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



ARNOLD SCHWARZENEGGER
Governor

January 12, 2009

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 final adopted revisions to the California Radiation Control Regulations addressing changes to 10 CFR 30, 40, and 70 relating to financial assurance for materials licenses. Nonsubstantial changes to text being deleted were made but no substantive changes were made to the initial proposed text.

Your letter dated September 10, 2008 contained no comments. The Radiologic Health Branch believes that the regulations satisfy the compatibility and health and safety criteria in STP Procedure SA-200 for the regulatory changes identified in the State Regulation Status data sheet RATS ID number:

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

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,

Gary W. Butner, Chief
Radiologic Health Branch

Enclosure

Mr. James G. Luehman

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Date

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FINAL STATEMENT OF REASONS

No changes to the Initial Statement of Reasons (ISR) were made. All content of the ISR are hereby incorporated into the Final Statement of Reasons.

Incorporation by Reference: Federal provisions incorporated by reference in section 30195.1 contain extensive tables and procedures for ensuring surety instrument integrity making it cumbersome, duly expensive and impractical to publish the documents in the California Code of Regulations. Further, the documents are readily available from federal sources as identified in second Note to section 30195.1.

COMMENT RECEIVED DURING THE PERIOD PROPOSED TEXT WAS AVAILABLE TO THE PUBLIC.

This regulation (DPH-06-018) was made available to the public from August 26, 2008 and ended at 5:00 p.m. on October 24, 2008. A request for a public hearing was not received and, thus, no public hearing was held. The written proceeding produced no comments.

ALTERNATIVES DETERMINATION

The Department has determined that, because the radiation control program must maintain compatibility with the regulations of the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (Health & Saf. Code, § 115230), and 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 and less burdensome to affected private persons than the proposed regulation.

IMPOSITION OF LOCAL MANDATE

The Department has determined that the proposed regulations do not impose a local mandate.

(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, as revised January 1, 1996, including Appendix A, B and C to Part 30 of Title 10, Code of Federal Regulations, referenced in such Section section 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,~~ isare 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 ~~400275~~, 115000, and ~~115091~~, 131055, and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115060, 115091, 115092 and 115235, Health and Safety Code.