

October 13, 2005

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

Dear Mr. Bailey:

The Office of State and Tribal Programs (STP) has reviewed your letter dated July 22, 2005 in response to our letter dated June 30, 2005 which transmitted our comments on California's proposed Industrial Radiography Certification regulations. These regulations correspond to 10 CFR 34. We also reviewed the additional information provided in Sections 20275, 30293 and 30253 of the Title 17 California Code of Regulations. We discussed our review of the regulations with Phillip Scott on October 11, 2005.

In response to your comments, the attached table shows three outstanding comments and one new comment that needs to be incorporated into California's proposed regulations or addressed in a legally binding requirement such as a licensing condition if the State chooses not to revise the regulations. These four remaining comments address the aspects of industrial radiography related to temporary jobsites and field stations and therefore need to be included in these requirements.

The additional information provided in your letter has enabled us to verify that your regulations meet the essential objectives of the Compatibility Category B and C designations, respectively, for comments 2, 3, 4, 6, 7, 8, and 9.

The SRS Data Sheet summarizes our knowledge of the status of other State regulations and legal binding requirements, 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>.

If you have any questions regarding the review, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Ms. Jenny Tobin of my staff at (301)415-2328 or e-mail: JCT1@NRC.GOV.

Sincerely,

IRA By KNSchneider For

Dennis K. Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

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Enclosure: As stated

SISP Review Complete

- Publicly Available Non-Publicly Available
 Non-Sensitive Sensitive

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DATE	09/27/05*		09/27/05*		10/3/05*		10/13/05*	

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**COMPATIBILITY COMMENTS ON CALIFORNIA PROPOSED REGULATIONS
RESOLUTION OF JUNE 30, 2005 LETTER**

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	30330(b)	34.3	1997-5	C	<p>Definitions</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> <p>Response: The requirement addresses the aspect of industrial radiography related to “field station” and therefore needs to be included to meet a compatibility C designation. It could be addressed in a legally binding requirement, such as a licensing condition, if the State chose not to revise the regulations.</p>
2	30330(b)	34.3	1997-5	C	<p>Definitions</p> <p>California has omitted the definition of “hands-on experience”.</p> <p>California has included the essential objectives of this definition within 30333. The information provided by the July 22, 2005 letter addresses the definition and thus the comment is withdrawn.</p>
3	30330(b)	34.3	1997-5	B	<p>Definitions</p> <p>California has omitted the definition of “independent certifying organization”</p> <p>California has included the essential objectives of this definition within 30333. The information provided by the July 22, 2005 letter addresses the definition and thus the comment is withdrawn.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	30330(b)	34.3	1997-5	B	<p>Definitions</p> <p>California has proposed a different definition for the term “radiographer certification” which does not include the phrase “received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.”</p> <p>California has included the essential objectives of this definition within 30333. The information provided by the July 22, 2005 letter addresses the definition and thus the comment is withdrawn.</p>
5	30330(b)	34.3	1997-5	B	<p>Definitions</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> <p>Response: The requirement addresses the aspect of industrial radiography related to “temporary jobsites” and therefore needs to be included to meet a compatibility C designation. It could be addressed in a legally binding requirement, such as a licensing condition, if the State chose not to revise the regulations.</p>
6	30332(a)	34.21	1991-1	B	<p>Limit on levels of radiation for radiographic exposure devices and storage containers</p> <p>Comment withdrawn based on information provided in July 22, 2005 letter.</p>
7	30332.4	34.27(c)	1998-4	C	<p>Leak testing and replacement of sealed sources</p> <p>Comment withdrawn based on information provided in July 22, 2005 letter.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
8	30332.4	34.67	1998-4	C	<p>Records of leak testing</p> <p>Comment withdrawn based on information provided in July 22, 2005 letter.</p>
9	30332.4	34.87	1998-4	C	<p>Forms of records</p> <p>Comment withdrawn based on information provided in July 22, 2005 letter.</p>
10	30332.4	34.89	1998-4	C	<p>Location of records</p> <p>California has omitted the requirements 10 CFR 34.89.</p> <p>Response: Although 30293 addresses general requirements for records, it does not address the special requirements for "field stations" (Comment 1) and "temporary jobsites" (Comment 5). The provisions in 34.89 and these two missing definitions could be addressed in a legally binding requirement, such as a licensing condition if the State chooses not to revise regulations.</p>
NEW COMMENT		34.13(j)	1998-4	C	<p>Special Requirements of Industrial Radiography</p> <p>California has omitted the requirements 10 CFR 34.13(j).</p> <p>California needs to add this paragraph to meet the Compatibility Category C designation assigned to 34.13(j).</p>

STATE REGULATION STATUS

State: California

Tracking Ticket Number: 5-224

[1 Amendment reviewed are identified by a ★
at the beginning of each equivalent NRC regulation]

Date: October 13, 2005

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)
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
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	F ML051580164 F ML051670371	N 6/30/05 ML051810407 N 10/13/05 ML052870320	
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			

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)
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
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

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)
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 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			
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			

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)
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			

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
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
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.