

January 17, 2006

Edgar D. Bailey, CHP., Chief
Radiologic Health Branch
Div. of Food, Drugs, & Radiation Safety
California Dept of Health Services
P.O. Box 997414, MS 7610
Sacramento, CA 95899-7414

Dear Mr. Bailey:

We have reviewed the proposed changes to the California regulations **17 CRR Sections 30345 to 30350, received by our office on December 16, 2005. These regulations** were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 34, 36, 39 and the requirements of the two amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Phillip Scott on January 12, 2006.

As a result of our review, we have three 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 the California regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final California regulations. However, we have determined that if your proposed regulations were adopted, 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 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 Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other [State Name] 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 STP website: <http://www.hrsd.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 me, or Sandra Lai at (301) 415-4012 or by e-mail at SXL5@nrc.gov.

Sincerely,

IRA By KNSchneider For

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

Enclosures:
As stated

January 17, 2006

Edgar D. Bailey, CHP., Chief
Radiologic Health Branch
Div. of Food, Drugs, & Radiation Safety
California Dept of Health Services
P.O. Box 997414, MS 7610
Sacramento, CA 95899-7414

Dear Mr. Bailey:

We have reviewed the proposed changes to the California regulations **17 CRR Sections 30345 to 30350, received by our office on December 16, 2005.** These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 34, 36, 39 and the requirements of the two amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with on January 12, 2006.

As a result of our review, we have three 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 the California regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final California regulations. However, we have determined that if your proposed regulations were adopted, 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 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 Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other [State Name] 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 STP website: <http://www.hrsd.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 me, or Sandra Lai at (301) 415-4012 or by e-mail at SXL5@nrc.gov.

Sincerely,
IRA By KNSchneider For

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

Enclosures: As stated

Distribution:

DIR RF ([5-380])

SISP Review Complete

DCD (SP05)

Publicly Available

Non-Publicly Available

[Name], RSAO

Non-Sensitive

Sensitive

[Name], ASPO

Wrautzen

[California] File

DOCUMENT NAME: E:\FileNET\ML060170651.wpd

Incoming Document:ML053530133

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	STP		OGC		STP:DD	
NAME	SLai		STreby		KNSchneider for DRathbun	
DATE	12/21/2005*		01/05/2006*		01/17/2006*	

ML060170651

OFFICIAL RECORD COPY

CALIFORNIA REGULATIONS COMMENT CHART

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	17CRR§30346.3	§39.35	2000-1	C	<p>Leak testing of sealed sources</p> <p>California has omitted the requirements of 10 CFR §39.35 (c)(2). This requirement mandates that ECS must be tested at intervals not to exceed 3 years. In the absence of a certificate from a transferor that a test has been made within the 3 years before the transfer, the ECS may not be used until tested.</p> <p>California needs to add this paragraph to 17CRR§30275 to meet the Compatibility Category C designation assigned to Section 10 CFR §39.35 (c)(2).</p>
2	17CRR§30350.3	§39.77	2000-1	C	<p>Notification of incidents and lost sources; abandonment procedures for irretrievable sources</p> <p>California has omitted the requirements of 10 CFR §39.77(c)(1)(ii) and (d)(9). This requirement mandates that the licensee implemented abandonment before receiving NRC approval because the licensee believed there was an immediate threat to public health and safety; and the immediate threat to public health and safety justification for implementing abandonment if prior NRC approval was not obtained in accordance with paragraph (c)(1)(ii) of this section.</p> <p>California needs to add this paragraph to 17CRR§30350.3 to meet the Compatibility Category C designation assigned to Section 10 CFR §39.77(c)(1)(ii) and (d)(9).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	17 CRR §30348.3	§36.55--	2001-2	H&S	<p>Personnel monitoring</p> <p>California has not yet submitted the section of the California regulations pertaining to 10CFR §36.55.</p> <p>California needs to add these requirements through the revision to their equivalent Part 36 regulations or legal binding requirements to meet the Compatibility Category H&S designation assigned to 10 CFR §36.55.</p>

STATE REGULATION STATUS

State: California

Tracking Ticket Number: 5-380

[2 amendments are identified by a i
at the beginning of the equivalent NRC requirement]

Date: 1/17/006

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule /License Condition (LC) /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
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 3/18/02	11/14/01

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule /License Condition (LC) /ML # ⁵	NRC Review / Y, N ² / Date /ML # ⁵	Final State Regulation ¹ (Effective Date)
			ML020030346	ML020780186	
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	F ML050730234	N 4/7/05 ML050970398	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule /License Condition (LC) /ML # ⁵	NRC Review / Y, N ² / Date /ML # ⁵	Final State Regulation ¹ (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	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			
i Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	P ML053530133	Y 1/16/06 ML060170651	Partial Submittal - Only requirements of Part 39 reviewed (P 12/22/05)
i New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2	P ML053530133 P ML051580164	Y 1/16/06 ML060170651 N 6/30/05 ML051810453	Partial Submittal - Only requirements of Part 39 reviewed (P 12/22/05) Partial Submittal - only requirements of Part 34 reviewed (PN 6/30/05)
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	LC 32.52 (a) & (B)	N 3/10/04 ML040700191	license conditions only for 32.52 (a) &

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule /License Condition (LC) /ML # ⁵	NRC Review / Y, N ² / Date /ML # ⁵	Final State Regulation ¹ (Effective Date)
					(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			
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) ⁷	70 FR 72128; (12/1/05)	2005-3	LC ML053060120	11/04/05 ML053080246	

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.