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Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

August 6, 2008

Mr. James G. Luehman, Deputy Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs (FSME)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Luehman:

Enclosed for your review is a copy of the proposed revisions to the California Radiation Control Regulations addressing changes to 10 CFR 30, 40, and 70 relating to financial assurance for materials licenses. The date by which the comments are needed is October 20, 2008.

The proposed regulations are identified by line-in/line-out text and correspond to the following equivalent amendments to NRC's regulations:

Rats ID	Title	State Section
2003-1	Financial Assurance for Materials Licenses – Parts 30, 40, & 70.	30195.1

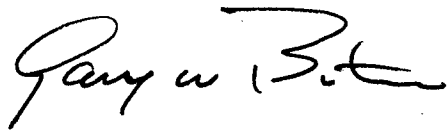
Differences between the proposed regulation and the NRC equivalent regulation are addressed in the document titled Initial Statement of Reasons. Existing regulations referenced in the proposal are attached.

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the FSME Procedure SA-200. Differences between the proposed regulation and the NRC equivalent regulation are addressed in the document titled Initial Statement of Reasons. Existing regulations referenced in the proposal are attached.

Mr. James Luehman
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If you have any questions, please feel free to contact me at (916) 440-7942 or Phillip Scott of my staff at (916) 440-7978 or phillip.scott@cdph.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Butner". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Gary W. Butner
Branch Chief
Radiologic Health Branch

Enclosure

cc: Kathleen Schneider
Monica Orendi

INITIAL STATEMENT OF REASONS

SPECIFIC PURPOSE OF THE REGULATION AND RATIONALE

The proposed amendments to Title 17, California Code of Regulations, § 30195.1, update financial surety requirements for certain radioactive material licensees to maintain adequate financial coverage for decommissioning. The regulations that implement, interpret and make specific the provisions of the Radiation Control Law are in Title 17, California Code of Regulations, §§30100 through 30395.

The Radiation Control Law (Health & Saf. Code, §§ 114960 – 115273), requires the California Department of Public Health (Department), the successor to the California Department of Health Services pursuant to the California Public Health Act (CPHA) of 2006 (Stats. 2006, c. 241 (Ortiz, SB 162)) as of July 1, 2007, to develop programs for licensing and regulating radioactive materials. (Health & Saf. Code, § 115000, subd. (b).) In 1962, the State of California ratified and approved the State entering into an agreement with the United States Atomic Energy Commission (AEC), the predecessor of the United States Nuclear Regulatory Commission (NRC), by which the federal agency discontinued its regulatory authority over certain radioactive materials. (Health & Saf. Code, § 115230.) By such action California became an "Agreement State."

A provision of the agreement between California and the NRC specifies that the State "will use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (Health & Saf. Code, § 115235, art. V.) NRC's stated policy is "to evaluate Agreement State programs established pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, to ensure they are adequate to protect public health and safety and compatible with NRC's regulatory program."¹ To determine a state's compatibility, the NRC uses Management Directive 5.9, *Adequacy and Compatibility of Agreement State Programs, Handbook 5.9*.² This handbook describes the specific criteria and process that are used to clarify the NRC program elements that should be adopted and implemented by an Agreement State for purposes of compatibility, and those NRC program elements that have a particular health and safety significance. The NRC rates the elements on the degree of compatibility required. Thus, the NRC requires that some be adopted by the states in a form identical to the NRC's while adoption of others need not be identical but are required to meet the essential objective of the program element. (For NRC compatibility definitions, see Attachment 1.) The overall determination of adequacy and compatibility for an Agreement State is made pursuant to Management Directive 5.6, *The Integrated Materials Performance*

¹ "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, page 1. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsrn.gov/nrc/procfrm.htm>. (Reference 1.)

² "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, Handbook 5.9. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsrn.gov/nrc/procfrm.htm>. (Handbook 5.9 is included within Reference 1.)

Evaluation Program (IMPEP).³ The NRC evaluates Agreement States every three to four years to determine if a state's radiation safety program meets the adequacy and compatibility criteria. If California fails to meet those criteria the NRC may revoke California's status as an Agreement State.

The NRC amends its regulations continuously, which affect the State's status as an Agreement State and the compatibility of State regulations with those of the NRC. To ensure compliance with the NRC agreement and compatibility of State regulations, this proposal addresses changes made to NRC's Financial Surety regulations found in title 10, Code of Federal Regulations, Parts 30 and 40 as specified in the following federal registers:

62 Fed.Reg. 23394 (Apr. 30, 1997)
67 Fed.Reg. 62403 (Oct. 7, 2002)

63 Fed.Reg. 29535 (June 1, 1998)
68 Fed.Reg. 57327 (Oct. 3, 2003)

On October 7, 2002, the NRC published proposed amendments to the requirements for financial surety for certain radioactive materials licensees (67 Fed.Reg. 62403 (Oct. 7, 2002)). Revision to financial surety requirements for some licensees is needed because there have been increases in decommissioning costs since the NRC established financial surety requirements in 1988. (53 Fed.Reg. 24018 (June 27, 1988).) Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license. (Cal. Code Regs., tit. 17, § 30100(c).)

The financial surety regulations are part of an overall NRC strategy to maintain safety and protection of the public and the environment during and after decommissioning and decontamination of licensed facilities. These regulations would also decrease the likelihood that State and local governments and/or the general public would have to bear the costs of decommissioning, should the licensee not be able to do so.

If a radioactive materials facility remains in a non-operational status without being decommissioned, public health and safety could be compromised by leakage, contamination, and/or loss of control of radioactive materials. Availability of adequate funding is necessary to assure that timely decommissioning of facilities takes place following cessation of licensed operations.

The NRC amended its regulations for financial surety (68 Fed.Reg. 57327 (Oct. 3, 2003)) for certain materials licensees, including all waste processors and collectors, to bring the required financial surety dollar amounts more in line with current decommissioning costs. The objective is to ensure that licensees maintain adequate financial surety so that decommissioning can be carried out following shutdown of normal operations at a licensed facility.

³ "Integrated Materials Performance Evaluation Program (IMPEP)," Management Directive 5.6. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsr.gov/nrc/procfrm.htm>. (Reference 2.)

This proposal readopts the NRC financial surety regulations as amended by NRC. The proposed changes to existing state regulations are explained as follows:

Financial Surety for Decommissioning: Byproduct Material Licenses

Section 30195.1(a), Special Requirements for Issuance of Specific Licenses-Financial Surety for Decommissioning, is proposed to be amended to achieve compatibility with the updated NRC financial surety standards. Subsection (a) is amended to incorporate by reference those changes that were made to 10 CFR 30.35 from January 1, 1996 to January 1, 2007. By changing the date, the incorporated material will include the changes made by the NRC in the Federal Register Notices identified in the table below, which are available at "<http://www.gpoaccess.gov/fr/index.html>". A comparison of the 1996 and 2007 versions of 10 CFR 30.35 is found in Attachment 2.

Byproduct material is: (1) any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material (as in a reactor); and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from ore. Special nuclear material is plutonium, uranium-233, or uranium enriched in the isotopes uranium-233 or uranium-235. (10 CFR 20.1003.)

Proposed changes to financial surety requirements are in four areas.

- 1) Licensees authorized to possess large amounts of radioactive material contained in sealed sources would base their financial surety on a site-specific decommissioning funding plan (DFP).
- 2) All waste collector and waste processor licensees would provide financial surety, and would have to base their financial surety on a DFP, not on certification amounts.
- 3) Certification amounts, dollar amounts prescribed by regulation that are based on possession limits for licensees, would be increased by 50%.
- 4) DFPs would have to be updated at least every three years.

A DFP is a financial surety plan that is a facility-specific cost estimate. It contains a description of the method of assuring funds for decommissioning and a means for adjusting cost estimates periodically over the life of the facility. Financial surety must be provided by prepayment, a surety method, insurance or other guarantee, or a combination of these methods.

The applicable sections of 10 CFR, Title 17 of the California Code of Regulations, and the federal register as well as compatibility category information are found in the table below.

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
30195.1	30.35	D, except H&S for subsections (a), (b), (d), and (g):

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
(a)		<p>This section is proposed to be amended to maintain consistency with the financial surety requirements of the NRC. Subsection (a) is amended to change the date January 1, 1996 to January 1, 2007 to incorporate changes made by NRC that increase the surety amounts to ensure the licensee maintains an adequate funding source for decommissioning activities.</p> <p>Grammatical changes are made in subsection (a), (a)(2) and (a)(4) for clarity and consistency with other regulations that incorporate NRC regulations (e.g. §30253).</p>
(a)	30.35(a)(2)	<p>H&S: Licensees using large amounts of radioactive sources, such as those used in blood irradiators (typically greater than one million Curies of Cobalt-60), would base their financial surety on a facility-specific decommissioning funding plan (DFP). Such sources are used in the irradiation of blood and blood products to reduce the number of white blood cells and are important in reducing risks of graft versus host disease in organ transplant patients.</p> <p>Under present financial surety requirements, these licensees use the \$75,000 certification amount. The NRC estimated decommissioning costs for an irradiator facility with one million Curies of source activity to be at least \$128,000; for a facility with two million Curies, estimated costs are at least \$213,000. (67 Fed.Reg. 62403 (Oct. 7, 2002).) The facility-specific DFP provides a more accurate estimate of decommissioning costs and ensures that sufficient funding is available to carry out the decommissioning plan.</p> <p>Though the NRC only requires Agreement States to adopt regulations meeting the essential objective (H&S compatibility category), the Department proposes to maintain consistency by adopting essentially identical regulations because NRC's financial surety regulations are used as the basis in all 50 states thus maintaining consistency with the other states, which is legislative policy (Health & Saf. Code, §§114965(c) & 114970).</p>

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
		<p>Further, the Department agrees that a DFP is needed for large sealed source licensees to ensure that decommissioning costs are funded and that public health and safety is not compromised during and after decommissioning.</p>
(a)	30.35 (c)	<p>D: Implementation date of DFPs for waste collectors and waste processors.</p> <p>Under this proposal, waste collectors and waste processors provide financial surety based on a DFP.</p> <p>A waste collector's principle purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging it, to another licensed waste collector, processor or disposal facility. (See 10 CFR 20 Appendix G, I(c) incorporated by reference in §30253.)</p> <p>The inventory of radioactive waste a waste collector or processor will have on site at any time may fluctuate considerably and be difficult to predict. (67 Fed. Reg.62403 (Oct. 7, 2002).) Further, the disposal costs of radioactive waste are very high and much greater than when the decommissioning regulations were promulgated in 1988.</p> <p>The current financial surety regulations do not consider the costs of disposing large volumes of radioactive waste. The facility-specific DFP provides a more accurate estimate of decommissioning costs and ensures that sufficient funding is available to carry out the decommissioning plan.</p> <p>Though the NRC does not require 10 CFR 30.35(c) to be adopted for compatibility, the Department proposes to adopt essentially identical regulations to maintain uniform processes with other Agreement States and the NRC. Uniformity is needed because license applicants often possess a license issued by the NRC and other Agreement States. Thus, the applicant is familiar with financial surety and reduces the time needed by the</p>

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
		Department to ensure they can meet required financial surety amounts.
(a)	30.35(d)	<p>H&S: 30.35(d) implementation date of required amounts of financial surety for sealed and unsealed radioactive sources licensees.</p> <p>Certification amounts are based on quantity of radioactive material for both sealed and unsealed forms and have an upper limit. Licensees having possession limits that exceed the upper bound will be required to have a DFP.</p> <p>Those licensees who do not exceed the limits and who are subject to the certification amounts will see an increase of 50%. The changes to the regulations are focused on high possession limits and in areas where the likelihood of inadequate funding relative to decommissioning costs is high.</p> <p>Current certification amounts are based on decommissioning costs that are over 15 years old. General inflation since 1988 has resulted in current prices that are approximately 40% higher than they were when the decommissioning rule was published. (67 Fed.Reg. 92405 (Oct. 7, 2002).) The adjustment also takes into account labor, energy, and waste decommissioning costs that have increased significantly since 1988. The proposed increase of 50% is aimed at keeping certification amounts reasonably in line with current decommissioning costs.</p> <p>The Department agrees with the NRC that increasing the certification amounts for financial surety to bring them in line with current costs is needed for the protection of the public and the environment.</p> <p>Though the NRC does not require 10 CFR 30.35(c) to be adopted in an essentially identical manner, the Department proposes to adopt essentially identical regulations to maintain uniform processes with other Agreement States and the NRC. Uniformity is needed</p>

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
		because license applicants often possess a license issued by the NRC and other Agreement States. Thus, the applicant is familiar with financial surety and reduces the time needed by the Department to ensure they can meet required financial surety amounts.
(a)	30.35(e)	D: The frequency of updating DFPs is proposed to be adjusted at intervals not to exceed three years. Decommissioning costs, especially waste disposal costs, can change significantly over a relatively short period of time. By requiring updates at least every three years, the NRC is attempting to prevent a large gap between actual decommissioning costs and projected costs from developing. Though the NRC does not require 10 CFR 30.35(e) to be adopted for compatibility, the Department proposes to adopt essentially identical regulations to maintain uniform processes with other Agreement States and the NRC. Uniformity is needed because license applicants often possess a license issued by the NRC and other Agreement States. Thus, the applicant is familiar with financial surety and reduces the time needed by the Department to ensure they can meet required financial surety amounts.
	10 CFR 30 Appendix D and 10 CFR 30 Appendix E	D: Subsection (a) is amended to include Appendix D and E to 10 CFR 30 and to maintain consistency with the corresponding NRC provision for the financial surety self-guarantee option. Though the NRC does not require these appendices to be adopted for compatibility, the Department proposes to adopt essentially identical regulations to maintain uniform processes with other Agreement States and the NRC. Uniformity is needed because license applicants often possess a license issued by the NRC and other Agreement States. Thus, the applicant is familiar with financial surety and reduces the time needed by the Department to ensure they can meet required financial surety amounts. Appendix D specifies criteria relating to use of financial tests and self-guarantee for providing reasonable surety of funds for decommissioning by commercial

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
		<p>companies that have no outstanding rated bonds.</p> <p>Appendix E specifies criteria relating to use of financial tests and self-guarantee for providing reasonable surety of funds for decommissioning by nonprofit colleges, universities, and hospitals.</p> <p>Allowing qualified non-profit and non-bond issuing licensees to use self-guarantee would reduce the costs of complying with financial surety requirements while providing confidence that funds for decommissioning would be available when needed. (62 Fed.Reg. 23395 (Apr. 30, 1997).) Self-guarantee is a cost saving option for those licensees able to meet the stringent financial test required.</p> <p>The Department agrees with the NRC's proposal that qualifying licensees should be allowed to use self-guarantee as a cost saving option for complying with financial surety requirements.</p>
(a)(1) - (a)(6)	30.35	<p>C: Grammatical errors are corrected in subsections (a)(2) and (a)(4) which are non-substantive changes.</p> <p>No changes to subsections (a)(1), (a)(3), (a)(5) and (a)(6) are proposed.</p>
(a)(7) - (a)(9)	30.35	<p>Proposed subsections (a)(7) through (a)(9) are needed to implement the proposed changes regarding financial surety. The NRC implemented these requirements in a way to minimize the burden on licensees. Licensees were given a reasonable period of time to submit new decommissioning cost estimates and to obtain any additional financial surety. (65 Fed. Reg. 57327, Oct. 3, 2003.)</p> <p>The dates of implementation were determined by using NRC's 12, 18, and 24-month implementation periods and an estimated effective rule making date of January 1, 2009. The Department's implementation goal is to provide at least 12, 18, and 24 months, per the NRC's time line, for licensees to comply with the proposal.</p>

Title 17 Section 30195.1	10 CFR Section	Section Compatibility Category and Description of Amendment
		<p>Licensees currently using the \$750,000 certification amount would be required to obtain additional financial surety to comply with the revised \$1,125,000 certification amount by January 1, 2010 so they have at least 12 months to comply.</p> <p>Licensees currently using the \$75,000 or \$150,000 certification amounts would be required to obtain additional financial surety to comply with the revised \$113,000 or \$225,000 certification amount by July 1, 2010 so they have at least 18 months to comply.</p> <p>Licensees that can no longer use the certification amounts, such as large irradiators and waste collectors and processors would have to comply by January 1, 2011.</p>
(a)(10)	10 CFR 30 Appendix B;	C: Proposed subsection (a)(10) is needed to clarify the reference to 10 CFR 20.303 found in Appendix B of 10 CFR 30. In 1991 (56 Fed.Reg. 23403 (May 21, 1991)), NRC re-designated §20.303 of 10 CFR Part 20 to §20.2003 but no correction to 10 CFR 30, Appendix B occurred.
(a)(11)		Proposed subsections (a)(11)(A) through (F) are needed to clarify that the NRC, not the State, regulates power reactor licensees.

Financial Surety for Decommissioning: Source Material Licenses

Section 30195.1(b), Special Requirements for Issuance of Specific Licenses-Financial Surety for Decommissioning, is proposed to be amended to achieve compatibility with the updated NRC financial surety standards. Subsection (b) is amended to incorporate by reference those changes that were made to 10 CFR 40.36 from January 1, 1996 to January 1, 2007. By changing the date, the incorporated material will include the changes made by the NRC in the Federal Register Notices identified in the table below, which are available at "<http://www.gpoaccess.gov/fr/index.html>". A comparison of the 1996 and 2007 versions of 10 CFR 40.36 is found in Attachment 5.

The proposed changes follow the same rationale as presented above for 30195.1(a). The distinction is that subsection (a) addresses byproduct licensees and subsection (b) addresses source material licensees.

Source material is uranium or thorium or any combination thereof and does not include special nuclear material. (10 CFR 20.1003). Special nuclear material is plutonium, uranium-233, or uranium enriched in the isotopes uranium-233 or uranium-235. (10 CFR 20.1003).

The applicable sections of 10 CFR, Title 17 of the California Code of Regulations, and the federal register as well as compatibility category information are found in the table below.

Title 17 Section	10 CFR Section	Section Compatibility Category and Description of Amendment
30195.1 (b)	40.36	D, paragraphs (c) & (e); H&S, paragraphs (a), (b), (d) & (f): Subsection (b) is amended to change the date January 1, 1996 to January 1, 2007 to incorporate changes made by NRC that increase the surety amounts to ensure the licensee maintains an adequate funding source for decommissioning activities.
30195.1 (b)&(b)(3)	40.36	C: Grammatical errors are corrected in subsections (b) and (b)(3), which are non-substantive changes
30195.1(b)	40.36(d)	<p>H&S. The January 1, 2006 edition of 10 CFR 40.36 includes a 50% increase in the applicable certification amounts and specifies the frequency for updating decommissioning funding plans to once every three years for source material licensees. The rationale for these changes is the same as those previously discussed for section 30195.1(a) above.</p> <p>The NRC amended its regulations for financial surety (68 Fed.Reg. 57327 (Oct. 3, 2003)) for certain materials licensees, to bring the amount of financial surety required more in line with current decommissioning costs. The objective is to ensure that licensees maintain adequate financial surety so that decommissioning can be carried out following shutdown of a licensed facility.</p> <p>The Department agrees with the NRC that increasing the financial surety requirements to bring them in line with current costs is needed for the protection of the public and the environment.</p>
30195.1	40.36	Proposed subsections (b)(6) to (b)(7) allow licensees time

(b)(6) & (b)(7)		to comply with the changes incorporated by reference in 10 CFR 40.36 for financial surety. These proposed time frames are proposed to be adopted for the same reasons stated regarding subsections (a)(7) through (a)(9).
30195.1 (b)(8)	40.36	NRC: Proposed subsection (b)(8) is added to clarify that Appendix A referenced in 10 CFR 40.36 is not incorporated. A review of compatibility requirements of this section indicates that Appendix A should only be adopted by an Agreement State that is authorized under its agreement to regulate thorium and uranium mill operations. The Department, under its agreement specified in Health and Safety Code sections 115230 and 115235, is not so authorized, thus, Appendix A is not incorporated.

CONSIDERATION OF REASONABLE ALTERNATIVES

Alternatives have been considered in those areas not subject to or specifically limited by the adequacy and compatibility criteria under the State of California agreement with the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (NRC) (Health & Saf. Code, § 115230). NRC categories A and B require that the State be "essentially identical" to the NRC; category C requires that the "essential objectives" are met; category D is not required for purposes of compatibility; and category H & S is not required for purposes of compatibility, but does have health and safety significance and requires adoption of regulations meeting the essential objectives for an adequate program. According to the agreement, the state is to use its "best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials..." (Health & Saf. Code, § 115235, art. V). No alternative considered by the Department would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

(1) Amend Section 30195.1 to read as follows:

§ 30195.1. Special Requirements for Issuance of Specific Licenses - Financial Surety for Decommissioning.

(a) The regulations governing financial assurance for decommissioning in Title 10, Code of Federal Regulations (10 CFR), ~~Section~~section 30.35 (January 1, 2007) and Appendices A through E of 10 CFR Part 30, including as revised January 1, 1996, Appendix A, B and C to Part 30 of Title 10, Code of Federal Regulations, referenced in such Sectionsection 30.35, are hereby incorporated by reference with the following exceptions:

- (1) Subsection 30.35(g) is not incorporated by reference.
- (2) The phrase "byproduct material" shall include all "radioactive material" as defined in Title 17, California Code of Regulations, ~~Section~~section 30100, except source material which shall be governed by subsection (b).
- (3) The date "January 1, 1996" is substituted for the date "July 27, 1990."
- (4) Any reference to the United States Nuclear Regulatory Commission (NRC) or any component thereof shall be deemed to be a reference to the Department.
- (5) Any reference to ~~title 10, Code of Federal Regulations~~10 CFR section 30.37 shall be deemed to be a reference to section 30194.
- (6) The date "January 1, 1998" is substituted for the date "November 24, 1995."
- (7) The date "January 1, 2010" is substituted for the date "December 2, 2004."
- (8) The date "July 1, 2010" is substituted for the date "June 2, 2005."
- (9) The date "January 1, 2011" is substituted for the date "December 2, 2005."
- (10) The reference to 10 CFR section 20.303 found in the Note of Appendix B of 10 CFR Part 30 shall be deemed a reference to 10 CFR section 20.2003.
- (11) Provisions relating only to power reactor licensees found in the following appendices are not incorporated:
 - (A) Appendix A, II.A.1.(ii);
 - (B) Appendix A, II.A.1.(iv);
 - (C) Appendix A, II.A.2.(ii);
 - (D) Appendix A, II.A.2.(iv);
 - (E) Appendix C, II.A(1); and
 - (F) Appendix C, II.A(2).

(b) The regulations governing financial assurance for decommissioning in 10 CFR section 40.36 (January 1, 2007)~~Title 10, Code of Federal Regulations, Section 40.36, as revised January 1, 1996, including Appendix A to Part 40 of Title 10, Code of Federal Regulations, referenced in such Section 40.36, is~~are hereby incorporated by reference with the following exceptions:

- (1) Subsection 40.36(f) is not incorporated by reference.
- (2) The date "January 1, 1996" is substituted for the date "July 27, 1990."
- (3) Any reference to the ~~United States Nuclear Regulatory Commission~~NRC or any component thereof shall be deemed to be a reference to the Department.

(4) Any reference to ~~title 10, Code of Federal Regulations~~ 10 CFR section 40.43 shall be deemed to be a reference to section 30194.

(5) The date "January 1, 1998" is substituted for the date "November 24, 1995."

(6) The date "January 1, 2009" is substituted for the date "December 2, 2004."

(7) The date "July 1, 2009" is substituted for the date "June 2, 2005."

(8) Appendix A referenced in section 40.36 is not incorporated by reference.

(c) The following persons shall be exempt from the requirements of this section:

(1) Persons authorized to possess no more than 1,000 times the quantity specified for each licensed material specified in Appendix B to Part 30 of Title 10, Code of Federal Regulations;

(2) Persons authorized to possess hydrogen-3 contained in hydrogen gas in a sealed source;

(3) Persons authorized to possess radioactive noble gases in sealed sources with no radioactive daughter product with half-life greater than 30 days; or


(4) Persons authorized to possess no more than 10 mCi of source material in any form and source material in any quantity in a non-dispersible form.

Note: Authority cited: Sections ~~100275, 115000, and 115091~~, 131055, and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115060, 115091, 115092 and 115235, Health and Safety Code.



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17 CA ADC § 30194

Term 

17 CCR § 30194

Cal. Admin. Code tit. 17, § 30194

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 17. PUBLIC HEALTH
DIVISION 1. STATE DEPARTMENT OF HEALTH SERVICES
CHAPTER 5. SANITATION (ENVIRONMENTAL)
SUBCHAPTER 4. RADIATION
GROUP 2. LICENSING OF RADIOACTIVE MATERIALS
ARTICLE 4. LICENSES

This database is current through 7/18/08, Register 2008, No. 29

§ 30194. Approval of Applications and Specific Terms and Conditions for Licenses.

(a) An application for a new specific license or for renewal or amendment of an existing license will be approved if the Department determines that:

(1) the applicant or his specified personnel are qualified by reason of training and experience to use radioactive material of the kinds and quantities and for the purposes requested, in such a manner as to provide reasonable and adequate assurance of protection to health, life, and property;

(2) the applicant's equipment, facilities, proposed uses and procedures are such as to provide reasonable and adequate assurance of protection to health, life, and property;

(3) the issuance of the license will not jeopardize the health and safety of the public;

(4) the applicant satisfies all applicable requirements of the Act and regulations thereunder.

(b) Prior to issuing, amending or renewing a license pursuant to the provisions of this subchapter, the Department may inspect at any reasonable time the place of business, or premises and facilities of any applicant in order to verify information contained in the application or to obtain additional information for the purpose of completing the application.

(c) No license or any right under a license shall be assigned or otherwise transferred unless approved in advance by the Department.

(d) Each licensee shall restrict possession of licensed material to the locations and conditions of the use authorized in the license.

(e) Each specific license shall expire on the expiration date specified as a condition of the license. However, the license shall continue to be valid if a timely application for renewal is filed. An application for renewal shall be timely if filed at least 30 days prior to the expiration date. The existing license shall not expire until the department has taken final action on the timely filed application for renewal.

(f) Applications and documents submitted shall be made available for public inspection except where the applicant identifies portions of the application as "trade secret" and the Department finds that the information is "trade secret" pursuant to

provisions of the Public Records Act and Evidence Code Section 1060.

(g) As provided by Section 30195.1, certain applications for specific licenses filed under Group 2 shall contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning. In the case of renewal applications submitted before January 1, 1996, the submittal of a proposed decommissioning funding plan or a certification of financial assurance for decommissioning may follow the renewal application but shall be submitted on or before January 1, 1996.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 100110, 100275 and 115000, Health and Safety Code. Reference: Sections 114965, 114970, 115060, 115165, 115230 and 115235, Health and Safety Code.

HISTORY

1. Amendment filed 7-8-87; operative 8-7-87 (Register 87, No. 29).
2. New subsection (g) filed 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-16-95 order, including amendment of Note, transmitted to OAL 2-9-96 and filed 3-25-96 (Register 96, No. 13).

17 CCR § 30194, **+17 CA ADC § 30194+**
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+17 CA ADC § 30194+

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