

August 22, 2002

Mr. Edgar D. Bailey, C.H.P., Chief
Radiologic Health Branch
Division of Food, Drug & Radiation Safety
California Department of Health Services
P. O. Box 942732
Sacramento, CA 94234-7320

Dear Mr. Bailey:

We have reviewed the final California regulations Title 17. Public Health, Article 1, General of Group 3, Standards for Protection Against Radiation. The regulations were received by the Office of State and Tribal Programs (STP) on June 26, 2002. The final regulations are in response to the three amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. In addition, we reviewed our March 3, 2002 letter to you that addressed the proposed regulations. We discussed our review of the regulations with Phillip Scott on August 20, 2002.

As a result of the NRC review, we have one comment, enclosed, on the rules submitted to fulfill the requirements of Rats ID 1997-2, *Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction*. Please note that we have limited our review to regulations required for compatibility and/or health and safety.

The submitted rule sections for RATS ID 1991-1, *Safety Requirements for Radiographic Equipment*, and RATS ID 1993-1, *Decommissioning Recordkeeping and License Termination*, do not fully cover the amendment requirements. Both of these amendments have been superceded by more recent amendments and some requirements in each have been moved to other sections in the CFR or deleted. In order for this office to credit California for these amendments, a full review of the Radiography and Decommissioning/License Termination sections of the California Rules must be done. As discussed with your Staff, since California is currently working on a radiography amendment, it is suggested that the State wait to resubmit your radiography rules until this amendment is finished. Please contact my Staff if there is any confusion regarding the requirements of these amendments.

The SRS Data Sheet summarizes our knowledge of other California regulations. 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 STP Web Site: <http://www.hsr.gov/nrc/rulemaking.htm>.

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 me or John Zabko of my staff at (301) 415-2308 or JGZ@nrc.gov.

Sincerely,

/RA/

Josephine M. Piccone, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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Response to Incoming Document: ML022140223

DOCUMENT NAME: I:\Regs\2-191.wpd. *See previous concurrence.

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**COMMENTS ON FINAL CALIFORNIA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Rule Section	NRC Section	RATS ID #	Category	Subject and Comments
30225	150.20 (2)(A)& (B)	1997-2	C	<p>RECOGNITION OF AGREEMENT STATE LICENSES</p> <p>The State rules regarding reciprocity do not exclude areas of Federal jurisdiction.</p> <p>The State needs to amend its regulations to exclude areas of exclusive federal jurisdiction when granting reciprocity as per 10 CFR 150.20 (2) (A) & (B).</p>

STATE REGULATION STATUS

State: California

[3 amendments reviewed are identified by a i at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 2-191

Date: August 22, 2002

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
i Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML022140223	Y 8/22/02 ML022350054	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required 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; (1/1/94)	1991-3	F ML020030346	Y 3/18/02 ML020780186	11/14/01
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F	N 4/1/99	9/9/97
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
i Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F ML022140223	Y 8/22/02 ML022350054	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618; (none)	1994-1	F	N 4/1/98	9/9/97 Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
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; (1/1/98)	1995-1	F	N 11/16/99	11/12/99

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Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F ML020030346	N 3/18/02 ML020780186	11/14/01
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983; (3/1/98)	1995-3	F ML020030346	N 3/18/02 ML020780186	11/14/01
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML020030346	N 3/18/02 ML020780186	11/14/01
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 4/1/98	9/9/97
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724; (4/1/99)	1996-1			
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F ML020030346	N 3/18/02 ML020780186	11/14/01
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	F ML020030346	N 3/18/02 ML020780186	11/14/01
i Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F ML022140223	Y 8/22/02 ML022350054	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML020030346	N 3/18/02 ML020780186	11/14/01
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5			

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Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6	F ML020030346	N 3/18/02 ML020780186	11/14/01
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7			
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773; (2/12/01)	1998-1			
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393; (10/26/01)	1998-5	F ML020030346	N 3/18/02 ML020780186	11/14/01
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML020030346	N 3/18/02 ML020780186	11/14/01
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524; (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1			
Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1			

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Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (4/24/05)	2002-2			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number