

July 3, 2013

Gonzalo Perez, Chief
Radiological Health Branch
Division of Food, Drug & Radiation Safety
California Department of Health Services
P.O. Box 997414, MS-7610
Sacramento, CA 95899-7414

Dear Mr. Perez:

We have reviewed the final revision to the California regulations 17 CCR 30194; 30345.3 and the license condition/legally binding requirement (LBR), received by our office on May 29, 2013. These regulations and LBR were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 36, 39, 40, 70, 150 and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations and LBRs with Phillip Scott on June 24, 2013.

As a result of our review, we have two comments that have been identified in the enclosure. Please note that we have limited our review to regulations and LBR required for compatibility and/or health and safety. We have determined that if the LBR is revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

We request that when you revise your LBR to address our comments, a copy of the revised license condition be provided to us for review. As requested in FSME Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by California, in response to our comments, and provide a copy to Division of Materials Safety and State Agreements, FSME.

The SRS Data Sheet summarizes our knowledge of the status of other California regulations and LBRs, 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 FSME website: <http://nrc-stp.ornl.gov/rulemaking.html>.

G. Perez

-2-

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 Kathleen Schneider, State Regulation Review Coordinator, at (301) 415-2320 (kathleen.schneider@nrc.gov) or Randy Erickson at (817) 200-1143 (randy.erickson@nrc.gov).

Sincerely,

/RA A.D. White for/

Pamela J. Henderson, Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Compatibility Comments
2. California SRS Data Sheet

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-2-

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DIR RF 13-22
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Incoming Document: ML13144A735

OFFICE	Region IV	ASPB	OGC	ASPB:BC	MSSA:DD
NAME	RErickson	KSchneider	BJones / jpb	DWhite	PHenderson
DATE	06/05/13	06/11/13	06/21/13	07/03/13	07/03/13

ML13162A559

OFFICIAL RECORD COPY

Package ML13162A553

**COMPATIBILITY COMMENTS ON CALIFORNIA FINAL REGULATIONS
AND LEGALLY BINDING REQUIREMENTS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	License condition/ legally binding requirement (LBR)	36.2	2011-2	NRC	<p>Definition: Commencement of construction, paragraph 2</p> <p>California incorporates 10 CFR 36.2 Definition, Commencement of construction - paragraph 2 by reference into a LBR. California needs to add "Commencement of construction - paragraph 2" into Section A of the LBR which lists NRC's provisions not incorporated by reference.</p> <p>California needs to make the above change in order to meet the Compatibility Category NRC designation assigned to 10 CFR 36.2 Definition, Commencement of construction paragraph 2.</p>
2	LBR	36.2	2011-2	NRC	<p>Definition: Construction, paragraph 9(ii)</p> <p>California incorporates 10 CFR 36.2 Definition, Construction - paragraph 9(ii) by reference into a Legally Binding Requirement (LBR). California needs to add "Definition - Construction paragraph 9(ii)" into Section A of the LBR which lists NRC's provisions not incorporated by reference.</p> <p>California needs to make the above change in order to meet the Compatibility Category NRC designation assigned to 10 CFR 36.2 Definition, Construction - paragraph 9(ii).</p>

STATE REGULATION STATUS

State: California

Tracking Ticket Number: 13-22
Date: June 25, 2013

[1 amendment(s) reviewed is identified by a ★
at the beginning of the equivalent NRC requirement.]

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1991-1	Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5)	01/10/1994	Not Required	Not Required	California has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-2	ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5)	none	Not Required	Not Required	California has adopted Final Regulations equivalent to RATS ID: 1997-5.
1991-3	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	01/01/1994	Final ML020030346	No Comments 03/18/2002 ML020780186	
1991-4	Notification of Incidents Parts 20, 30, 31, 34, 39, 40, 70 56 FR 64980	10/15/1994	Final	No Comments 04/01/1998	
1992-1	Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2)	01/27/1995	Final ML103050179	No Comments 01/05/2011 ML103340424	
1992-2	Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30, 35 57 FR 45566	none	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30, 40 58 FR 39628	10/25/1996	Final ML112970300	No Comments 01/20/2012 ML113330808	
1993-2	Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715	07/01/1996	License Condition ML051670371	No Comments 07/01/2005 ML051810407	
1993-3	Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886	07/22/1996	Not Applicable ¹	Not Applicable	California does not have any licensees subject to these regulations (See SECY-95-112)
1994-1	Self-Guarantee as an Additional Financial Mechanism Parts 30, 40, 70 58 FR 68726; 59 FR 1618	none	Final	No Comments 04/01/1998	These regulation changes are not required to be adopted for purposes of Compatibility.
1994-2	Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220	07/01/1997	Not Applicable	Not Applicable	California does not have authority to regulate this material under its Agreement.
1994-3	Timeliness in Decommissioning Material Facilities Parts 30, 40, 70 59 FR 36026	08/15/1997			
1995-1	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	01/01/1998	Final	No Comments 11/16/1999	

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1995-2	Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900	03/13/1998	Final ML020030346	No Comments 03/18/2002 ML020780186	
1995-3	Low-Level Waste Shipment Manifest Information and Reporting Parts 20, 61 60 FR 15649; 60 FR 25983	03/01/1998	Final ML020030346	No Comments 03/18/2002 ML020780186	
1995-4	Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superseded by 1997-5)	06/30/1998	Not Required	Not Required	California has adopted Final Regulations equivalent to RATS ID: 1997-5.
1995-5	Radiation Protection Requirements: Amended Definitions and Criteria Parts 19, 20 60 FR 36038	08/14/1998	Final ML020030346	No Comments 03/18/2002 ML020780186	
1995-6	Clarification of Decommissioning Funding Requirements Parts 30, 40, 70 60 FR 38235	11/24/1998	Final	No Comments 04/01/1998	
1995-7	Medical Administration of Radiation and Radioactive Materials Parts 20, 35 60 FR 48623 (Superseded by 2002-2 and 2005-2)	10/20/1998	Final ML103050179 Final ML103550423	No Comments 01/05/2011 ML103340411 No Comments 02/14/2011 ML110120070	Part 35 only Part 20 only
1996-1	Compatibility with the International Atomic Energy Agency	04/01/1999	Final	No Comments	California has adopted Final

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1996-2	Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1) One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40, 70 61 FR 1109	02/15/1999	ML091240053 Not Required	06/11/2009 ML091470300 Not Required	Regulations equivalent to RATS ID: 2004-1 These regulation changes are not required to be adopted for purposes of Compatibility.
1996-3	Termination or Transfer of Licensed Activities: Record keeping Requirements Parts 20, 30, 40, 61, 70 61 FR 24669	06/17/1999	Final ML020030346	No Comments 03/18/2002 ML020780186	
1997-1	Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120	01/9/2000	Final ML020030346	No Comments 03/18/2002 ML020780186	
1997-2	Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662	02/27/2000	Final ML111740220	No Comments 08/24/2011 ML112130149	
1997-3	Criteria for the Release of Individuals Administered Radioactive Material Parts 20, 35 62 FR 4120	05/29/2000	Final ML103050179 Final ML103550423	No Comments 01/05/2011 ML103340411 No Comments 02/14/2011 ML110120070	Part 35 only Part 20 only
1997-4	Fissile Material Shipments and Exemptions Part 71 62 FR 5907	02/10/2000	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078)

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	(Superseded by 2004-1)				
1997-5	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71, 150 62 FR 28947	06/27/2000	Final ML081160234	Comments 06/19/2008 ML081710246	
1997-6	Radiological Criteria for License Termination Parts 20, 30, 40, 70 62 FR 39057	08/20/2000			This regulation was previously reviewed and found acceptable (See NRC letter ML 020780186), however it was repealed on August 8, 2002, and CA is currently terminating licenses on a case by case basis
1997-7	Exempt Distribution of a Radioactive Drug Containing One Micro curie of Carbon-14 Urea Part 30 62 FR 63634	01/02/2001	Final ML081080140	No Comments 05/13/2008 ML081340266	
1998-1	Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71, 150 63 FR 1890; 63 FR 13773	02/12/2001	Final ML060340073	No Comments 03/09/2006 ML060670437	
1998-2	Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40, 70 63 FR 29535	07/01/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1998-3	License Term for Medical Use Licenses Part 35 63 FR 31604 (Superseded by 2002-2)	07/10/2001	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074)
1998-4	Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic	07/09/2001	Final	No Comments	

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	Operations Part 34 63 FR 37059		ML081160234	06/19/2008 ML081710246	
1998-5	Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36, 39 63 FR 39477; 63 FR 45393	10/26/2001	Final ML112970300 License Condition ML051580164 ML061790298	Comments 01/20/2012 ML113330808 No Comments 07/18/2006 ML061990575	Part 36
1998-6	Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127	11/20/2001	Final ML020030346	No Comments 03/18/2002 ML020780186	
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506	06/11/2002	Not Applicable	Not Applicable	California does not have authority to regulate this material under its Agreement.
1999-2	Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269	10/04/2002	Not Required	Not Required	These regulation changes are not required to be adopted for purposes of Compatibility.
1999-3	Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524	02/02/2003	Final ML062210438	No Comments 08/31/2006 ML062490010	
2000-1	Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39	05/17/2003	Final ML070920384	No Comments 04/23/2007 ML071140038	

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	65 FR 20337				
2000-2	New Dosimetry Technology Parts 34, 36, 39 65 FR 63750	01/08/2004	Final ML081160234	No Comments 06/19/2008 ML081710246	Part 34
			Final ML070920384	No Comments 04/23/2007 ML071140038	Part 39
			License Condition ML051580164 ML061790298	No Comments 07/18/2006 ML061990575	Part 36 adopted by reference
2001-1	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31, 32 65 FR 79162	02/16/2004	Final ML112970300 License Condition for 32.52 (a) & (b) ML040500440	Comments 01/20/2012 ML113330808 No Comments 03/10/2004 ML040700191	
2002-1	Revision of the Skin Dose Limit Part 20 67 FR 16298	04/05/2005	Final ML062210438	No Comments 08/31/2006 ML062490010	
2002-2	Medical Use of Byproduct Material Parts 20, 32, 35 67 FR 20249	10/24/2005	Final ML112970300	Comments 01/20/2012 ML113330808	
2003-1	Financial Assurance for Materials Licensees Parts 30, 40, 70 68 FR 57327	12/03/2006	Final ML090210714	No Comments 02/06/2009 ML090260305	

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2004-1	Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697	10/01/2007	Final ML091240053	No Comments 06/11/2009 ML091470300	
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001	07/11/2008	License Condition ML062920179	No Comments 11/09/2006 ML063130004	
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926	04/29/2008	Final ML112970300	Comments 01/20/2012 ML113330808	
2005-3	Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128	12/01/2005	License Condition ML081280851	No Comments 05/13/2008 ML081340260	California chose to revise its IC License Condition at the time of the Fingerprinting Order EA-07-305 License Condition Implementation. The original license condition can be seen at ML053060120. The response letter sent 11/04/2005 can be seen at ML053080246.
2006-1	Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005	03/27/2009	Final ML112970300	Comments 01/20/2012 ML113330808	Note: changes to Part 40 and 70 are not required for compatibility.
2006-2	National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E	02/06/2007	License Condition ML070360575	No Comments 02/16/2007 ML070470007	

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	71 FR 65685				
2006-3	National Source Tracking System Part 20 71 FR 65685, 72 FR 59162	01/31/2009	Final ML103550423	No Comments 02/14/2011 ML110120070	
2007-1	Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 54207	10/29/2010	Final ML112970300	Comments 01/20/2012 ML113330808	
2007-2	Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32, 150 72 FR 58473	12/17/2010	Final ML112970300	Comments 01/20/2012 ML113330808	
2007-3	Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61, 150 72 FR 55864	11/30/2010	Final ML112970300	Comments 01/20/2012 ML113330808	
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901	06/05/2008	License Condition ML081280851	No Comments 05/13/2008 ML081340260	
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19, 20 72 FR 68043	02/15/2011	Final ML103550423	No Comments 02/14/2011 ML110120070	
2009-1	Medical Use of Byproduct Material – Authorized User Clarification	09/28/2012			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
	Part 35 74 FR 33901				
2011-1	Decommissioning Planning Parts 20, 30, 40, 70 76 FR 35512	12/17/2015			
*2011-2	Licenses, Certifications, and Approvals for Materials Licenses Parts 30, 36, 39, 40, 70, and 150 76 FR 56951	11/14/2014	Final ML13144A735 License Condition ML13144A735	No Comments 06/25/2013 ML13162A553 Comments 06/25/2013 ML13162A553	Part 36 adopted by reference
2012-1	Change of Compatibility of 10 CFR 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640	01/25/2015			
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194	08/10/2015			
2012-3	Technical Corrections Part 30, 34, 40 and 70 77 FR 39899	08/06/2015			
2012-4	Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666	10/23/2015			

RATS ID	NRC Chronology Identification	Date Due for State Adoption	Incoming Package	Outgoing Package	Notes
2013-1	Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, and 71 78 FR 16922	03/19/2016			
2013-2	Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 10 CFR Parts 30, 40, and 70 78 FR 32310	08/27/2016			
N/A	10 CFR 35.13, 35.14, 35.24, 35.27, 35.57 and 35.2024		License Condition ML111400455	No Comments 07/11/2011 ML111740678	

¹ IMPEP Team: verify that California does not have any licensees subject to these regulations during each review.