

## FINAL STATEMENT OF REASONS

The information contained in the Initial Statement of Reasons (ISR) at the time of Public Notice remains unchanged with the exception of the following modifications:

**Section 30180.1:** It was noted (comment 1.1) that the provision found in existing section 30180(c)(1) was deleted during the restructuring of section 30180. Deletion was unintended. The reference, on page 10 of the ISR, to “subsection (b)” found in the first sentence of the last paragraph beginning with the word “Because” and ending with “(i.e. section 30180.1)” is replaced with “subsection (f)”. The indicated provision was moved to section 30180.1(f) instead of 30108.1(b) resulting in no regulatory effect.

**ISR Section 30180.1, page 11:** In the second to last sentence of the first paragraph, the word “constructed” is deleted and replaced with the word “construed” and the reference to subsection (f) is deleted and replaced with “subsection (e).” Both changes result in no regulatory effect.

**Section 30180.2(f)(3):** The reference to “subsection (e)” is deleted and replaced with “subsection (f)” because paragraph (3) provides additional examples of types of electron tubes. This change is without regulatory effect.

**Section 30180.2:** Nonsubstantial punctuation and provision designation corrections are made at subsections (a)(2)(A) & (B), (a)(3), (b)(1) & (2), (g) & (g)(3).

**Section 30180.2(g):** A nonsubstantial punctuation correction is made at the end of paragraph (1). The word “paragraph” found in paragraph (3) is deleted and replaced with “subsection” for consistency with 10 CFR 30.15(a)(9)(iii) and to clarify what is being referenced. These changes have no regulatory effect.

**ISR Section 30180.3, page 12:** The word “constructed” found in the second to last sentence of the last bullet is deleted and replaced with the word “construed” resulting in no regulatory effect.

**ISR Section 30180.4, page 12:** The word “constructed” found in the second to last sentence is deleted and replaced with the word “construed” resulting in no regulatory effect.

**ISR Section 30180.5, page 13:** The word “constructed” found in the second to last sentence of the bulleted paragraph is deleted and replaced with the word “construed” resulting in no regulatory effect.

**Section 30181:** Nonsubstantial punctuation and grammatical changes are made at the end of subsections (c)(3), (4) & (7) and (d) and the second paragraph of subsection (e) and within subsection (c)(6)(A). Paragraph designations in subsection (e) are changed from capital

letters to numbers for consistency with California regulatory structure. These changes are without regulatory effect.

**ISR Section 30192.7, page 15:** The word “constructed” found in the second to last bulleted paragraph is deleted and replaced with the word “construed” resulting in no regulatory effect.

**Section 30195.4:** Nonsubstantial punctuation correction is made at the end of subsection (a)(3)(A).

**Section 30237:** Footnote “3” in superscript font is added to the “Antinomy” row in the third column after “3E-4” for clarity. Footnote 3 describes the numerical value and use of “E notation.” This is a change without regulatory effect.

**Section 30257, Bankruptcy Notification:** Though this section was not included in the initial 45-day comment period, it is amended to maintain compatibility with NRC’s provision found in 10 CFR 30.34(h) that was amended to correct a reference to federal bankruptcy law. (77 FR 39899 (July 6, 2012).) Subsection (a)(2) is amended to correctly cite the applicable bankruptcy law resulting in no regulatory effect.

**Section 30330(b)(18):** The phrase “from the Department or” is deleted as recommended by the U.S. NRC (comment 2.1) to ensure compatibility with NRC’s regulations.

**Section 30332, Performance Requirements for Radiographic Exposure Devices, Storage Containers, and Source Changers:** Though this section was not included in the initial 45-day comment period, it is amended to delete an obsolete date found in subsection (a) and to clarify the address of the American National Standards Institute (ANSI) found in the note at the end of the section. Updating ANSI’s mailing address accounts for NRC’s changes made to 10 CFR 34.20(a)(1), which is compatibility category B (77 FR 39899 (July 6, 2012)), resulting in no regulatory effect. The authority and reference note at the end of the section is amended to correctly identify those laws granting authority and being implemented resulting in no regulatory effect.

**Section 30334(d):** Though this section was not included in the initial 45-day comment period, the word “direct” is inserted to address NRC’s comment (comment 2.2). This amendment is within the scope of the initial public notice (PN) because it clearly identified the types of licensees that may be impacted and that the proposal was to ensure State regulations are compatible with NRC regulations regarding industrial radiography. The insertion is necessary to ensure State regulations are compatible with NRC’s regulations. Though the proposed amendment results in no substantial effect because affected licensees already comply with the proposed revision, and a 15-day public comment period was conducted. No additional comments were received during that comment period.

**Section 30348.1(b)(2):** Subsection (b)(2) references section 30365.2 indicating that the section requires operating and emergency (O&E) procedures. However, section 30365.2

does not exist. The reference is changed to section 30348.2 because that is the section requiring O&E procedures. Existing subsection (a)(2) currently correctly references section 30348.2. This results in no regulatory effect.

**ISR Economic Impact Analysis, Part D, page 27:** The words “demonstrate CDPH” found in the last bullet are deleted and replaced with “CDPH’s”. This is a change without regulatory effect.

**Incorporation by Reference:** Federal documents incorporated by reference in sections 30195, 30195.2 and 30253 and proposed section 30196 contain extensive definitions and provisions for safe use of radioactive material making it cumbersome, unduly expensive and impractical to publish the documents in the California Code of Regulations. Further, the documents are readily available from federal and internet sources.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD AND ONE ADDITIONAL 15-DAY COMMENT PERIOD.

Following is the list of persons who commented on the initial proposed regulations (DPH-11-024) during the 45-day public comment period beginning on May 9, 2014 and ending at 5:00 p.m. on June 23, 2014. The Department received two letters of comment as identified below. A request to hold a public hearing was not received so no public hearing was held. A 15-day public availability comment period was conducted beginning on September 16, 2014 and ending at 5:00 p.m. on October 1, 2014. The Department received no comments during the 15-day public availability comment period.

#### List of Commenters during Initial 45-day Proceeding held from May 9, 2014 through June 23, 2014. (Written testimony)

1. Charles A. White, P.E., Director of Regulatory Affairs/West, Waste Management, Sacramento, CA.
2. Susan Abraham, Acting Deputy Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission (NRC).

#### **Summary of comments and responses**

Note: The digit or digit and letter before the decimal point designation identifies the Commenter as listed above. The digit(s) after the decimal point indicate the identified comment from that commenter.

- 1.1 Proposed section 30180(c) removed the existing exemption for “any naturally-occurring radioactive material, except source material, in concentrations which**

**occur naturally.” Requests that the exemption be fully incorporated back into the proposed regulations as previously interpreted by the Department.**

**Response:** The comment is accepted. The existing provision (17 CCR 30180(c)(1)) was not intended to be deleted but only redesignated. The existing provision is redesignated to proposed section 30180.1(f).

- 1.2 Requests confirmation that wastes associated with the production of oil, gas, and mineral resources that contain or are derived from materials that contain radioactivity in “concentrations that occur naturally” are a form of Naturally Occurring Radioactive Material (NORM) and are: (1) exempt from regulation as a radioactive waste – including “produced water, tank bottoms, sludge, pipe scale, sediments and soil” that contain NORM or elevated levels of NORM; and (2) can be disposed of in solid waste landfills, industrial landfills and other waste management units.**

**Response:** The request to confirm that such waste is considered not radioactive waste and can be disposed of in the specified facilities is outside the scope of this proposal. This proposal makes no changes, other than re-designating provisions, regarding NORM oversight. The purpose of this proposal, as indicated in the Public Notice, is to ensure the regulations, in the identified topics, are compatible with those of the NRC and to make nonsubstantial changes in existing regulations. NRC’s regulations do not address, nor does NRC have jurisdiction over, NORM or the material to which the commenter refers. Therefore, the comment is rejected for purposes of this proposal but will be evaluated for inclusion in a future rulemaking proposal.

- 2.1. Recommended, regarding section 30330(b)(18), the phrase “from the Department or” be deleted to ensure compatibility with NRC’s regulations.**

**Response:** Recommendation accepted. A 15-day public availability comment period was conducted. No additional comments were received during that comment period.

- 2.2. Recommended, regarding section 30334(d), the word “direct” be inserted so as to maintain compatibility with 10 CFR 34.51.**

**Response:** Recommendation accepted. Though this section was not included in the initial 45-day comment period, the word “direct” is inserted as recommended. A 15-day public availability comment period was conducted. No additional comments were received during that comment period. This amendment is within the scope of the initial public notice (PN) because it clearly identified the types of licensees that may be impacted and that the proposal was to ensure State regulations are compatible with NRC regulations regarding industrial radiography. The insertion is necessary to ensure State regulations are compatible with NRC’s regulations. Acceptance results

in no substantial effect because affected licensees already comply with the proposed revision.

ALTERNATIVES DETERMINATION: In accordance with Government Code Section 11346.9(a)(4), the Department has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### IMPOSITION OF 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, nor are there any other nondiscretionary costs imposed.

#### IMPACT ON BUSINESS

The Department has made a determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.