

SUPPLEMENTAL STATEMENT OF REASONS

The California Department of Public Health (Department) has instituted additional changes to these proposed regulations which are discussed below.

Section 30192.1(d)(10)(B): A commenter indicated that in the proposed amendment the transfer of a device to a specific licensee whose license authorizes possession of a device, such as the manufacturer who will repair the device, requires prior written Department approval, and that this is a significant departure from 10 CFR 31.5(c)(8)(i). Existing section 30192.1(b)(2), 10 CFR 31.5(c)(8)(i), and the proposal were reviewed and it was determined that the proposal was inconsistent with the federal provision and inadvertently created a burdensome approval process. The comment is accepted and the Department proposes to insert language for consistency with the federal requirement so as to not require written prior approval when transferring a device to a specific licensee authorized to possess the device.

Section 30192.3: A commenter indicated that this section was inconsistent with the U.S. Nuclear Regulatory Commission's (NRC) provision in 10 CFR 31.8 in that the Department limited to whom the general license could be issued. Existing section 30192.3 limits issuance of the specified general license to both Department specific licensees authorized to possess any radioactive material and to NRC specific licensees authorized to possess special nuclear material. However, NRC's provision in 10 CFR 31.8 provides that the general license may be issued to NRC specific licensees authorized to possess byproduct material, source material, or special nuclear material (10 CFR 31.8(a)(1)). Thus, NRC's provision grants the general license to a broader category of users.

The Department accepts the recommendation and proposes to change subsection (a) by deleting the words "special nuclear" and inserting "radioactive" so as to be more consistent with NRC. Though NRC's provision uses the terms "byproduct material," "source material," and "special nuclear material" and the Department's proposal refers to "radioactive material" as defined in section 30100(r), consistency is maintained because the Department's term includes the same materials included in NRC's terminology. Also, the State of Texas issues the same type of general license based on 10 CFR 31.8 (25 TAC 289.251(f)(4)(D)) and uses the term "radioactive material" (25 TAC 289.251(f)(4)(D)(i)(II)) as it relates to NRC licensees. Both Texas regulations (25 TAC 289.201(b)(82)) and Department regulations (17 CCR 30100(r)) define the term "radioactive material" as any material that emits radiation spontaneously.

In addition, the Department corrected a formatting error regarding two commas in subsection (a).