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Director

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



ARNOLD SCHWARZENEGGER
Governor

April 29, 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 71 relating to Transportation of Radioactive Materials.

Your letter dated July 10, 2008 (ML081910792) contained four comments. The Radiologic Health Branch believes that the regulations address those comments and satisfies 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
1996-1	Compatibility with the International Atomic Energy Agency, Part 71	30373
2004-1	Compatibility With IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments, Part 71	30373

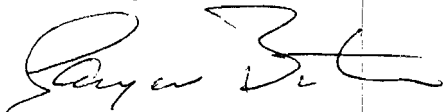
If you have any questions, please feel free to contact me at (916) 440-7942 or Phillip Scott of my staff at (916) 440-7978 or phillip.scott@cdph.ca.gov.

Mr. James G. Luehman

Page 2

Date


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 more prominent.

Gary W. Butner, Chief
Radiologic Health Branch

Enclosure

cc: Philip Scott,
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**TITLE 17, CALIFORNIA CODE OF REGULATIONS
DIVISION 1.
CHAPTER 5.
SUBCHAPTER 4.0
GROUP 1. GENERAL
Article 1. Definitions**

(1) Amend Section 30100 to read as follows:

§30100. General Definitions.

As used in subchapter 4:

(a) through (c) *No Change to text.*

(d) "Department" means the ~~State~~ California Department of Public Health Services.

(e) *No change to text.*

(f) "Hazardous radioactive material", as used in section 33000 of the California Vehicle Code and 114820(ed) of the Health and Safety Code means any "highway route controlled quantity" of radioactive material as such material is defined in ~~The United States title 49, Code of Federal Regulations (CFR), 49 CFR section 173.403(l) as printed in FR 13431, March 31, 1983.~~

(g) through end *No Change to text.*

Note: Authority cited: Sections ~~400275 and~~ 115000 and 131200, Health and Safety Code.

Reference: Sections 114965, 114970, 114985, and 115060, 131050, 131051 and 131052, Health and Safety Code.

GROUP 3. STANDARDS FOR PROTECTION AGAINST RADIATION
Article 7. Radiation Safety Requirements For Well Logging Operations

(2) Amend Section 30346.1 to read as follows:

§ 30346.1. Labels, Security and Transportation.

(a) *No change to text.*

(b) *No change to text.*

(c) ~~The licensee shall not transport radioactive material unless the material is packaged, labeled, marked, and accompanied with appropriate shipping papers in accordance with regulations set forth in 10 CFR Part 71 (53 FR 21550, Pub. 6/8/88)~~ For transportation of radioactive material, the licensee shall comply with section 30373.

(c) *No change to text.*

(d) *No change to text.*

Note: Authority cited: ~~Sections 208 and 25811~~ Sections 115000 and 131200, Health and Safety Code.

Reference: ~~Sections 25801, 25802, 25815, 25875 and 25876~~ Sections 114965, 114970, 115060, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

GROUP 4. TRANSPORTATION OF RADIOACTIVE MATERIAL
Article 1. Requirements For Transportation Of Radioactive Material

(3) Amend Section 30373 to read as follows:

§ 30373. Transportation Regulations.

(a) Except as authorized in a general license or a specific license, or as exempted in this subchapter, a licensee may not deliver radioactive material to a carrier for transport or transport radioactive material. Licensees authorized to receive, possess, use or transfer radioactive material shall, if they deliver radioactive material to a carrier for transport, transport it outside the site of usage as specified in the specific license, or on public highways, comply~~No person shall transport any radioactive material outside the confines of that person's facility or other authorized location of use, or offer any radioactive material to a carrier for transportation, unless that person complies with, appropriate to the mode of transport, title 10, Code of Federal Regulations, part 71 (10 CFR 71) and Appendix A (as of January 1, 2007), which is hereby incorporated by reference with the following exceptions~~applicable requirements of the regulations, appropriate to the mode of transport, of the United States Federal Government in 10 CFR, Part 71 (as effective November 30, 1988) insofar as such regulations relate to the packaging of radioactive material, marking and labeling of the packages, loading and storage of packages, placarding of the transportation vehicle, monitoring requirements and accident reporting.

(1) 10 CFR 71, sections 71.0 through 71.3, 71.6 through 71.13, 71.14(b), 71.16, 71.18, 71.19, 71.24, 71.25, 71.31 through 71.45, 71.51 through 71.81, 71.91, 71.93, 71.95, 71.99, 71.100, 71.101(c)(2), (d), (e), and (f), 71.103(a), (c) through (f), and 71.107 through 71.131 are not incorporated by reference;

(2) Any references to the United States Nuclear Regulatory Commission or any component thereof shall be deemed to be a reference to the "Department" as defined in section 30100, except for the reference found in the definition of "certificate of compliance" in 10 CFR 71.4;

(3) The terms "Close reflection by water," "Containment system," "Maximum normal operating pressure," "Optimum interspersed hydrogenous moderation," "Spent nuclear fuel or spent fuel," and "State" found in 10 CFR 71.4 are not incorporated by reference;

(4) When the term "licensed material" is used within the material incorporated by this section, it shall mean any radioactive material including source material, special nuclear material, or byproduct material received, possessed, used, transferred or disposed of under a general or specific license issued by the NRC, or by any other Agreement State or by any state that has been either provisionally or finally designated as a Licensing State by the Conference of Radiation Control Program Directors, Inc.; and

(5) Federal Department of Transportation regulations as of January 1, 2007 referenced in 10 CFR 71.5 are hereby incorporated by reference.

(b) Persons are exempt from this regulation to the extent that they transport any radioactive material or offer any radioactive material to a carrier for transportation where such transportation is subject to the exclusive jurisdiction of the United States Federal Government.

(c) Physicians are exempt from the requirements of this section to the extent that they transport radioactive material for use in the practice of medicine.

However, any physician operating under this exemption shall possess a specific license issued pursuant to section 30195 authorizing human use of radioactive material.

Note: (1) Authority cited: Sections ~~208, 25611, 25651 and 25811,~~ 114765, 114820, 115000 and 131200, Health and Safety Code.

Reference: Sections ~~25606 and 25611~~ 114740, 114765, 131050, 131051 and 131052, Health and Safety Code.

Note: (2) Copies of Title 10, Code of Federal Regulations--Energy, and Title 49, Code of Federal Regulations--Transportation, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies can also be obtained at: <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>.