

March 18, 2002

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:

We have reviewed the final California regulations Title 17, Public Health, Article 1, General of Group 3, Standards for Protection Against Radiation, which became effective on November 14, 2001. The regulations were sent on November 21, 2001. The final regulations are in response to the ten amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. In addition, we reviewed our October 2, 2000 letter to you that addressed the proposed regulations. I also discussed our review of the regulations with you on March 14, 2001.

As a result of the NRC review, we have determined that the California regulations, as adopted, meet the compatibility and health and safety categories established by the Office of State and Tribal Programs (STP) Procedure SA-200 with the exception of section 30253 (a)(10) and (11). These provisions differ with the corresponding provisions in 10 CFR 20.1405 which is a category C provision requiring the State to meet its essential objectives. The essential objective of this regulation is to inform and provide an opportunity for the public, tribes, local governments, and the Environmental Protection Agency to participate in certain license terminations by considering their comments. Based on your November 21, 2001 letter, there appears to be a misunderstanding as to the scope of section 20.1405. It does not require a hearing, or notification and an opportunity to comment for every license termination. It does require notifications and opportunities to comment in three situations which are the submittals of (1) license termination plans for power reactors, which are the decommissioning plans pursuant to 10 CFR 50.82, (2) decommissioning plans, and (3) proposals for restrictive or alternative criteria release under 10 CFR 20.1403 or 20.1404. The Commission was clear in its expectations that these three categories of terminations would result in notification and public comment. Section E.2.2 of the Statement of Considerations for the License Termination Rule clarifies that decommissioning plans are only required in situations set out in 10 CFR 30.36(g), 40.42(g), and 70.38 (g). Cases that do not require a decommissioning plan, e.g., portable gauges, and, therefore, do not require notification and comment opportunity are described in section 7.3 and 7.4 of Draft NUREG-1757, Consolidated NMSS Decommissioning Guidance, Volume 1. In sum, this process provides some discretion to the regulator as to when a decommissioning plan is required, but when it is, the notification requirements are triggered. Accordingly, the two comments in our letter of October 2, 2000, need to be addressed to achieve compatibility.

Edgar D. Bailey

2

The SRS Data Sheet summarizes our knowledge of other California regulations. 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 STP Web Site: <http://www.hsr.doe.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 me at 301-415-2325 or Vivian Campbell of the Region IV staff at 817-860-8143 or e-mail: vhc@nrc.gov.

Sincerely,

/RA/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

Edgar D. Bailey

2

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Sincerely,

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Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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DCD (SP08) PDR (YES✓)

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*See previous

concurrence.

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ML020780186

STATE REGULATION STATUS

State: California

[Ten amendments reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

**Tracking Ticket Number: 2-1
Date: March 18, 2002**

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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
★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 ML020030346	Y 3/18/02 ML020780186	11/14/01
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
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	
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			Not applicable SECY-95-112 ⁴
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	9/9/97 Not required ³
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	F ML020030346	N 3/18/02 ML020780186	11/14/01
★Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F ML020030346	N 3/18/02 ML020780186	11/14/01
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			

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★Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML020030346	N 3/18/02 ML020780186	11/14/01
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	F ML020030346	N 3/18/02 ML020780186	11/14/01
★Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F ML020030346	N 3/18/02 ML020780186	11/14/01
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	F ML020030346	N 3/18/02 ML020780186	11/14/01
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
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	F ML020030346	N 3/18/02 ML020780186	11/14/01
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, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1			
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			

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★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 ML020030346	N 3/18/02 ML020780186	11/14/01
★Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML020030346	N 3/18/02 ML020780186	11/14/01
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 55524 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1			

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, May 3, 1995.
5. ADAMS ML Number