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California Department of Public Health



EDMUND G. BROWN JR.  
Governor

March 1, 2018

Mr. Kevin Williams, Deputy Director  
Division of Material Safety, State, Tribal, and Rulemaking Programs  
Office of Nuclear Material Safety and Safeguards (NMSS)  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Dear Mr. Williams:

Enclosed for your review is a copy of the proposed revisions to the California Radiation Control Regulations addressing changes made in the below identified NRC amendments. The date by which the comments are needed is April 9, 2018.

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
2011-1	Decommissioning Planning, Parts 20, 30, 40, and 70	30195.1, 30194, 30197- 30197.7, 30253 & 30256

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

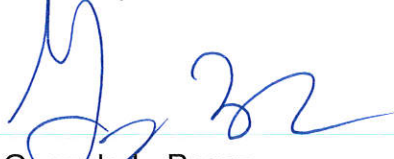
Radiologic Health Branch, MS 7610, PO Box 997414, Sacramento, CA 95899-7414  
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Mr. Kevin Williams  
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If you have any questions, please feel free to contact me at (916) 440-7942 or Phillip Scott of my staff at (916) 440-7978 or [phillip.scott@cdph.ca.gov](mailto:phillip.scott@cdph.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Perez', written over a horizontal line.

Gonzalo L. Perez  
Branch Chief  
Radiologic Health Branch

Attachment

cc: Michelle Beardsley

Attachment

**Excerpts from California Health & Safety Code  
and  
Title 17, California Code of Regulations**  
(Existing statutes or regulations referenced in proposal)

**California Health & Safety Code**

**Section 114985.**

As used in this chapter:

(e) "Source material" means (1) uranium, thorium, or any other material which the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(f) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department declares by rule to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

**Section 115092.**

(a) The department shall deposit all money received from a financial surety provided pursuant to Section 115091 in the Financial Surety Account, which is hereby created in the Radiation Control Fund.

(b) Notwithstanding Section 13340 of the Government Code, the money in the Financial Surety Account is hereby continuously appropriated to the department for expenditure only for the decontamination, decommissioning, reclamation, and disposal of radioactive materials, and for long-term maintenance and surveillance for the protection of the public health and safety and the environment, in accordance with subdivision (e), with regard to the facility or operations of the licensee who provided the financial surety.

(c) The department may not expend the money in the Financial Surety Account for normal operating expenses of the department.

(d) The department shall, by regulation, establish a procedure whereby a licensee may be refunded the amount of the financial surety provided by the licensee in excess of any amounts expended by the department and any amounts that are required to be retained to cover the costs of long-term maintenance and surveillance pursuant to subdivision (b), with regard to that licensee's facility or operations. The regulations shall specify that the refund may be received only after the department has determined that the licensee has fully satisfied all of its obligations under its license, and all other

obligations which the regulations require to be satisfied before the licensee may receive a refund.

(e) If the department finds that a radioactive materials licensee is unable to, or is unwilling to, conduct any decontamination, decommissioning, reclamation, disposal, or long-term maintenance and surveillance that may be necessary, the department shall issue an order directing any action and corrective measures it finds necessary to protect the public health and safety and the environment. The department may undertake, or contract for the undertaking of, any actions or corrective measures which the licensee fails to satisfactorily complete, and may expend the amount of the financial surety provided by the licensee to pay the costs of those actions and corrective measures.

## **Title 17, California Code of Regulations**

### **§ 30253. Standards for Protection Against Radiation.**

(a) The regulations governing standards for protection against radiation in title 10, Code of Federal Regulations, part 20, (10 CFR 20) sections 20.1001 through 20.2402 and Appendices A through G, (January 1, 2013) are hereby incorporated by reference with the following exceptions:

(1) Title 10, Code of Federal Regulations, sections 20.1001, 20.1002, 20.1006, 20.1007, 20.1008, 20.1009, 20.1401, 20.1402, 20.1403, 20.1404, 20.1405, 20.1406, 20.1905(g), 20.2106(d), 20.2203(c), 20.2206, 20.2302, 20.2401, and 20.2402, and Appendix D are not incorporated by reference.

(2) Any references to the United States Nuclear Regulatory Commission (NRC) or any component thereof shall be deemed to be a reference to the California Department of Public Health.

(3) The definition of the term "Byproduct material" in 10 CFR 20, section 20.1003 is replaced by the definition of the term "radioactive material" as defined in section 30100 of this regulation.

(4) The definition of the term "License" in 10 CFR 20, section 20.1003 is replaced by the definition of the term "License" as defined in section 30100 of this regulation.

(5) The definition of the term "Licensed material" in 10 CFR 20, section 20.1003 is modified to 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. With respect to dose limits and reporting requirements, the term "Licensed material" is to be construed broadly in context to include any source of ionizing radiation subject to the requirements of this regulation.

(6) The definition of the term "Licensee" as defined in 10 CFR 20, section 20.1003 is replaced by the definition of the term "User" as set forth in section 30100 of this regulation.

(7) The definition of the term "Person" as defined in 10 CFR 20, section 20.1003 is replaced by the definition of the term "Person" as set forth in section 114985(c) of the Health and Safety Code.

(8) The definition of the term "Radiation (ionizing radiation)" as defined in 10 CFR 20, section 20.1003 is replaced by the definition of the term "Ionizing radiation" as set forth in section 114985(b) of the Health and Safety Code.

(9) The definition of the term "Special nuclear materials" as defined in 10 CFR 20, section 20.1003 is replaced by the definition of the term "Special nuclear material" as set forth in section 114985(f) of the Health and Safety Code.

(10) Reports of transactions and inventories required in 10 CFR 20, section 20.2207 shall be submitted to the National Source Tracking System maintained by NRC as specified in section 20.2207. Methods of reporting specified in section 20.2207(f) are identified on NRC's form, referenced in section 20.2207(f)(4).

(11) Sections 30.35(g), 40.36(f), and 70.25(g), as cited in 10 CFR 20.1501(b), shall be deemed to reference section 30256(a); sections 50.75(g) and 72.30(d), as cited in 10 CFR 20.1501(b), are not incorporated by reference.

(b) The terms defined in 10 CFR 20, section 20.1003, as incorporated by reference, shall apply to this regulation, except that:

(1) The term "Act" as defined in 10 CFR 20, section 20.1003 is limited to the textual material incorporated by reference in subsection (a) above. The meaning of the term "Act" elsewhere in this regulation, is as defined in section 30100 of this regulation.

(2) The term "Department" as defined in 10 CFR 20, section 20.1003 is limited to the provisions incorporated by reference in subsection (a). The meaning of the term "Department" elsewhere in this regulation, is as defined in section 30100 of this regulation.

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.  
Reference: Sections 114960, 114965, 114970, 114985, 114990, 115060, 115105, 115110, 115120, 115165, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

### **§ 30256. Vacating Installations: Records and Notice.**

(a) Each person granted a specific license pursuant to Group 2 of this Subchapter shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use by the Department. Before licensed activities are transferred or assigned in accordance with 30194(c), licensees shall transfer all records described in this section to the new licensee. In this case, the new licensee shall be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. The records shall include the following information important to decommissioning:

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records shall include but not be limited to a description of any instances when contamination remains after any

cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as for example, possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) As-built drawings and modification drawings of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or any radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:

(A) All areas designated and formerly designated restricted areas as defined in Title 10, Code of Federal Regulations, Section 20.1003 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253;

(B) All areas outside restricted areas that require documentation under (a)(1);

(C) All areas outside of restricted areas where current and previous wastes have been buried as documented under Title 10, Code of Federal Regulations, Section 20.2108 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253; and

(D) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under Title 10, Code of Federal Regulations, Section 20.2002 incorporated by reference pursuant to Title 17, California Code of Regulations, Section 30253.

(4) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used pursuant to Section 30195.1.

(b) Each person granted a specific license pursuant to Group 2 of this Subchapter shall, no less than 30 days before vacating any installation which may have been contaminated with radioactive material as a result of the licensee's activities, notify the department in writing of intent to vacate. This notice shall be submitted on form CDPH 5314 (06/09), entitled "Certificate of Disposition of Materials," which is incorporated by reference herein, and shall address all requirements specified in subsection (c).

(c) If a licensee does not submit an application for license renewal under section 30194, the licensee shall on or before the expiration date specified in the license:

(1) Terminate use of radioactive material;

(2) Remove radioactive contamination to the extent practicable except for those procedures covered by Subsection (d) of this section;

(3) Dispose of radioactive material in accordance with applicable regulations;

(4) Submit a completed form CDPH 5314 (06/09), which certifies information concerning the disposition of materials; and

(5) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate:

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed for surfaces, microcuries per milliliter for water, and picocuries per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(d) In addition to the information required under Subsections (c)(4) and (5), the licensee shall submit a plan for completion of decommissioning if the procedures necessary to carry out decommissioning have not been previously approved by the Department and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:

(1) Procedures would involve techniques not applied routinely during cleanup or maintenance operations; or

(2) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation; or

(3) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(4) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(e) Procedures with potential health and safety impacts shall not be carried out prior to approval of the decommissioning plan.

(f) The proposed decommissioning plan, if required by Subsection (d) of this section or by license condition, shall include:

(1) Description of planned decommissioning activities;

(2) Description of methods used to assure protection of workers and the environment against radiation hazards during decommissioning;

(3) A description of the planned final radiation survey;

(4) The information required in (a) (3) and any other information required by (a) that is considered necessary to support the adequacy of the decommissioning plan for approval; and

(5) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(g) The proposed decommissioning plan will be approved by the Department if the Department determines that the decommissioning will be completed as soon as is reasonable and that the health and safety of workers and the public will be adequately protected.

(h) Upon approval of the decommissioning plan by the Department, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in subsection

(c)(5) and shall certify the disposition of accumulated wastes from decommissioning by completing form CDPH 5314 (06/09).

(i) If the information submitted under subsection (c)(5) or (h) does not adequately demonstrate that the premises are suitable for release for unrestricted use, the Department shall inform the licensee of the appropriate further actions required for termination of license.

(j) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual radioactive material present as contamination until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(1) Limit actions involving radioactive material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Department notifies the licensee in writing that the license is terminated.

(k) Specific licenses shall be terminated by written notice to the licensee when the Department determines that:

(1) Radioactive material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

Note: Authority cited: Sections 114975, 115000, 131051, 131052, 131055 and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115060, 115230 and 115235, Health and Safety Code.