

**INITIAL STATEMENT OF REASONS**

**SUMMARY OF PROPOSED REGULATORY ACTION**

The California Department of Public Health (Department) proposes to amend, adopt, or repeal sections of title 17 of the California Code of Regulations (17 CCR) covering the following general topics addressing the regulation of source material (uranium and thorium). This action is taken to carry out California’s statutory duty as an Agreement State under federal law to maintain continued compatibility with the programs of the United States Nuclear Regulatory Commission (NRC) for the regulation of source material. This proposal addresses NRC’s amendments to title 10, Code of Federal Regulations, part 40 (10 CFR 40), Domestic Licensing of Source Material, and also amends existing regulations so they are consistent with corresponding NRC provisions found in 10 CFR 30 and 70. Nonsubstantial changes are also proposed.

<b>Topic</b>	<b>Sections Affected</b>
Exemption for persons to possess products containing very small amounts of source material.	Amend 30181.
General license for persons to possess small amounts of source material.	Amend 30191.
General license for persons to possess depleted uranium.	Amend 30192.6.
Specific license for persons to manufacture or distribute products or devices containing depleted uranium.	Adopt 30201.
Specific license for persons to distribute source material to general licensees.	Adopt 30202.
Reports required for persons to distribute source material to general licensees.	Adopt 30202.1.
Records required for licensees.	Amend 30293.

**AUTHORITY AND REFERENCE**

The Department proposes to adopt, amend, or repeal, as applicable, the sections identified in the above table, under the authority provided in sections 114975, 115000, and 131200 of the Health and Safety Code (HSC).

This proposal implements, interprets, and makes specific sections 114965, 114970, 114985(g), 115000, 115060, 115165, 115230, 115235, 131050, 131051, and 131052 of the HSC.

## **POLICY STATEMENT OVERVIEW**

*Problem Statement:* Existing Department regulations that address source material fail to address NRC regulatory changes as required by California's agreement specified in HSC sections 115230 and 115235. This failure could create undesirable public health consequences within California, and other agreement states such as the States of Nevada, Oregon, and Washington, and inconsistent regulatory oversight of source material on a nationwide basis. Failure to address the NRC's changes could also result in the NRC re-invoking federal authority over the possession and use of source material by any person or entity within California to protect the public health and safety. Existing regulations also contain provisions that are out-of-date, contain incorrect web addresses and inconsistencies, as well as grammatical and capitalization errors.

*Objectives:* The broad objectives of this proposed regulatory action are to:

- Ensure that the Department's regulations are compatible with those of the NRC pursuant to the agreement.
- Provide for continuing a consistent and orderly regulatory pattern within the state, among the individual states, and between the federal government and the state, in accordance with legislative policy (HSC § 114965).
- Delete unnecessary regulations.

*Benefits:* Anticipated benefits from this proposed regulatory action are:

- Continued protection of the public health and safety, worker safety, and the environment, as provided for by the Legislature in the following provisions:
  - HSC sections 114705, 114740, 114755, 114965, 114970, 115000, 115230, and 115235.
- Standards and regulatory programs that are compatible with those of the NRC, in accordance with HSC sections 114965(a), 115000(b), and 115235, art. V.
- Regulatory programs that are consistent with those of other states, in accordance with HSC section 114965(c).
- Continued maintenance of a consistent and orderly regulatory pattern within the state, among the individual states, and between the federal government and the state, in accordance with HSC section 114965(b).
- Updated and clear regulations.

## **EVALUATION AS TO WHETHER THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS**

Based on the following evaluation, the Department determined that the proposed regulations are not inconsistent or incompatible with existing California regulations. This evaluation included a review of the Department's existing general regulations and

those regulations specific to the regulatory control of products containing source material. Some inconsistencies in those specific regulations were found and are addressed in this proposal. An internet search of other California state agency regulations was also performed. It was determined that no other California regulation addressed the same subject matter.

### **PROGRAM BACKGROUND/AUTHORITY**

Source material (uranium and thorium, as defined in HSC § 114985 (e)) is contained in ores, chemical mixtures, compounds, solutions, and alloys that are used in many consumer and industrial products, such as vacuum tubes, welding rods, electric lamps, rare earth metals, neutron dosimeters, glazed tableware, ceramics, glass, aircraft, missiles, bullets, optical devices, and photographic prints. Source material is regulated and controlled by both the NRC and the individual states.

The regulatory scheme is structured to allow possession of source material in three ways, as further described below; namely, hold a specific license; be subject to requirements under a particular general license; or, be exempt from both specific and general license requirements.

- Specific licenses: HSC section 114985(h) defines "specific license" as "a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials, or other radioactive material occurring naturally or produced artificially."
- General licenses: HSC section 114985(g) defines "general license" as a "license, pursuant to regulations promulgated by the Department, effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials, or other radioactive material occurring naturally or produced artificially." Title 17, CCR sections 30190 –30192.7 clarify and specify particular types of existing general licenses.
- Exempt products and concentrations: Specific types of products manufactured and distributed by authorized specific licensees may be possessed and used by persons without those persons being subject to regulatory requirements, provided the product is used as labeled. Exempt concentrations may be possessed by persons without those persons being subject to regulatory requirements, provided a certain amount is not exceeded or certain activities are not performed. Persons possessing exempt products and concentrations are commonly called "exempt persons." Section 115060(c) of the HSC authorizes the Department to create such exemptions.

The Radiation Control Law (RCL) (HSC §§ 114960 - 115273) requires the Department to develop programs for licensing and regulating source materials. (HSC § 115000(b).) The Department is the successor of the California Department of Health Services and as such

has the authority to license and regulate radioactive material under the California Public Health Act of 2006 (Stats. 2006, ch. 241).

In 1962, the State of California ratified and approved an agreement with the United States Atomic Energy Commission, the predecessor of the NRC, by which the federal agency discontinued its regulatory authority over certain radioactive materials. (HSC § 115230.) By such action, California became an "Agreement State." California, as an Agreement State, has regulatory authority over the possession and use of source material by any person or entity subject to state jurisdiction.

A provision of the agreement between California and the NRC requires that the state "use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (HSC § 115235, art. V.) The NRC's stated policy is "to evaluate Agreement State programs established pursuant to Section 274 of the Atomic Energy Act (AEA) of 1954, as amended, to ensure they are adequate to protect public health and safety and compatible with the NRC's regulatory program."

To determine a state's compatibility, the NRC uses Management Directive 5.9, *Adequacy and Compatibility of Agreement State Programs*, Handbook 5.9.<sup>1</sup> This handbook describes the specific criteria and processes that are used to determine which NRC program elements should be adopted and implemented by an Agreement State for purposes of compatibility, and which NRC program elements have a particular health and safety significance. The NRC rates the elements on the degree of compatibility required. The NRC requires that some elements be adopted by states in a form identical to the NRC's. Other elements need not be adopted in identical form, but are still required to meet the "essential objective" of the program element. The NRC's overall determination of the adequacy and compatibility of an Agreement State's program is made pursuant to Management Directive 5.6, *The Integrated Materials Performance Evaluation Program* (IMPEP).<sup>2</sup>

The NRC evaluates Agreement State programs every four years to determine if a state's radiation safety program meets the adequacy and compatibility criteria. If California fails to meet those criteria, the NRC may revoke California's status as an Agreement State and assume direct regulation and control of byproduct, source, and special nuclear material within California.

In conjunction with the NRC's IMPEP review every four years, the NRC's procedure SA-200 (Reference 3) requires that Agreement States, when adopting regulations required for meeting the adequacy and compatibility determinations, submit proposed regulations to the NRC for review. NRC then reviews the proposal to ensure the proposed regulations meet the applicable NRC compatibility category, defined as follows:

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<sup>1</sup> *Adequacy and Compatibility of Agreement State Programs*, Management Directive 5.9, page 1. (Reference 1).

<sup>2</sup> *Integrated Materials Performance Evaluation Program* (IMPEP), Management Directive 5.6. (Reference 2).

**NRC Compatibility Categories<sup>3</sup> (underlined words are defined below)**

**Category A:** Basic radiation protection standard, or related definitions, signs, labels or terms necessary for a common understanding of radiation protection principles. The state program element should be essentially identical to that of NRC.

**Category B:** Program element with significant direct transboundary implications. The state program element should be essentially identical to that of NRC.

**Category C:** Program element, the essential objectives of which should be adopted by the state to avoid conflicts, duplications or gaps. The manner in which the essential objectives are addressed need not be the same as NRC, provided the essential objectives are met.

**Category D:** Not required for purposes of compatibility.

**Category NRC:** Not required for purposes of compatibility. These are NRC program elements that address areas of regulation that cannot be relinquished to Agreement States pursuant to the AEA or provisions of 10 CFR. The state should not adopt these program elements.

**Category Health & Safety (H&S):** Program elements identified as H&S are not required for purposes of compatibility; however, they do have particular health and safety significance. The state should adopt the essential objectives of such program elements in order to maintain an adequate program.

[ ] = A bracket around a category (e.g., [B]) means that the section may have been adopted elsewhere, therefore it is not necessary to adopt it again.

**Definitions<sup>4</sup>**

**Conflict** means that the essential objectives of regulations or program elements are different and an undesirable consequence is likely to result in another jurisdiction or in the regulation of agreement material on a nationwide basis.

**Duplication** means that identical regulations or program elements apply to the same material at the same time. Note: this definition applies primarily to review of Agreement State regulations.

**Essential objective** of a regulation or program element means the action that is to be achieved, modified or prevented by implementing and following the

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<sup>3</sup> Volume 5, Governmental Relations and Public Affairs, *Adequacy and Compatibility of Agreement State Programs*, February 27, 1998, Handbook 5.9, Part II, pp. 4-7. Handbook 5.9 is within Reference 1.

<sup>4</sup> Ibid, pg. 17.

regulation or program element. In some instances, the essential objective may be a numerical value (e.g., restriction of exposures to a maximum value), or it may be a more general goal (e.g., access control to a restricted area).

***Essentially Identical*** means the interpretation of the text must be the same regardless of the version (NRC or Agreement State) that is read.

***Gap*** means that the essential objectives of NRC regulations or program elements are absent from the Agreement State program, and an undesirable consequence is likely to result in another jurisdiction or in the regulation of agreement materials on a nationwide basis.

To ensure compliance with the NRC agreement and to maintain compatibility of state regulations, this proposal amends existing regulations relating to source material and addresses those changes made by the NRC that were noted in the following volume of the Federal Register (FR): 78 FR 32310 (May 29, 2013).<sup>5</sup>

### **SPECIFIC DISCUSSION OF PROPOSED CHANGES**

The regulations that implement, interpret, and make specific the provisions of the RCL are in 17 CCR 30100 through 30395. The proposed changes to existing state regulations are explained as follows:

Amend **Section 30181, Products Containing and Quantities of Source Material**, for consistency with the NRC's regulations in 10 CFR 40.4 and 40.13.

Subsection (b) is amended by adding the meaning of the term, "unrefined and unprocessed ore," defined in 10 CFR 40.4 and designated as compatibility category B. (Reference 4a.) The definition is placed here instead of section 30100, since this subsection is the only place in existing regulations where this term is used.

Subsection (c)(1) is replaced by proposed subsection (c)(1) because it is not consistent with 10 CFR 40.13(c)(1), designated by NRC as compatibility category B. (Reference 4a.) Subsection (c)(1)(A) allows possession of the four listed items, provided *each of the four items* does not contain more than 50 milligrams (mg) of thorium. This is inconsistent with 10 CFR 40.13(c)(1), in that NRC's provision allows possession of any quantities of thorium contained in incandescent gas mantles, vacuum tubes and welding rods, and the 50 mg limit applies only to electric lamps for illuminating purposes. Therefore, subsection (c)(1) is revised to ensure consistency with 10 CFR 40.13(c)(1).

Subsection (c)(2) is amended to be compatible with changes made by NRC to 10 CFR 40.13(c)(2)(i) and (iii), designated as compatibility category B. Because the NRC has determined that no glazed ceramic tableware containing source material and no

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<sup>5</sup> The citation format 78 FR 32310 (May 29, 2013) means the May 29, 2013 publication of Volume 78, commencing at page 32310, of the Federal Register. This short format for any given federal register will be used throughout this document for brevity.

glassware containing more than two percent source material have been manufactured since August 27, 2013, that date is used by Agreement States for implementing NRC's changes nationally. (78 FR 32310 (May 29, 2013).)

Subsection (c)(5) is amended as follows:

- The phrase "designed for installation" is replaced with "installed" to be essentially identical to 10 CFR 40.13(c)(5), designated as compatibility category B.
- Subparagraph (A) is repealed to coincide with NRC's removal of 10 CFR 40.13(c)(5)(i).
- Subparagraphs (B) and (C) are re-designated (A) and (B) to maintain a coherent structure without regulatory effect.
- Subparagraph (C) is proposed to address Footnote 2 to 10 CFR 40.13.

Subsection (c)(7) is amended to be compatible with changes made by NRC to 10 CFR 40.13(c)(7), designated as compatibility category B. The date of August 27, 2013 is needed for reasons stated above regarding subsection (c)(2), as it pertains to lenses and mirrors.

Subsection (g) is deleted to coincide with NRC's repeal of 10 CFR 40.13(d) and proposed subsection (g) is added to coincide with NRC's addition of 10 CFR 40.13(c)(10), designated as compatibility category B. (78 FR 32336 (May 29, 2013).) The addition of this new requirement is significant, in that a person who initially transfers for sale or distribution products containing source material to exempt persons is now required to possess a specific license, which is issued only by NRC. NRC has designated 10 CFR 40.52 as compatibility category NRC, meaning that Agreement States may not adopt it. Agreement States are not authorized to issue this license; as a result, NRC will be able to collect the information needed to determine the amount and types of source material being distributed nationwide to exempt persons. To be clear that the Department is not proposing to adopt 10 CFR 40.52, the sentence "nothing in this subsection may be construed to incorporate by reference 10 CFR 40.52" is added to proposed subsection (g). Because the effective date of this proposal cannot be determined, the Department proposes, in subsection (g)(1), to authorize the Office of Administrative Law (OAL) to insert the date, for clarity.

Amend **Section 30191, General Licenses - Source Material** to ensure consistency with 10 CFR 40.22. NRC designated 40.22(a), (b)(1), (b)(2), (b)(3), (d), and (e) as compatibility category B, 40.22(c) as compatibility category C, and 40.22(b)(4) as compatibility category D. Except as discussed below, this section is proposed to be amended to mirror 10 CFR 40.22, in order to maintain consistency and uniformity.

Proposed subsections (a), (b), (d), and (e) are essentially identical to 10 CFR 40.22(a), (b), (d), and (e), except that:

- 40.22(b)(4) is excluded, since it need not be adopted;
- Proposed subsections (b)(2) and (b)(3) cite to the Department's regulation that correspond to NRC's regulation.

- Proposed subsection (b)(4), clarifies that the Department is not proposing to adopt 10 CFR 110, and includes a sentence to that effect because Agreement States may not adopt export provisions of Part 110, exportation regulatory authority being reserved to NRC.

Proposed subsection (c) is adopted for compatibility with NRC compatibility C requirement in 10 CFR 40.22(c). Although 10 CFR 40.22(c) states that the general licensee “may consult,” proposed subsection (c) states that the general licensee “shall consult.” This difference is necessary for the Department to maintain consistency with the trial court order issued May 16, 2002, in *Committee to Bridge the Gap, et al. v. Diana M. Bonta, Director, California Department of Health Services*, Sacramento County Superior Court No. 01CS01445. Thus, subsection (c) would mandate that, when significant contamination is identified, the general licensee consult with the Department regarding measures to reduce residual contamination.

Because the effective date of this proposal cannot be determined, the Department proposes, in subsections (a)(1) and (e), to authorize the OAL to insert the date, for clarity.

Amend **Section 30192.6, General Licenses - Depleted Uranium**. Subsection (b) is amended, without regulatory effect, for consistency and clarity with the proposed adoption of section 30201.

Adopt **Section 30201, Requirements and Conditions for License to Manufacture or Distribute Products or Devices Containing Depleted Uranium** to ensure clarity and compatibility with 10 CFR 40.34 and 10 CFR 40.35.

Proposed subsection (a) is essentially identical to 10 CFR 40.34(a)(2) and (a)(3), designated by NRC as compatibility category B. Though NRC has designated 10 CFR 40.34(a)(1) as compatibility category D (i.e., not needed for compatibility), the reference to section 30194 (equivalent to 40.32 as cited in 40.34(a)(1)) ensures consistency with NRC’s provision. The requirements of 10 CFR 40.34(b) and (c), designated as compatibility category D (Reference 4a), are not adopted, because those provisions are not needed for clarity.

Proposed subsection (b) is essentially identical to 10 CFR 40.35(a), (b), and (c). Though NRC has designated 10 CFR 40.35(a) as compatibility category C, proposed paragraph (1) is proposed to be essentially identical. This is needed to maintain consistency with both NRC and other Agreement State jurisdictions, since licensees may also hold multiple licenses from these jurisdictions. This is consistent with the legislative policy in HSC section 114965.

Proposed paragraphs (2) and (3) are essentially identical to 10 CFR 40.35(b) and (c), which are designated compatibility category B, requiring Agreement States to adopt essentially identical requirements.

Proposed paragraphs (4) through (8) are essentially identical to 10 CFR 40.35(d) and (e). Though NRC designated these provisions as compatibility category D, the Department proposes to adopt them in an essentially identical manner, in order to maintain consistency for licensees that also hold an NRC license.

However, unlike proposing to adopt 10 CFR 40.35(d) and (e) when not required to by NRC, a provision equivalent to 10 CFR 40.35(f), designated as compatibility category D, is not being proposed. It appears the citation to 40.31(i) found in 40.35(f) should be a citation to 40.31(j), the provision that actually addresses emergency plan requirements. Title 10, CFR 40.31(i) addresses financial assurance provisions in 40.36, which NRC designates as compatibility category H&S (Reference 4a), and is already addressed by 17 CCR 30195.1. NRC has designated 10 CFR 40.31(j) as compatibility category NRC (Reference 4a), a provision that Agreement States may not adopt. Therefore, a provision equivalent to 40.35(f) is not adopted, since it is not within the Department's authority.

Subsection (b)(8), equivalent to 10 CFR 40.35(e)(3), is revised for clarity. NRC's provision contains the phrase "a point of contact for each general license to whom" but this proposal uses the phrase "a point of contact for each general licensee to whom" correcting a grammatical error. The provision also requires that the retained records show compliance with the reporting requirements. However, this requirement is unclear, and could mean either that the record must show the "date" of compliance, the "date" when the report was submitted, or the "date" when the report was received by the receiver. Therefore, for clarity, this proposal would require retention of each submitted report and the date that report was submitted so that inspectors can verify that the general licensee submitted the required report within the required reporting period.

Adopt **Section 30202, Requirements and Conditions for a License to Distribute Source Material to General Licensees**, to ensure consistency with 10 CFR 40.54 and 10 CFR 40.55(a), (b), and (c).

Subsection (a) is essentially identical to 10 CFR 40.54, and subsection (b) is essentially identical to 10 CFR 40.55(a), (b), and (c), all of which are designated by NRC as compatibility category B. Proposed subsection (b)(4) is needed to clearly inform these licensees of additional requirements found in proposed section 30202.1. See that section for discussion.

Adopt **Section 30202.1, Reports Required for Distributing Source Material under section 30202**, to ensure consistency with 10 CFR 40.55(d) and (e).

Subsections (a) and (b) are essentially identical to 10 CFR 40.55(d) and (e). NRC designated 10 CFR 40.55(d) as compatibility category B, and 10 CFR 40.55(e) as compatibility category C. Though 40.55(e) need not be adopted in an essentially identical manner, the Department proposes to adopt an essentially identical provision, in order to maintain consistency with both NRC and Agreement State jurisdictions, since

state licensees may also hold federal licenses or licenses from other states. This also carries out legislative policy, as specified in HSC section 114965.

Amend **Section 30293, Records** to clarify when licensees are required to provide records of their activities, and to maintain compatibility with equivalent provisions in 10 CFR parts 30, 40, and 70. No changes to subsections (a) through (d) are proposed.

Subsection (e) is amended to include licensees authorized to possess source material in an unsealed form or licensees authorized to possess special nuclear material. This amendment is needed to maintain compatibility with the following NRC provisions and their designated compatibility categories (References 4, 4a, and 4b):

- 10 CFR 30.51(d), 40.61(d), and 70.51(a)(3): compatibility category H&S.
- 10 CFR 70.51(a): compatibility category C.

Subsections (e)(1) and (2) are amended, without regulatory effect, to shorten the length of the regulation and reduce word volume by use of an acronym. Subsection (e)(3) is proposed to be adopted for consistency with 10 CFR 70.51(a)(3). NRC's provision references 10 CFR 70.25(g) and the Department's equivalent regulation is in 17 CCR 30256(a). Thus, subsection (e)(3) also references the applicable provision.

Subsection (f) is amended to include licensees authorized to possess source material in an unsealed form or licensees authorized to possess special nuclear material. This amendment is needed to maintain compatibility with the following NRC provisions and their designated compatibility categories (References 4a and 4b):

- 10 CFR 40.61(e): compatibility category H&S.
- 10 CFR 70.51(b): compatibility category C.

Subsections (f)(1) and (2) are amended, without regulatory effect, to shorten the length of the regulation and reduce word volume by use of an acronym. Subsection (f)(2) is also amended to correct a typographical error by referencing section 30253 where the cited material is incorporated by reference, since section 30243 does not exist.

Subsection (f)(3) is added to maintain compatibility with 10 CFR 70.51(b)(3). NRC's provision references 10 CFR 70.25(g), and the Department's equivalent regulation is in 17 CCR 30256(a). Thus, subsection (f)(3) references the applicable provision.

Subsection (g) is amended to maintain compatibility with the following NRC provisions and their designated compatibility categories (References 4, 4a, and 4b), by requiring that the specified records be forwarded to the Department:

- 10 CFR 30.51(f) and 40.61(f): compatibility category H&S.
- 10 CFR 70.51(b)(3): compatibility category C.

## **STATEMENTS OF DETERMINATIONS**

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE**

The Department has determined that the proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. This determination was reached because there are only two licensees impacted by the proposal and those licensees already comply with this proposal.

### **LOCAL MANDATE**

The Department has determined that the regulation would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

### **EFFECT ON SMALL BUSINESS**

The Department has determined that there would be an effect on small businesses, because they will be legally required to comply with the regulation, and may incur a detriment from the enforcement of the regulation.

### **HOUSING COSTS**

The Department has determined that the regulations will have no impact on housing costs.

### **REPORTING REQUIREMENTS**

The Department has determined that this proposed regulation would require businesses to submit a report, and that the report is necessary for the health, safety, and welfare of the people of this state.

### **CONSIDERATION OF REASONABLE ALTERNATIVES**

Alternatives have been considered in those areas not subject to or specifically limited by the adequacy and compatibility criteria made applicable under the State of California agreement with the United States Atomic Energy Commission, the predecessor to the NRC (HSC § 115230). According to the agreement, in part, the state is to “use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials.” (HSC § 115235, art. V.).

## **ECONOMIC IMPACT ASSESSMENT**

The Department analyzed as to whether and to what extent this proposal affects the following:

**A. The creation or elimination of jobs within the State of California.** The proposal will not impact the creation or elimination of jobs, because it only addresses compatibility with NRC regulations through restructuring, clarifying, and updating existing regulation, and making a number of nonsubstantial changes.

**B. The creation of new businesses or the elimination of existing businesses within the State of California.** The proposal will not impact the creation or elimination of businesses, because it only addresses compatibility with NRC regulations through restructuring, clarifying, and updating existing regulation, and making a number of nonsubstantial changes.

**C. The expansion of businesses currently doing business within the State of California.** The proposal will not impact the expansion of businesses, because it only addresses compatibility with NRC regulations through restructuring, clarifying, and updating existing regulation, and making a number of nonsubstantial changes.

**D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.** The proposal increases and strengthens the health and welfare of California residents, worker safety, and protection of the state's environment, because it addresses compatibility with NRC regulations through restructuring, clarifying, and updating existing regulation as intended by the Legislature as follows:

- Continues protection of the public health and safety, worker safety, and the environment, as established by the Legislature in HSC sections 114705, 114740, 114755, 114965, 114970, 115000, 115230, and 115235.
- Maintains compatibility with the standards and regulatory programs of the NRC, as specified in HSC sections 114965(a), 115000(b) and 115235 (article V).
- Maintains consistency with the regulatory programs of other states, as specified in HSC section 114965(c).
- Maintains an orderly regulatory pattern within the state, among the states, and between the federal government and the state, as specified in HSC section 114965(b).
- Initiates and administers programs of surveillance and control of those activities that could lead to the introduction of radioactive materials into the environment, as specified in HSC section 114705.
- Updates and clarifies existing regulations and deletes unnecessary regulations.

## **DOCUMENTS RELIED UPON**

### **Reference 1**

Management Directives (MD) 5.9, [Adequacy and Compatibility of Agreement State Programs](https://scn.nrc.gov/procedures/md0509.pdf), NRC/Office of State Programs, **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, April 26, 2018. Accessed on September 21, 2018 at: <https://scn.nrc.gov/procedures/md0509.pdf>

### **Reference 2**

Management Directive (MD) 5.6, [Integrated Materials Performance Evaluation Program \(IMPEP\)](https://scn.nrc.gov/procedures/md0506.pdf), NRC/Office of State and Tribal Programs, **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, November 5, 1999 (Revised: February 26, 2004). Accessed on September 21, 2018 at: <https://scn.nrc.gov/procedures/md0506.pdf>

### **Reference 3**

State Agreement (SA) 200, [Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements](https://scn.nrc.gov/procedures/sa200.pdf), NRC/Office of Federal and State Materials and Environmental Management Programs (FSME), **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, June 5, 2009. Accessed on September 21, 2018 at: <https://scn.nrc.gov/procedures/sa200.pdf>

### **Reference 4**

Regulation Toolbox, [Review Summary Sheets for Regulation Adoption for New Agreement States/Programs \(10 CFR 30\)](https://scn.nrc.gov/regulationtoolbox/10cfr30.pdf), **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, July 18, 2018. Accessed on September 21, 2018 at: <https://scn.nrc.gov/regulationtoolbox/10cfr30.pdf>

### **Reference 4a**

Regulation Toolbox, [Review Summary Sheets for Regulation Adoption for New Agreement States/Programs \(10 CFR 40\)](https://scn.nrc.gov/regulationtoolbox/10cfr40.pdf), **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, January 12, 2016. Accessed on September 21, 2018 at: <https://scn.nrc.gov/regulationtoolbox/10cfr40.pdf>

### **Reference 4b**

Regulation Toolbox, [Review Summary Sheets for Regulation Adoption for New Agreement States/Programs \(10 CFR 70\)](https://scn.nrc.gov/regulationtoolbox/10cfr70.pdf), **now NRC/Office of Nuclear Material Safety and Safeguards (NMSS)**, January 14, 2016. Accessed on September 21, 2018 at: <https://scn.nrc.gov/regulationtoolbox/10cfr70.pdf>