section 30100.

(5) The definition of the term "Licensed material" in title 10, Code of Federal Regulations, section 20.1003 is modified to mean any radioactive material including source material, special nuclear material, or byproduct material received, possessed, used, transferred or disposed of under a general or specific license issued by the Nuclear Regulatory Commission, or by any other Agreement State or by any state that has been either provisionally or finally designated as a Licensing State by the Conference of Radiation Control Program Directors, Inc. With respect to dose limits and reporting requirements, the term "Licensed material" is to be construed broadly in context to include any source of ionizing radiation subject to the requirements of title 17, California Code of Regulations, division 1, chapter 5, subchapter 4.

(6) The definition of the term "Licensee" as defined in title 10, Code of Federal Regulations, section 20.1003 is replaced by the definition of the term "User" as set forth in title 17, California Code of Regulations, section 30100.

(7) The definition of the term "Person" as defined in title 10, Code of Federal Regulations, section 20.1003 is replaced by the definition of the term "Person" as set forth in section 114985(c) of the Health and Safety Code.

(8) The definition of the term "Radiation (ionizing radiation)" as defined in title 10, Code of Federal Regulations, section 20.1003 is replaced by the definition of the term "Ionizing radiation" as set forth in section 114985(b) of the Health and Safety Code.

(9) The definition of the term "Special nuclear materials" as defined in title 10, Code of Federal Regulations, section 20.1003 is replaced by the definition of the term "Special nuclear material" as set forth in section 114985(f) of the Health and Safety Code.

(10) The 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 Secs. 20.1403 or 20.1404, or whenever the Commission deems such notice to be in the public interest, the Commission shall" in title 10, Code of Federal Regulations, section 20.1405 is replaced with the phrase "Upon the receipt of an LTP, decommissioning plan from the licensee, or proposal for release of a site

pursuant to Secs. 20.1403 or 20.1404, and upon a determination by the Commission that deems such notice is in the public interest, the Commission may".

(11) The word "and" found in title 10, Code of Federal Regulations, section 20.1405 between subdivision (a)(1) and (a)(2) is replaced with the word "and/or".

(12) The phrase "in the Federal Register and in a forum" in title 10, Code of Federal Regulations, section 20.1405(b) is replaced with the phrase "in a forum".

(b) The terms defined in title 10, Code of Federal Regulations, section 20.1003, as incorporated by reference, shall apply to title 17, California Code of Regulations, division 1, chapter 5, subchapter 4, except that:

(1) The term "Act" as defined in title 10, Code of Federal Regulations, section 20.1003 is limited to the textual material incorporated by reference in subdivision (a) above. The meaning of the term "Act" elsewhere in title 17, California Code of Regulations, division 1, chapter 5, subchapter 4, the "Radiation Control Law," Health and Safety Code, Part 9, chapter 8, sections 114960 et seq.

(2) The term "Department" as defined in title 10, Code of Federal Regulations, section 20.1003 is limited to the provisions incorporated by reference in subdivision (a) of this section. The meaning of the term "Department" elsewhere in title 17, California Code of Regulations, division 1, chapter 5, subchapter 4, is as defined in section 114985(j) of the Health and Safety Code.

Note: Authority cited: Sections 100275 and 115000, Health and Safety Code. Reference: Sections 114960, 114965, 114970, 114985, 114990, 115060, 115105, 115110, 115120, 115165, 115230 and 115235, Health and Safety Code.