

November 4, 2005

Edgar D. Bailey, Chief
Radiologic Health Branch
Division of Food, Drug & Radiation Safety
California Department of Health Services
P.O. Box 997414
Sacramento, CA 95899-7414

Dear Mr. Bailey:

We have reviewed the California proposed Order and corresponding license condition to implement increased controls for certain licensees that possess certain radioactive materials in quantities of concern, received by our office on November 1, 2005. This Order and corresponding license condition were reviewed by comparison to the equivalent NRC requirements that were transmitted from this office on September 2, 2005. We discussed our review of the license condition with you on November 2, 2005.

We have determined that the proposed California Order and corresponding license condition, if issued without significant change, would meet the compatibility category 'B' designation in NRC Order EA-05-090. We note that California has included Radium-226 as being subject to the increased controls, which is under the regulatory jurisdiction of California. The NRC is currently considering what actions may be necessary in response to the provisions of the 2005 Energy Policy Act, and does not have any views at this time on the appropriateness of including Radium-226 in the table of radionuclides subject to the increased controls.

We appreciate receiving the final Order and corresponding license condition issued to effected California licensees.

The SRS Data Sheet summarizes our knowledge of the status of other California regulations and legal binding requirements, 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, will be posted on the STP website:
<http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the review, the compatibility categories, or any of the NRC requirements used in the review, please contact Mr. Andrew Mauer of my staff at 301-415-3962 or e-mail: anm@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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Response to Incoming Document: ML0503060120

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|--------|-----------|--|-----------|--|-----------|--|
| OFFICE | STP | | OGC | | STP:DD | |
| NAME | ANMauer | | SATreby | | DKRathbun | |
| DATE | 11/02/05* | | 11/04/05* | | 11/04/05* | |

ML053080246

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STATE REGULATION STATUS

State: California

[1 Order and corresponding license condition reviewed are identified by a i at the beginning of the equivalent NRC requirement]

Tracking Ticket Number: 5-333

Date: November 4, 2005

| NRC Chronology Identification | FR Notice (Date Due For State Implementation) | RATS ID | Proposed (P) / Final (F) ¹ Rule / ML # ⁵ | NRC Review / Y, N ² / Date / ML # ⁵ | Final State Regulation ¹ (Effective Date) |
|---|--|------------|---|---|---|
| Safety Requirements for Radiographic Equipment-Part 34 | 55 FR 843; (1/10/94) | 1991-1 | F ML022140223 | Y 8/22/02 ML022350054 | |
| 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 | F ML022140223 | Y 8/22/02 ML022350054 | |
| Licensing and Radiation Safety Requirements for Irradiators-Part 36 | 58 FR 7715; (7/1/96) | 1993-2 | F ML051580164 F ML051670371 | N 6/30/05 ML051810407 N 10/13/05 ML052870320 | |
| 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 |

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|--|---|------------|---|---|---|
| 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 | | | |
| 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 28724; (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 | F ML022140223 | Y 8/22/02 ML022350054 | |
| 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 28947; (6/27/00) | 1997-5 | | | |
| Radiological Criteria for License Termination-Parts 20, 30, 40, 70 | 62 FR 39057; (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 | | | |

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|---|---|------------|---|---|--|
| 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 | 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 63750; (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 | F license conditions 32.52 (a) & (B) | N 3/10/04 ML040700191 | license conditions only for 32.52 (a) & (B) 02/25/04 |
| Revision of the Skin Dose Limit-Part 20 | 67 FR 16298; (4/5/05) | 2002-1 | | | |
| Medical Use of Byproduct Material-Parts 20, 32, and 35 | 67 FR 20249; (10/24/05) | 2002-2 | | | |
| 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; (4/29/08) | 2005-2 | | | |
| I Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁷ | TBD FR TBD; (12/2/05) | 2005-3 | ML053060120 | 11/04/05 ML 053080246 | |

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
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.