

June 30, 2005

Edgar D. Bailey, C.H.P., Chief  
Radiologic Health Branch  
MS 7610  
PO Box 997414  
Sacramento, CA 95899-7414

Dear Mr. Bailey:

We have reviewed the proposed changes to the California regulations in the Radiation Control Law (Health and Safety Code, 114960-115273), received by our office on May 27, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 34 and the requirements of the five amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with you on June 30, 2005.

As a result of our review, we have 10 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the California regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final California regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure [SA-200](#).

We note that California has proposed regulations based on the State of Texas' implementation of the 10 CFR 34.41(a), commonly known as the "Two-Person Rule," which is the subject of Agreement State Letter [STP 05-025](#) dated March 25, 2005. California's proposed revision will allow California licensees the flexibility to determine when radiographic operations can be conducted safely where the first radiographer could observe operations and prevent intrusion into the restricted area while the second radiographer is nearby engaged in other job-related activities. The Organization of Agreement States plans to file a petition for rulemaking with NRC to revise 10 CFR 34.41(a). In accordance with the guidance in [STP 05-025](#), NRC will hold in abeyance compatibility findings on this provision of the proposed regulations until NRC issues a determination on the petition for rulemaking.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in [STP Procedure SA-201](#), "Review of State Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other California regulations, 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 STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

Mr. Edgar D. Bailey

-2-

June 30, 2005

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 Jenny Tobin at (301)415-2328 or by e-mail at [jct1@nrc.gov](mailto:jct1@nrc.gov).

Sincerely,

***IRA By KNSchneider For***

Dennis Rathbun, Deputy Director  
Office of State and Tribal Programs

Enclosures:  
As stated

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 Jenny Tobin at (301)415-2328 or by e-mail at jct1@nrc.gov.

Sincerely,

**IRA By KNSchneider Forl**

Dennis Rathbun, Deputy Director  
Office of State and Tribal Programs

Enclosures:  
As stated

- SISP Review Complete
- Publicly Available    Non-Publicly Available
- Non-Sensitive    Sensitive

Distribution:

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**ML051810453**

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**COMPATIBILITY COMMENTS ON CALIFORNIA PROPOSED REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	30330(b)	34.3	1997-5	C	<p><b>Definitions</b></p> <p>California has omitted the definition of “field station”.</p> <p>California needs to add the definition of “field station” to 30330(b) to meet the Compatibility Category C designation assigned to this definition in Section 10 CFR 34.3.</p>
2	30330(b)	34.3	1997-5	C	<p><b>Definitions</b></p> <p>California has omitted the definition of “hands-on experience”.</p> <p>California needs to add the definition of “hands-on experience” to 30330(b) to meet the Compatibility Category C designation assigned to this definition in Section 10 CFR 34.3.</p>
3	30330(b)	34.3	1997-5	B	<p><b>Definitions</b></p> <p>California has omitted the definition of “independent certifying organization”</p> <p>California needs to add the definition of “independent certifying organization” to 30330(b) to meet the Compatibility Category B designation assigned to this definition in Section 10 CFR 34.3.</p>
4	30330(b)	34.3	1997-5	B	<p><b>Definitions</b></p> <p>California has proposed a different definition for the term “radiographer certification” which does not include “written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria” .</p> <p>California needs to modify the definition of “radiographer certification” in 30330(b) to meet the Compatibility Category B designation assigned to this definition in Section 10 CFR 34.3.</p>

**COMPATIBILITY COMMENTS ON CALIFORNIA PROPOSED REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5	30330(b)	34.3	1997-5	B	<p><b>Definitions</b></p> <p>California has omitted the definition for the term “temporary jobsite”.</p> <p>California needs to add the definition of “temporary jobsite” to 30330(b) to meet the Compatibility Category B designation assigned to this definition in Section 10 CFR 34.3.</p>
6	30332(a)	34.21	1991-1	B	<p><b>Limit on levels of radiation for radiographic exposure devices and storage containers</b></p> <p>California’s proposed date for “grand-fathering” radiographic exposure devices and storage is later than federal regulations. The proposed dates should be “all equipment manufactured prior to January 10, 1991. After January 10, 1995, radiographic equipment other than storage containers and source changers must meet the requirements of § 34.20, and § 34.21 applies only to storage containers (source changers).”</p> <p>California needs to revise 30332(a) to meet the Compatibility Category B designation assigned to Section 10 CFR 34.21.</p>
7	30332.4	34.27(c)	1998-4	C	<p><b>Leak testing and replacement of sealed sources</b></p> <p>California has omitted the requirements of 10 CFR 34.27(c).</p> <p>California needs to add this paragraph to 30332.4 to meet the Compatibility Category C designation assigned to of Section 10 CFR 34.27(c).</p>

**COMPATIBILITY COMMENTS ON CALIFORNIA PROPOSED REGULATIONS**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
8	30332.4	34.67	1998-4	C	<p><b>Records of leak testing</b></p> <p>California has omitted the requirements 10 CFR 34.67.</p> <p>California needs to add this paragraph to 30332.4 to meet the Compatibility Category C designation assigned to this part of Section 10 CFR 34.3.</p>
9	30332.4	34.87	1998-4	C	<p><b>Forms of records</b></p> <p>California has omitted the requirements of 10 CFR 34.87.</p> <p>California needs to add this paragraph to 30332.4 to meet the Compatibility Category C designation assigned to Section 10 CFR 34.87.</p>
10	30332.4	34.89	1998-4	C	<p><b>Location of records</b></p> <p>California has omitted the requirements 10 CFR 34.89.</p> <p>California needs to add this paragraph to 30332.4 to meet the Compatibility Category C designation assigned to Section 10 CFR 34.89.</p>

## STATE REGULATION STATUS

State: California

Tracking Ticket Number: 5-168

[Five Amendments reviewed are identified by a ★  
at the beginning of each equivalent NRC regulation)]

Date: June 30, 2005

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) <sup>1</sup> Rule / ML # <sup>5</sup>	NRC Review / Y, N <sup>2</sup> / Date / ML # <sup>5</sup>	Final State Regulation <sup>1</sup> (Effective Date)
★ Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	P ML051580164	Y 6/30/05 ML051810453	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required <sup>3</sup>
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 <sup>3</sup>
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			
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 <sup>4</sup>
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 <sup>3</sup>
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
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

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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	P ML051580164	N 6/30/05 ML051810453	
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 <sup>3</sup>
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
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 <sup>3</sup>
★ 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	P ML051580164	Y 6/30/05 ML051810453	Partial Submittal - Only requirements of Part 34 reviewed



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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 <sup>3</sup>
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required <sup>3</sup>
★ Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML051580164	Y 6/30/05 ML051810453	
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 <sup>3</sup>
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	P ML051580164	N 6/30/05 ML051810453	Partial Submittal - Only requirements of Part 34 reviewed
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F license conditions 32.52 (a) & (B)	N 3/10/04 ML040700191	license conditions only for 32.52 (a) & (B) 02/25/04

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Revision of the Skin Dose Limit-Part 20	67 FR 16298; (4/5/05)	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (10/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1			
Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments – Part 71.	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Speciality Boards - Part 35	70 FR 16336; (4/29/08)	2005-2			

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
6. Although these items are not required for purposes of compatibility, the State incorporate NRC regulations by reference on 10/9/98 which included these items.