

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE MARCH 28, 2003

**SENATE BILL**

**No. 201**

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**Introduced by Senator Romero**

February 13, 2003

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*An act to amend Section 8610.5 of the Government Code, and to amend Sections 107100 and 114650 of, to amend the heading of Article 3 (commencing with Section 114662) of Chapter 4 of Part 9 of Division 104 of, to add Chapter 6.68 (commencing with Section 25271) and Chapter 6.69 (commencing with Section 25279) to Division 20 of, and to repeal ~~and add~~ Chapter 5 (commencing with Section 114705) and Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of, the Health and Safety Code, relating to radioactive materials.*

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as amended, Romero. Radioactive materials: transfer of authority.

(1) The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses for using, manufacturing, producing, transferring, receiving, acquiring, owning, or possessing radioactive materials, to register and inspect sources of ionizing radiation, and to take specified actions to enforce that law. Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste.

Under existing law, the fees, penalties, interest earned, and fines imposed under the Radiation Control Law and for the regulation of nuclear medicine and radiologic technology are deposited in the Radiation Control Fund in the State Treasury and the department is authorized to expend the money in the fund, upon appropriation by the Legislature, for the costs related to the enforcement of that law and for certain provisions regulating radiologic technology and nuclear medicine. A violation of the Radiation Control Law is a crime.

This bill would repeal the Radiation Control Law and would enact the Radioactive Materials Management Act, which would transfer the authority of the State Department of Health Services under that law, ~~except as specified,~~ to the Department of Toxic Substances Control. The bill would establish the Radioactive Materials Control Fund in the State Treasury, and would require that all fees, penalties, interest earned, and fines collected under the Radioactive Materials Management Act be deposited in the fund, for expenditure by the department, upon appropriation by the Legislature, to implement and enforce that act.

~~The bill would also enact the Nuclear Medicine and Radiological Materials Licensing Act and would authorize the State Department of Health Services to regulate, under that act, radioactive materials or sources of ionizing radiation that are located onsite at a health care facility, as defined, or are used in the performance of nuclear medicine technology. The bill would exclude, from the Nuclear Medicine and Radiological Materials Licensing Act, those radioactive materials or sources of ionizing radiation being transported to, or transported offsite from, a health care facility or a location used for the conduct of nuclear medicine technology or materials or sources that are discarded, relinquished, abandoned, or otherwise emitted into the air or discharged into the environment.~~

The bill would create the Nuclear Medicine and Radiological Materials Control Fund in the State Treasury, and would require the fees and penalties collected under ~~the Nuclear Medicine and Radiological Materials Licensing Act and~~ under certain provisions regulating radiologic technology and nuclear medicine, *including certain moneys in the Radiation Control Fund*, to be deposited in the Nuclear Medicine and Radiological Materials Control Fund. The bill would authorize the State Department of Health Services to expend the money in the fund to implement and enforce ~~the Nuclear Medicine and Radiological Materials Licensing Act and~~ those other provisions.



(2) Existing law prohibits a person from burying, throwing away, or in any manner disposing of radioactive wastes within the state except in a manner and at locations that will result in no significant radioactive contamination of the environment. Existing law authorizes the State Department of Health Services, by written order, to prohibit the disposal of radioactive wastes by any person when, upon investigation, it has determined that the disposal violates existing provisions concerning radioactive contamination. Existing law also authorizes the State Department of Health Services to adopt and enforce regulations to promote the safe transportation of radioactive materials.

This bill would transfer the authority of the department in those matters to the Department of Toxic Substances Control and would reenact those provisions in the Radioactive Materials Management Act. Because the bill would impose new penalties for a violation of those requirements, the bill would impose a state-mandated local program by creating new crimes.

~~The bill would increase the amount of the terms of imprisonment and fines imposed under the Radioactive Materials Management Act and would additionally allow a person convicted of the theft of any amount of a radioactive material to be punished by imprisonment in the state prison for 3, 5, or 7 years, to be fined up to \$250,000 for each day of violation, or by both that fine and imprisonment. The bill would authorize the department to issue an order imposing an administrative penalty of \$5,000 per day, per offense, upon any person who intentionally or through gross negligence violates the Radioactive Materials Management Act or who fails or refuses to comply with a cease and desist order or other order issued by the department under that act. The bill would specify a procedure for the issuance of an order imposing an administrative penalty and conducting a hearing on that matter.~~

The bill would direct the department to require any person applying for a license under the Radioactive Materials Management Act to submit a disclosure statement containing specified information. The department would be required to submit the fingerprint cards or electronic fingerprint images and related identification information to the Department of Justice.

The bill would prohibit a person from selling, transferring, or leasing radioactively contaminated property ~~for any subsequent land use~~ until the department certifies that the radioactive contamination has been remediated, *except as specified*. The bill would prohibit the department



from certifying that the radioactive contamination is remediated unless the remediation is conducted pursuant to specified standards, guidance, procedures, and practices.

(3) *Existing law requires the Office of Emergency Services, if there is a nuclear powerplant accident, to coordinate information and resources to support local governments in a joint state and local government decisionmaking process. Existing law requires the State Department of Health Services to have the lead technical role during the ingestion pathway and recovery phases, to define and maintain a radiological advisory team, and to maintain a list of medical facilities that meet statewide guidelines. Existing law requires each public utility operating a nuclear powerplant to consult with the State Department of Health Services regarding the establishment of offsite radiation monitoring devices.*

*This bill would transfer these duties and authority to the Department of Toxic Substances Control.*

(4) The bill would authorize the Department of Toxic Substances Control to expend the unexpended balance of funds that are available for expenditure by the State Department of Health Services for the functions transferred by the bill.

The bill would transfer, to the Department of Toxic Substances Control, all of the officers and employees of the State Department of Health Services who are performing any duty, power, purpose, responsibility, or jurisdiction that is transferred by the bill. The bill would also transfer to the Department of Toxic Substances Control specified records, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the State Department of Health Services with regard to the functions of the State Department of Health Services transferred to the Department of Toxic Substances Control by the bill.

The bill would transfer the functions of and specified positions and personnel in the radiological health and environmental management branches of the State Department of Health Services to the Department of Toxic Substances Control.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 8610.5 of the Government Code is*  
2 *amended to read:*

3 8610.5. (a) For purposes of this section, the following  
4 definitions shall apply:

5 (1) “Department” means the ~~State Department of Health~~  
6 ~~Services~~ *Department of Toxic Substances Control.*

7 (2) “Office” means the Office of Emergency Services.

8 (b) (1) State and local costs to carry out activities pursuant to  
9 this section and Chapter 4 (commencing with Section 114650) of  
10 Part 9 of Division 104 of the Health and Safety Code that are not  
11 reimbursed by federal funds shall be borne by utilities operating  
12 nuclear powerplants with a generating capacity of 50 megawatts  
13 or more.

14 (2) The Public Utilities Commission shall develop and transmit  
15 to the office an equitable method of assessing the utilities operating  
16 the powerplants for their reasonable pro rata share of state agency  
17 costs specified in paragraph (1).

18 (3) Each local government involved shall submit a statement of  
19 its costs specified in paragraph (1), as required, to the office.

20 (4) Upon each utility’s notification by the office, from time to  
21 time, of the amount of its share of the actual or anticipated state and  
22 local agency costs, the utility shall pay this amount to the  
23 Controller for deposit in the Nuclear Planning Assessment Special  
24 Account, which is continued in existence, for allocation by the  
25 Controller, upon appropriation by the Legislature, to carry out  
26 activities pursuant to this section and Chapter 4 (commencing with  
27 Section 114650) of Part 9 of Division 104 of the Health and Safety  
28 Code. The Controller shall pay from this account the state and local  
29 costs relative to carrying out this section and Chapter 4  
30 (commencing with Section 114650) of Part 9 of Division 104 of  
31 the Health and Safety Code, upon certification thereof by the  
32 office.



1 (5) Upon appropriation by the Legislature, the Controller may  
2 disburse up to 80 percent of a fiscal year allocation from the  
3 Nuclear Planning Assessment Special Account, in advance, for  
4 anticipated local expenses, as certified by the office pursuant to  
5 paragraph (4). The office shall review program expenditures  
6 related to the balance of funds in the account and the Controller  
7 shall pay the portion, or the entire balance, of the account, based  
8 upon those approved expenditures.

9 (c) (1) The total annual disbursement of state costs from the  
10 utilities operating the nuclear powerplants within the state for  
11 activities pursuant to this section and Chapter 4 (commencing with  
12 Section 114650) of Part 9 of Division 104 of the Health and Safety  
13 Code, shall not exceed the lesser of the actual costs or the  
14 maximum funding levels previously established by Chapter 4  
15 (commencing with Section 114650) of Part 9 of Division 104 of  
16 the Health and Safety Code, as that chapter read on January 1,  
17 1998, subject to subdivisions (e) and (f), to be shared equally  
18 among the utilities.

19 (2) Of the initial annual amount of one million three hundred  
20 forty thousand dollars (\$1,340,000) for the 1999–2000 fiscal year,  
21 the sum of eight hundred three thousand dollars (\$803,000) shall  
22 be for support of the office for activities pursuant to this section  
23 and Chapter 4 (commencing with Section 114650) of Part 9 of  
24 Division 104 of the Health and Safety Code, and the sum of five  
25 hundred thirty-seven thousand dollars (\$537,000) shall be for  
26 support of the department for activities pursuant to this section and  
27 Chapter 4 (commencing with Section 114650) of Part 9 of  
28 Division 104 of the Health and Safety Code.

29 (d) (1) The total annual disbursement for each fiscal year,  
30 commencing July 1, 1999, of local costs from the utilities shall not  
31 exceed the lesser of the actual costs or the maximum funding  
32 levels, on a site basis, previously established on a per reactor basis  
33 by Section 1 of Chapter 1607 of the Statutes of 1988, in support  
34 of activities pursuant to this section and Chapter 4 (commencing  
35 with Section 114650) of Part 9 of Division 104 of the Health and  
36 Safety Code. The maximum initial annual amount available for  
37 disbursement for local costs, subject to subdivisions (e) and (f),  
38 shall be eight hundred fifty-one thousand dollars (\$851,000) for  
39 the Diablo Canyon site and one million seventy-three thousand  
40 dollars (\$1,073,000) for the San Onofre site.



1 (2) The amounts paid by the utilities under this section shall be  
2 allowed for ratemaking purposes by the Public Utilities  
3 Commission.

4 (e) The amounts available for disbursement for state and local  
5 costs as specified in this section shall be adjusted and compounded  
6 each fiscal year by the percentage increase in the California  
7 Consumer Price Index of the previous calendar year.

8 (f) Through the date specified in subdivision (g), the amounts  
9 available for disbursement for state and local costs as specified in  
10 this section shall be cumulative biennially. Any unexpended funds  
11 from a year when the state and local governments conduct a full  
12 participation exercise, as defined in Section 350.2 of Title 44 of the  
13 Code of Federal Regulations, that is not evaluated by the Federal  
14 Emergency Management Agency, shall be carried over to the year  
15 when the state and local governments conduct such an exercise that  
16 is evaluated by the Federal Emergency Management Agency.

17 (g) This section shall become inoperative on July 1, 2009, and,  
18 as of January 1, 2010, is repealed, unless a later enacted statute,  
19 which becomes effective on or before July 1, 2009, deletes or  
20 extends the dates on which it becomes inoperative and is repealed.

21 (h) Upon inoperation of this section, any amounts remaining in  
22 the special account shall be refunded pro rata to the utilities  
23 contributing thereto.

24 *SEC. 2.* Chapter 6.68 (commencing with Section 25271) is  
25 added to Division 20 of the Health and Safety Code, to read:

26  
27 CHAPTER 6.68. RADIOACTIVE MATERIALS MANAGEMENT ACT

28  
29 Article 1. Findings and Definitions

30  
31 25271. (a) The Legislature finds and declares that  
32 radioactive contamination of the environment may subject the  
33 people of the State of California to unnecessary exposure to  
34 ionizing radiation unless it is properly controlled. It is, therefore,  
35 declared to be the policy of this state that the department initiate  
36 and administer necessary programs of surveillance and control of  
37 those activities that could lead to the introduction of radioactive  
38 materials into the environment.

39 (b) This chapter shall be known, and may be cited, as the  
40 Radioactive Materials Management Act.





1 25271.5. For purposes of this chapter, except as provided in  
2 Section 25274, the following definitions apply:

3 (a) “Department” means the Department of Toxic Substances  
4 Control.

5 (b) “Environment” means all places outside the control of the  
6 person responsible for the radioactive materials.

7 (c) “Field tracer study” is any project, experiment, or study  
8 that includes provision for deliberate introduction of radioactive  
9 material into the environment for experimental or test purposes.

10 (d) “Person” includes any association of persons,  
11 copartnership, or corporation.

12 (e) “Radiation,” or “ionizing radiation,” means gamma rays  
13 and X-rays; alpha and beta particles, high-speed electrons,  
14 neutrons, protons, and other nuclear particles, but does not include  
15 sound or radio waves, or visible, infrared, or ultraviolet light.

16 (f) “Radioactive material” means any material or combination  
17 of materials that spontaneously emits ionizing radiation.

18 (g) “Radioactive waste” means any radioactive material that  
19 is discarded as nonusable.

20 (h) “Significant” or “significantly,” as applied to radioactive  
21 contamination, means concentrations or amounts of radioactive  
22 material that is likely to expose persons to ionizing radiation equal  
23 to, or greater than, the guide levels published by the United States  
24 Environmental Protection Agency.

25 (i) “Radiological monitoring” means the measurement of the  
26 amounts and kinds of radioactive materials in the environment.

27 25271.6. This chapter does not apply to any radioactive  
28 material or source of ionizing radiation that is regulated pursuant  
29 to Chapter 8 (commencing with Section 114960) of Part 9 of  
30 Division 104.

31

32 Article 2. Control of Radioactive Contamination of the  
33 Environment

34

35 25272. (a) A person may not bury, throw away, or in any  
36 manner dispose of, radioactive wastes within the state except in a  
37 manner and at locations that will result in no significant  
38 radioactive contamination of the environment.





1 (b) The department may, by written order, prohibit the disposal  
2 of radioactive wastes by any person when, upon investigation, the  
3 department determines that the disposal violates subdivision (a).

4 (c) The department may, by written order, prohibit the storage,  
5 packaging, transporting, or loading of radioactive wastes if there  
6 is a reasonable likelihood that the activities will result in  
7 significant radioactive contamination of the environment.

8 25272.1. (a) A person to whom an order has been issued  
9 pursuant to subdivision (b) or (c) of Section 25272 may appeal the  
10 order of the department to any court of competent jurisdiction.

11 (b) The department may commence an action in a court of  
12 competent jurisdiction to enjoin the storage, packaging,  
13 transporting, loading, or disposal of radioactive wastes in violation  
14 of any written order issued by the department pursuant to  
15 subdivision (b) or (c) of Section 25273. The court may, if it appears  
16 necessary, enjoin any person from using radioactive material who  
17 thereby produces radioactive waste that the court finds is being  
18 disposed of in violation of this article.

19 25272.2. (a) The department shall maintain surveillance  
20 over the storage, packaging, transporting, and loading of  
21 radioactive material within this state regardless of the material's  
22 ultimate destination.

23 (b) In carrying out its duties under this section, the department  
24 may enter into an agreement with the Division of Occupational  
25 Safety and Health and other state and local agencies to conduct any  
26 appropriate inspection and enforcement activities. Any agreement  
27 with state and local agencies shall not duplicate work to be done  
28 pursuant to agreement with the Division of Occupational Safety  
29 and Health, and any work done by the Division of Occupational  
30 Safety and Health shall not duplicate work agreed to be done by  
31 other state and local agencies.

32 (c) This section does not apply to any licensee of the Nuclear  
33 Regulatory Commission or any facility of the Department of  
34 Energy or the Department of Defense.

35 25272.3. (a) No person may operate a nuclear reactor,  
36 nuclear fuel reprocessing plant, or other installation, as defined by  
37 the department, that could, as a result of routine operations,  
38 accident, or negligence, significantly contaminate the  
39 environment with radioactive material, without first instituting  
40 and maintaining an adequate program of radiological monitoring.



1 The proposed program shall be submitted to the department for  
2 review and acceptance as to its adequacy.

3 (b) No person may conduct any field tracer study unless  
4 detailed plans of the study have been approved by the department.  
5 In reviewing proposed field tracer studies, the department shall  
6 consider at least all of the following elements:

7 (1) There is shown to be a substantial public interest in the  
8 information intended to be obtained by the study.

9 (2) The study will be performed by persons or agencies  
10 competent to handle and use the radioactive material safely and  
11 with due regard for potential effects on public health.

12 (3) The study is planned so as to impose the least possible  
13 exposure to ionizing radiation consistent with achieving the  
14 study's desired objectives.

15 (4) There is no likelihood that any person will be exposed to  
16 ionizing radiation in excess of guide levels published by the United  
17 States Environmental Protection Agency.

18 (c) The department may, as a condition to its approval of a field  
19 tracer study, require a representative of the department to be  
20 present during the study.

21 25272.5. (a) The department shall monitor radioactive  
22 materials in the environment, including radioactive materials in  
23 media such as air, milk, food, and water in locations and with a  
24 frequency as the department may deem necessary to determine  
25 radiation exposure to the people of the state from radioactive  
26 materials.

27 (b) The department shall, at least once each month, make  
28 public to news media the results of its monitoring of radioactive  
29 materials.

30 25272.6. The department shall review any regulation relating  
31 to radioactive materials cargo, including, but not limited to,  
32 packing, marking, loading, handling, and transportation, and  
33 make the regulation compatible with the federal regulations  
34 adopted pursuant to the federal Department of Transportation  
35 Docket No. HM-164, Notice No. 80-1, within 60 days of the date  
36 the federal regulations become effective.

37 25272.7. The department, utilizing available funds and in  
38 cooperation with the Department of Fish and Game and the Joint  
39 Committee on Fisheries and Aquaculture, shall do all of the  
40 following:



1 (a) Cooperate with any federal agency that conducts  
2 monitoring of marine life or ocean waters, or both, at the sites of  
3 radioactive waste dumping off the California coast to determine  
4 the effects of the dumping.

5 (b) Purchase and test samples of seafood taken in the vicinity  
6 of the Farallon Islands radioactive waste dump site to determine  
7 whether the seafood contains radioactivity beyond natural and  
8 artificial background levels.

9 (c) Make annual reports to the Legislature on the  
10 implementation of this section, including any recommendations  
11 for legislation it deems necessary to protect the health of  
12 Californians.

13 (d) Request the State Department of Health Services to take  
14 emergency action pursuant to the general authority contained in  
15 the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing  
16 with Section 109875) of Division 104) to prohibit the commercial  
17 sale of seafood for human consumption if, in the judgment of the  
18 State Director of Health Services, samples analyzed pursuant to  
19 subdivision (b), are found to contain radioactivity that poses a  
20 threat to human health.

21 25272.8. (a) The Legislature finds and declares that the  
22 dumping of radioactive waste, including the scuttling of  
23 radioactive nuclear submarines, into the Pacific Ocean, could  
24 adversely affect the California coastal zone.

25 (b) The California Coastal Commission, in cooperation when  
26 appropriate with the department, the Department of Justice, the  
27 Department of Fish and Game, and the Joint Committee on  
28 Fisheries and Aquaculture, shall use any means available to the  
29 commission, pursuant to law, to prevent any dumping of  
30 radioactive waste in the Pacific Ocean by any public or private  
31 entity, unless the commission finds that the dumping would be  
32 consistent with the goals and policies of Division 20 (commencing  
33 with Section 30000) of the Public Resources Code.

34

35 Article 3. Transportation of Radioactive Materials

36

37 25273. (a) The department, with the assistance of the Office  
38 of Emergency Services, the State Energy Resources Conservation  
39 and Development Commission, and the Department of the  
40 California Highway Patrol, shall extend the nuclear threat



1 emergency response plan to include radioactive materials in transit  
2 and provide training for law enforcement officers in dealing with  
3 those threats.

4 (b) The department, in cooperation with the Department of the  
5 California Highway Patrol, shall adopt reasonable regulations  
6 that, in the judgment of the department, promote the safe  
7 transportation of radioactive materials, in accordance with Section  
8 25272.6 and Chapter 3.5 (commencing with Section 11340) of  
9 Part 1 of Division 3 of Title 2 of the Government Code. The  
10 regulations shall do all of the following:

11 (1) Prescribe the use of signs designating radioactive material  
12 cargo and designate, in accordance with the results of any studies  
13 done pursuant to former subdivision (a) of Section 114820, as that  
14 section read on January 1, 2003, the manner in which the shipper  
15 shall give notice of the shipment to appropriate authorities.

16 (2) Prescribe the packing, marking, loading, and handling of  
17 radioactive materials, and the precautions necessary to determine  
18 whether the material when offered is in proper condition to  
19 transport, excluding the equipment and operation of the carrier  
20 vehicle.

21 (3) Be reviewed and amended, as required, pursuant to Section  
22 25272.6.

23 (c) The department shall adopt and amend the regulations  
24 required by subdivision (b) in a manner compatible with those  
25 established by the federal agency or agencies required or permitted  
26 by federal law to establish the regulations.

27 (d) In accordance with Section 25272.6, the Department of the  
28 California Highway Patrol, after consulting with the department,  
29 shall adopt regulations specifying the time at which shipments  
30 may occur and the routes that are to be used in the transportation  
31 of cargoes of hazardous radioactive materials, as those materials  
32 are defined in regulations of the department.

33 25273.1. The regulations adopted by the department pursuant  
34 to Section 25273 may be enforced by any of the following:

35 (a) Any authorized representative of the department.

36 (b) The Division of Industrial Safety of the Department of  
37 Industrial Relations.

38 (c) The Public Utilities Commission.

39 (d) The health department of any city or county.

40 (e) The Department of the California Highway Patrol.



1 (f) Any traffic officer, as defined by Section 625 of the Vehicle  
2 Code.

3 25273.2. It is the intention of the Legislature, in enacting this  
4 article that the regulations adopted by the department pursuant to  
5 this article shall apply uniformly throughout the state, and that no  
6 state agency, city, county, or other political subdivision of this  
7 state, including a chartered city or county, may adopt or enforce  
8 any ordinance or regulation that is inconsistent with the  
9 regulations adopted by the department pursuant to this article.

10 25273.3. A violation of any regulation adopted by the  
11 department pursuant to this article shall be punishable pursuant to  
12 Article 9 (commencing with Section 25278).

13

14 *Article 3.5. Radiation Monitoring Devices For Nuclear*  
15 *Powerplants*

16

17 25273.4. *Each privately owned and publicly owned public*  
18 *utility operating a nuclear powerplant with a generating capacity*  
19 *of 50 megawatts or more shall establish a system of offsite*  
20 *radiation monitoring devices as specified by the Nuclear*  
21 *Regulatory Commission pursuant to Regulatory Guide 1.97 or*  
22 *related standards. The utility shall consult with the department and*  
23 *the appropriate county emergency services agency regarding the*  
24 *type, number, and locations of the radiation monitoring devices.*  
25 *The consultation with the department and the appropriate county*  
26 *emergency services agency shall be completed prior to submitting*  
27 *a plan to the Nuclear Regulatory Commission regarding the*  
28 *radiation monitoring devices.*

29 25273.5. *The information transmitted to the radiation*  
30 *monitoring displays in the technical support center or emergency*  
31 *operating facility of a nuclear powerplant shall be simultaneously*  
32 *transmitted to the Office of Emergency Services State Warning*  
33 *Center.*

34 25273.6. *The Public Utilities Commission shall allow the*  
35 *funds expended by privately owned utilities in compliance with this*  
36 *article to be included for ratemaking purposes. A publicly owned*  
37 *utility shall include the funds expended complying with this article*  
38 *in its rates.*



1 25273.7. *A plant operator may not be required to spend more*  
2 *than one million dollars (\$1,000,000) in capital outlay for a*  
3 *nuclear powerplant site in complying with this chapter.*

4 25273.8. *This article does not require powerplant*  
5 *modifications or the conduct of operations that may be in conflict*  
6 *with conditions of the license to operate issued by the Nuclear*  
7 *Regulatory Commission or with other activities authorized by the*  
8 *Nuclear Regulatory Commission, or that may be in conflict with*  
9 *the regulations of the Environmental Protection Agency.*

10 25273.9. *Failure to comply with this article shall not*  
11 *constitute the basis for an action in a court of law or in an*  
12 *administrative proceeding to enjoin or prevent the operation or*  
13 *startup of a nuclear facility.*

14

15 Article 4. Radioactive Materials Licensing and Inspection

16

17 25274. Notwithstanding Section 25272, for purposes of this  
18 article and Article 5 (commencing with Section 25275), Article 6  
19 (commencing with Section 25276), Article 7 (commencing with  
20 Section 25277), Article 8 (commencing with 25277.4), Article 9  
21 (commencing with Section 25278), and Article 10 (commencing  
22 with Section 25278.9), the following definitions shall apply:

23 (a) “Byproduct material” means any radioactive material,  
24 except special nuclear material, yielded in, or made radioactive by  
25 exposure to the radiation incident to, the process of producing or  
26 utilizing special nuclear material.

27 (b) “Department” means the Department of Toxic Substances  
28 Control.

29 (c) “Decontamination,” means the reduction of the level of  
30 contamination from radioactive material to the level that the  
31 department determines is reasonably necessary to eliminate the  
32 hazard to public health that is caused by the contamination of any  
33 object, building, structure, or premises.

34 (d) “Director” means the Director of Toxic Substances  
35 Control.

36 (e) “Federal research and development activity” means any  
37 activity of the Secretary of Energy conducted at any research  
38 facility owned or operated by the United States Department of  
39 Energy.



1 (f) “General license” means a license, issued pursuant to the  
2 regulations adopted by the department, that is effective without the  
3 filing of an application, to transfer, acquire, own, possess or use  
4 quantities of, or devices or equipment utilizing, byproduct, source,  
5 or special nuclear materials or other radioactive material occurring  
6 naturally or produced artificially radioactive material.

7 (g) “Ionizing radiation” means gamma rays and X-rays; alpha  
8 and beta particles, high-speed electrons, neutrons, protons, and  
9 other nuclear particles; but does not include sound or radio waves,  
10 or visible, infrared, or ultraviolet light.

11 (h) “Low-level radioactive waste” means radioactive waste  
12 not classified as high-level radioactive waste, transuranic waste,  
13 spent nuclear fuel, or the byproduct material, as defined in Section  
14 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.  
15 2014(e)(2)). For purposes of this subdivision, the following  
16 definitions shall apply:

17 (1) “High-level radioactive waste” means either of the  
18 following:

19 (A) The highly radioactive material resulting from the  
20 reprocessing of spent nuclear fuel, including liquid waste  
21 produced directly in reprocessing and any solid material derived  
22 from this liquid waste that contains fission products in sufficient  
23 concentrations.

24 (B) Other highly radioactive material that the Nuclear  
25 Regulatory Commission, consistent with existing law, determines  
26 by rule requires permanent isolation.

27 (2) “Spent nuclear fuel” means fuel that has been withdrawn  
28 from a nuclear reactor following irradiation, the constituent  
29 elements of which have not been separated by reprocessing.

30 (3) “Transuranic waste” means any waste containing more  
31 than 100 nanocuries of alpha emitting transuranic nuclides with  
32 half-life greater than five years per gram of waste material.

33 (i) “Mammogram” means an X-ray image of the human breast.

34 (j) “Mammography” means the procedure for creating a  
35 mammogram.

36 (k) “Mammography quality assurance” means the detection of  
37 a change in X-ray and ancillary equipment that adversely affects  
38 the quality of films and the glandular radiation dose, and the  
39 correction of this change.





1 (l) “Mammogram certification” means a certification, issued  
2 by the department after registration, that the equipment dedicated  
3 to or used for mammography meets the standards prescribed  
4 pursuant to this chapter.

5 (m) “Person” means any individual, corporation, partnership,  
6 limited liability company, firm, association, trust, estate, public or  
7 private institution, group, agency, political subdivision of this  
8 state, any other state or political subdivision or agency thereof, and  
9 any legal successor, representative, agent, or agency of the  
10 foregoing, other than the United States Nuclear Regulatory  
11 Commission, the United States Department of Energy, or any  
12 successor thereto, and other than federal government agencies  
13 licensed by the United States Nuclear Regulatory Commission,  
14 under prime contract to the United States Department of Energy,  
15 or any successor thereto.

16 ~~(j)~~

17 (n) “Registration” means the reporting of possession of a  
18 source of radiation and the furnishing of information with respect  
19 thereto, in accordance with Section 25274.5.

20 ~~(k)~~

21 (o) “Secretary” means the Secretary of the Environmental  
22 Protection Agency.

23 ~~(t)~~

24 (p) “Source material” means any of the following:

25 ~~(m)~~

26 (q) (1) Uranium, thorium, or any other material which the  
27 department declares by rule to be source material after the United  
28 States Nuclear Regulatory Commission, or any successor thereto,  
29 has determined the material to be source material.

30 (2) Ores containing one or more of the materials specified in  
31 paragraph (1), in a concentration that the department declares by  
32 regulation to be source material after the United States Nuclear  
33 Regulatory Commission, or any successor thereto, has determined  
34 the material in that concentration to be source material.

35 ~~(n)~~

36 (r) “Special nuclear material” means any of the following:

37 (1) Plutonium, uranium 233, uranium enriched in the isotope  
38 233 or in the isotope 235, and any other material that the  
39 department declares by regulation to be special nuclear material  
40 after the United States Nuclear Regulatory Commission, or any



1 successor thereto, has determined the material to be special nuclear  
2 material.

3 (2) Any material artificially enriched by any of the material  
4 specified in paragraph (1), not including source material.

5 ~~(e)~~

6 (s) “Specific license” means a license, issued after application,  
7 to use, manufacture, produce, transfer, receive, acquire, own, or  
8 possess quantities of, or devices or equipment utilizing,  
9 byproduct, source, or special nuclear materials or other radioactive  
10 material occurring naturally or produced artificially.

11 25274.1. (a) It is the policy of the State of California, in  
12 furtherance of its responsibility to protect the public health and  
13 safety, to institute and maintain a regulatory program for sources  
14 of ionizing radiation so as to provide for all of the following:

15 (1) Compatibility with the standards and regulatory programs  
16 of the federal government.

17 (2) An integrated effective system of regulation within the  
18 state.

19 (3) A system consonant insofar as possible with those of other  
20 states.

21 (b) It is the purpose of this chapter to effectuate the policies set  
22 forth in subdivision (a) by providing for programs to do all of the  
23 following:

24 (1) Effectively regulate sources of ionizing radiation for the  
25 protection of the occupational and public health and safety.

26 (2) Promote an orderly regulatory pattern within the state,  
27 among the states, and between the federal government and the  
28 state, and facilitate intergovernmental cooperation with respect to  
29 use and regulation of sources of ionizing radiation to the end that  
30 duplication of regulation may be minimized.

31 (3) Establish procedures for assumption and performance of  
32 certain regulatory responsibilities with respect to byproduct,  
33 source, and special nuclear materials.

34 (4) Permit maximum utilization of sources of ionizing  
35 radiation consistent with the health and safety of the public.

36 (c) The department shall, for the protection of public health and  
37 safety do all of the following:

38 (1) Develop programs for evaluation of hazards associated  
39 with use of sources of ionizing radiation.



1 (2) Develop programs, with due regard for compatibility with  
2 federal programs, for licensing and regulation of byproduct,  
3 source, and special nuclear materials, and other radioactive  
4 materials.

5 (3) Except as provided in Section 18930, adopt regulations  
6 relating to control of other sources of ionizing radiation.

7 (4) Issue any regulations that may be necessary in connection  
8 with proceedings under this article.

9 (5) Collect and disseminate information relating to control of  
10 sources of ionizing radiation, including all of the following:

11 (A) Maintenance of a file of all license applications, issuances,  
12 denials, amendments, transfers, renewals, modifications,  
13 suspensions, and revocations.

14 (B) Maintenance of a file of all regulations relating to  
15 regulation of sources of ionizing radiation, pending or adopted,  
16 and proceedings thereon.

17 (C) Disseminate information regarding the evaluation of  
18 hazards associated with the use of sources of ionizing radiation.

19 (d) This chapter does not prohibit the Division of Occupational  
20 Safety and Health from adopting and enforcing regulations  
21 relating to matters within its jurisdiction consistent with, in  
22 furtherance of, and designed to implement this chapter and the  
23 regulations adopted pursuant to this chapter.

24 25274.2. The department shall adopt all regulations pursuant  
25 to this chapter in accordance with Chapter 3.5 (commencing with  
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
27 Code, and Section 114920 of this code.

28 25274.3. The Radioactive Materials Control Fund is hereby  
29 established in the State Treasury. All moneys, including fees,  
30 penalties, interest earned, and fines collected under this chapter  
31 and the regulations adopted pursuant to this chapter shall be  
32 deposited in the Radioactive Materials Control Fund and may be  
33 expended by the department, upon appropriation by the  
34 Legislature, to implement and enforce this chapter. In addition to  
35 any moneys collected by, or on behalf of, the department for  
36 deposit in the Radioactive Materials Control Fund,  
37 notwithstanding Section 16475 of the Government Code, all  
38 interest earned by the fund shall be deposited in the fund.

39 25274.4. (a) The department is designated as the agency  
40 responsible for the issuance of licenses. In carrying out its duties



1 under this section, the department may enter into an agreement  
2 with the Division of Occupational Safety and Health and other  
3 state and local agencies to conduct technical evaluations of license  
4 applications prior to issuance of licenses. The agreements shall  
5 also include provisions for conducting inspections pursuant to  
6 Section 25274.10.

7 (b) The authority of the department to issue licenses pursuant  
8 to subdivision (a) is not affected by any requirements to conduct  
9 studies or planning efforts specified in Section 25275.1.

10 25274.5. (a) The department shall provide by regulation for  
11 general or specific licensing of persons to receive, possess, or  
12 transfer radioactive materials, or devices or equipment utilizing  
13 these materials. The regulations shall provide for amendment,  
14 suspension, or revocation of licenses.

15 (b) The department may require registration and inspection of  
16 sources of ionizing radiation other than those that require a specific  
17 license, and compliance with specific safety standards to be  
18 adopted by the department.

19 (c) The department may exempt certain sources of ionizing  
20 radiation or kinds of uses or users from the licensing or registration  
21 requirements set forth in this section if the department finds that  
22 the exemption of these sources of ionizing radiation or kinds of  
23 uses or users will not constitute a significant risk to the health and  
24 safety of the public.

25 (d) The department may provide, in the regulations adopted  
26 pursuant to this chapter, for recognition of other state or federal  
27 licenses that the department may deem desirable, subject to the  
28 registration requirements that the department may prescribe.

29 (e) *The department shall adopt registration and certification*  
30 *regulations for mammography equipment. These regulations shall*  
31 *include, but not be limited to, all of the following requirements:*

32 (1) *An X-ray machine used for mammography shall be*  
33 *specifically designed for mammography and inspected by the*  
34 *department, or deemed satisfactory by the department based upon*  
35 *evidence of certification by the American College of Radiology*  
36 *mammography accreditation program, or an accreditation*  
37 *program that the department deems equivalent before it is*  
38 *certified.*

39 (2) *That all persons who have a certificate for mammography*  
40 *equipment follow a quality assurance program to be adopted by*



1 *the department to ensure the protection of the public health and*  
2 *safety.*

3 *(3) That quality assurance tests, as determined by the*  
4 *department, are performed on all mammography equipment*  
5 *located in a mobile van or unit after each relocation of the mobile*  
6 *van or unit to a different location for the purpose of providing*  
7 *mammography. This equipment shall be recalibrated if images are*  
8 *not of diagnostic quality as determined by the department. A*  
9 *written record of the location of mobile vans or units with dates and*  
10 *times shall be maintained and available for inspection by the*  
11 *department.*

12 *(4) On or after July 15, 1993, all mammography equipment*  
13 *shall be registered with and certified by the department. If this*  
14 *mammography equipment is certified by a private accreditation*  
15 *organization, the department shall take into consideration*  
16 *evidence of this private certification when deciding to issue a*  
17 *mammogram certification.*

18 *(5) All licenses, permits, and certificates issued by the*  
19 *department pursuant to this chapter relating to the use of*  
20 *mammography equipment shall be publicly posted pursuant to this*  
21 *section and regulations adopted by the department.*

22 *(f) To further ensure the quality of mammograms, the*  
23 *department shall require all mammogram facilities, other than*  
24 *mobile units or vans, to operate quickly and efficiently so as to*  
25 *ensure that the facilities are able to develop mammograms of*  
26 *diagnostic quality prior to when the patient leaves the facility.*

27 25274.6. (a) Notwithstanding Section 6103 of the  
28 Government Code, the department shall adopt regulations  
29 establishing a schedule of the fees that shall be paid by all of the  
30 following persons:

31 (1) A person possessing radioactive materials under a license  
32 issued by the department or under another state or federal license  
33 for the use of radioactive materials, if the person uses these  
34 radioactive materials in the state in accordance with the  
35 regulations adopted pursuant to subdivision (d) of Section  
36 25274.5.

37 (2) A person generally licensed for the use of a device or  
38 equipment utilizing radioactive materials that is designed and  
39 manufactured for the purpose of detecting, measuring, gauging, or  
40 controlling thickness, density, level, interface location, radiation,



1 leakage, or qualitative or quantitative chemical composition, or  
2 for producing light or an ionized atmosphere, if the device or  
3 equipment is manufactured pursuant to a specific license  
4 authorizing distribution to general licensees.

5 (b) The revenues derived from the fees imposed pursuant to  
6 subdivision (a) shall be used, together with other funds made  
7 available therefor, for the purpose of the issuance of licenses or the  
8 inspection and regulation of the licensees.

9 (c) The department may adopt emergency regulations pursuant  
10 to Chapter 3.5 (commencing with Section 11340) of Part 1 of  
11 Division 3 of Title 2 of the Government Code to establish and  
12 adjust the fees for radioactive materials licenses in an amount to  
13 produce estimated revenues equal to at least 95 percent of the  
14 department's costs in carrying out the licensing requirements  
15 specified in subdivision (a), if the new fees remain in effect  
16 throughout the fiscal year for which the fee is established or  
17 adjusted.

18 (d) A local agency participating in a negotiated agreement  
19 pursuant to Section 25274.4 shall be fully reimbursed for direct  
20 and indirect costs based upon activities governed by Section  
21 25274.9. With respect to these agreements, any salaries, benefits,  
22 and other indirect costs shall not exceed comparable costs of the  
23 department.

24 (e) The fees for licenses for radioactive materials and of  
25 devices and equipment utilizing those materials shall be adjusted  
26 annually in the same manner as the fees are adjusted pursuant to  
27 Section 100425.1.

28 25274.7. In addition to the annual adjustment of the fees  
29 authorized by this chapter pursuant to subdivision (e) of Section  
30 25274.6, the director may adopt emergency regulations in  
31 accordance with Chapter 3.5 (commencing with Section 11340) of  
32 Part 1 of Division 3 of Title 2 of the Government Code, to establish  
33 and adjust these fees, and for purposes of that chapter, including  
34 Section 11349.6 of the Government Code, an adoption of these  
35 regulations is an emergency and shall be considered by the Office  
36 of Administrative Law as necessary for the immediate  
37 preservation of the public peace, health and safety, and general  
38 welfare.

39 25274.8. The department shall adopt regulations that  
40 establish the frequency of inspections of persons holding a license



1 pursuant to this chapter, in a frequency not less than the priority for  
2 inspection established by the United States Nuclear Regulatory  
3 Commission.

4 25274.9. (a) Notwithstanding Section 6103 of the  
5 Government Code, the department shall adopt regulations that  
6 rank the order of priority for inspection, as determined by the  
7 degree of potentially damaging exposure of persons by ionizing  
8 radiation and the requirements of subdivision (d), and a schedule  
9 of fees, based upon that priority ranking, that shall be paid by  
10 persons possessing sources of ionizing radiation that are subject to  
11 registration in accordance with subdivision (b) of Section  
12 25274.5, and the regulations adopted pursuant to those provisions.  
13 The department may expend the revenues derived from the fees,  
14 together with other funds made available therefor, for the purpose  
15 of carrying out any inspections of the sources of ionizing radiation  
16 required by this chapter or regulations adopted pursuant to this  
17 chapter. The department shall set the fees, together with any other  
18 funds made available to the department, in the amount sufficient  
19 to cover the costs of administering this chapter, and shall set the fee  
20 in amounts intended to cover the costs of administering this  
21 chapter for each priority source of ionizing radiation. The  
22 revenues generated by the fees shall not offset any general funds  
23 appropriated for the support of the radiologic programs authorized  
24 pursuant to this chapter. Any person who pays fees shall not be  
25 required to pay, directly or indirectly, for the share of the costs of  
26 administering this chapter for those persons for whom fees are  
27 waived.

28 (b) A local agency participating in a negotiated agreement  
29 pursuant to Section 25274.4 shall be fully reimbursed for direct  
30 and indirect costs based upon activities governed by subdivision  
31 (d). With respect to these agreements, any salaries, benefits, and  
32 other indirect costs shall not exceed comparable costs of the  
33 department. Any changes in the frequency of inspections or the  
34 level of reimbursement to local agencies made by this section  
35 during the 2003–04 Regular Session of the Legislature shall not  
36 affect any ongoing contracts.

37 (c) The fees paid by persons possessing sources of ionizing  
38 radiation shall be adjusted annually in the same manner as other  
39 fees are adjusted pursuant to Section 100425.





1 (d) The average inspection frequency for ionizing radiation  
2 machines shall be once *each year for mammography X-ray units,*  
3 *once* every three years for high-priority sources of ionizing  
4 radiation, and once every four and one-half years for medium  
5 priority sources. The department may adopt regulations that  
6 increase the frequency of inspection for ionizing radiation  
7 machines. *Sources of ionizing radiation used in dentistry shall be*  
8 *screened for defects by mail or other offsite methodology not less*  
9 *frequently than once every five years, with physical inspection of*  
10 *the 50 percent, determined by the department to be most in need*  
11 *of inspection, to average at least once every six years.*

12 (e) (1) *The person responsible for registering mammographic*  
13 *X-ray equipment shall be responsible for assuring that the*  
14 *mammographic X-ray equipment under his or her jurisdiction has*  
15 *been inspected and that mammography quality assurance tests are*  
16 *performed by a medical physicist, health physicist, or other*  
17 *individual with qualifications similar to those approved by the*  
18 *State Department of Health Services and prescribed in the May*  
19 *1990 version of the “Rules of Good Practice for Supervision and*  
20 *Operation of Mammographic X-Ray Equipment,” as approved by*  
21 *the Radiologic Technology Certification Committee.*

22 (2) *If the department adopts regulations on or after January 1,*  
23 *1993, that provide similar or stronger protection of a patient’s*  
24 *health and safety than the “Rules of Good Practice for Supervision*  
25 *and Operation of Mammographic X-Ray Equipment,” as*  
26 *determined by the department, then those rules shall no longer*  
27 *apply to this subdivision.*

28 25274.10. (a) Any officer, employee, or agent of the  
29 department or of any state or local agency with which an  
30 agreement has been made pursuant to Section 25274.4 may enter  
31 at all reasonable times upon any private or public property within  
32 the jurisdiction of the agency for the purpose of determining  
33 whether or not there is compliance with or violation of this chapter,  
34 building standards published in the State Building Standards Code  
35 relating to buildings in which there are sources of ionizing  
36 radiation, or of the regulations adopted pursuant to this chapter,  
37 and the owner, occupant, or person in charge of the property shall  
38 permit that entry and inspection.

39 (b) An officer, employee, or agent specified in subdivision (a)  
40 may enter into areas under the jurisdiction of the federal



1 government only with the concurrence of the federal government  
2 or its duly designated representative.

3 25274.11. (a) The department, on behalf of this state, may  
4 enter into an agreement or agreements with the federal  
5 government, other states, or interstate agencies, whereby this state  
6 will perform on a cooperative basis with the federal government,  
7 other states, or interstate agencies, inspections or other functions  
8 relating to control of sources of ionizing radiation.

9 (b) The department and any other appropriate state agency may  
10 institute training programs for the purpose of qualifying personnel  
11 to carry out this chapter, and may make those personnel available  
12 for participation in any program or programs of the federal  
13 government, other states, or interstate agencies in furtherance of  
14 the purposes of this chapter.

15 (c) Any ordinances, resolutions or regulations, now or  
16 hereafter in effect, of the governing body of a city or county  
17 relating to radioactive materials or other sources of radiation shall  
18 not be superseded by this chapter, if the ordinances or regulations  
19 are and continue to be consistent with this chapter, amendments  
20 thereto, and the regulations adopted pursuant to this chapter.

21 (d) A city or county may not require the payment of a fee in  
22 connection with the activities governed by Section 25274.6 when  
23 a fee is required by the regulations adopted pursuant to that section,  
24 and a city or county may not require the payment of a fee in  
25 connection with the activities governed by Section 25274.9 when  
26 a fee is required by the regulations adopted pursuant to that section.

27 25274.12. In determining whether to grant, deny, amend,  
28 revoke, suspend, or restrict a certification, registration, or license,  
29 the department may consider those aspects of a person's  
30 background that, in its judgment, bear materially on that person's  
31 ability to fulfill her or his obligations, including, but not limited  
32 to, technical competency and her or his current or prior record in  
33 areas involving ionizing radiation.

34 25274.13. The department shall require a licensee or an  
35 applicant for a license pursuant to Section 25274.5 to receive,  
36 possess, or transfer radioactive materials, or devices or equipment  
37 utilizing radioactive materials, to provide a financial surety to  
38 ensure performance of its obligations under this chapter. The  
39 department shall establish, by regulation, the amount and type of  
40 financial surety that is required to be provided to provide for



1 maximum protection of the public health and safety and the  
2 environment. The financial surety shall be in the form of surety  
3 bonds, deposits of government securities, escrow accounts, lines  
4 of credit, trust funds, credit insurance, or any other equivalent  
5 financial surety arrangement acceptable to the department. The  
6 department shall adopt the regulations in accordance with, but not  
7 limited to, all of the following criteria:

8 (a) Consideration of the need for, and scope of, any  
9 decontamination, decommissioning, reclamation, or disposal  
10 activities required to protect the public health and safety and the  
11 environment.

12 (b) Estimates of the costs of the required decontamination,  
13 decommissioning, reclamation, or disposal.

14 (c) The costs of long-term maintenance and surveillance, if  
15 required.

16 (d) Consideration of the appropriateness of specific  
17 requirements imposed in the financial assurance regulations  
18 adopted by the Nuclear Regulatory Commission, including, but  
19 not limited to, the minimum levels of financial assurance required  
20 to be provided by different categories of facilities, and the  
21 categories of facilities that are exempted from the requirement to  
22 provide a financial surety.

23 25274.14. (a) The department shall deposit all money  
24 received from a financial surety provided pursuant to Section  
25 27274.13 in the Financial Surety Account, which is hereby created  
26 in the Radioactive Materials Control Fund.

27 (b) Notwithstanding Section 13340 of the Government Code,  
28 the money in the Financial Surety Account is hereby continuously  
29 appropriated to the department for expenditure only for the  
30 decontamination, decommissioning, reclamation, and disposal of  
31 radioactive materials, and for long-term maintenance and  
32 surveillance for the protection of the public health and safety and  
33 the environment, in accordance with subdivision (e), with regard  
34 to the facility or operations of the licensee who provided the  
35 financial surety.

36 (c) The department may not expend the money in the Financial  
37 Surety Account for normal operating expenses of the department.

38 (d) The department shall, by regulation, establish a procedure  
39 whereby a licensee may be refunded the amount of the financial  
40 surety provided by the licensee in excess of any amounts expended



1 by the department and any amounts that are required to be retained  
2 to cover the costs of long-term maintenance and surveillance  
3 pursuant to subdivision (b), with regard to that licensee's facility  
4 or operations. The regulations shall specify that the refund may be  
5 received only after the department has determined that the licensee  
6 has fully satisfied all of its obligations under its license, and all  
7 other obligations which the regulations require to be satisfied  
8 before the licensee may receive a refund.

9 (e) If the department finds that a radioactive materials licensee  
10 is unable to, or is unwilling to, conduct any decontamination,  
11 decommissioning, reclamation, disposal, or long-term  
12 maintenance and surveillance that may be necessary, the  
13 department shall issue an order directing any action and corrective  
14 measures it finds necessary to protect the public health and safety  
15 and the environment. The department may undertake, or contract  
16 for the undertaking of, any actions or corrective measures which  
17 the licensee fails to satisfactorily complete, and may expend the  
18 amount of the financial surety provided by the licensee to pay the  
19 costs of those actions and corrective measures.

20 25274.15. (a) The department shall require, as a condition of  
21 issuing a license to receive, possess, or transfer radioactive  
22 materials, or devices or equipment utilizing radioactive materials,  
23 that the licensee take corrective action with regard to all  
24 contamination that results from the handling, use, storage, or  
25 transportation of radioactive materials at the licensee's facility  
26 regardless of when the contamination commenced at the facility.

27 (b) Any corrective action required pursuant to this section shall  
28 require that corrective action be taken beyond the facility  
29 boundary if necessary to protect human health and safety or the  
30 environment, unless the licensee demonstrates to the satisfaction  
31 of the department that, despite the licensee's best efforts, the  
32 licensee is unable to obtain the necessary permission to undertake  
33 the corrective action.

34 (c) When corrective action cannot be completed prior to  
35 issuance of the license, the license shall contain schedules of  
36 compliance for corrective action and assurances of financial  
37 responsibility for completing the corrective action.

38 25274.16. (a) The department shall require a person applying  
39 for a license under this article to submit a disclosure statement to



1 the department containing all of the following information, signed  
2 by the applicant under penalty of perjury:

3 (1) The full name, all previous names, the business address,  
4 social security number, and driver's license number of all of the  
5 following persons:

6 (A) The applicant.

7 (B) All officers, directors, and partners, if the applicant is a  
8 business concern.

9 (C) All persons, officers, partners, or directors if there are no  
10 officers, of business concerns holding more than 5 percent of the  
11 equity in, or debt liability of the applicant, except that if the debt  
12 liability is held by a lending institution, the applicant shall only  
13 supply the name and address of the lending institution.

14 (2) Except as provided in subdivision (b), the following  
15 persons listed on the disclosure statement shall properly submit  
16 fingerprint images and related identification information:

17 (A) The sole proprietor.

18 (B) The partners.

19 (C) Persons listed in subparagraph (C) of paragraph (1) and the  
20 officers and directors of the applicant company as required by the  
21 department.

22 (3) If fingerprint images and related identification information  
23 are submitted for purposes of paragraph (2), the fingerprint images  
24 and related identification information shall be submitted for a  
25 person pursuant to paragraph (2) only once. If there is a change in  
26 the person serving in a position for which fingerprint images and  
27 related identification information are required to be submitted  
28 pursuant to paragraph (2), fingerprint images and related  
29 identification information shall be captured and submitted for that  
30 person. Fingerprint images and the related identification  
31 information may be obtained using the Department of Justice's  
32 electronic fingerprint network.

33 (4) The full name and business address of all business concerns  
34 that generate, transport, treat, store, recycle, dispose of, or handle  
35 radioactive materials in which the applicant holds at least a 5  
36 percent debt liability or equity interest.

37 (5) A description of all local, state, or federal licenses, permits,  
38 or registrations for the generation, transportation, treatment,  
39 storage, recycling, disposal, or handling of radioactive materials  
40 applied for, or possessed by the applicant, or by the applicant under



1 any previous name or names, in the five years preceding the filing  
2 of the statement, or, if the applicant is a business concern, by the  
3 officers, directors, or partners of the business concern, including  
4 the name and address of the issuing agency.

5 (6) A listing and explanation of all final orders or license  
6 revocations or suspensions issued or initiated by any local, state,  
7 or federal authority, in the five years immediately preceding the  
8 filing of the statement, or a civil or criminal prosecution filed in  
9 the five years immediately preceding, or pending at the time of, the  
10 filing of the statement, with the remedial actions or resolutions if  
11 applicable, relating to the generation, transportation, treatment,  
12 storage, recycling, disposal, or handling of radioactive materials  
13 by the applicant, or by the applicant under any previous name or  
14 names, or, if the applicant is a business concern, by any officer,  
15 director, or partner of the business concern.

16 (7) A listing of all agencies outside of the state that regulate, or  
17 have regulated, the applicant's, or the applicant's under any  
18 previous name or names, generation, transportation, treatment,  
19 storage, recycling, disposal, or handling of radioactive materials  
20 in the five years preceding the filing of the disclosure statement.

21 (8) A listing and explanation of all federal or state convictions,  
22 judgments, or settlements, in the five years immediately preceding  
23 the filing of the statement, with any remedial actions or resolutions  
24 if applicable, relating to the generation, transportation, treatment,  
25 storage, recycling, disposal, or handling of radioactive materials  
26 by the applicant, or by the applicant under any previous name or  
27 names, or if the applicant is a business concern, by any officer,  
28 director, or partner of the business concern.

29 (9) A listing of all owners, officers, directors, trustees, and  
30 partners of the applicant who have owned, or been an officer,  
31 director, trustee, or partner of, any company that generated,  
32 transported, treated, stored, recycled, disposed of, or handled  
33 radioactive materials and which was the subject of any of the  
34 actions described in paragraphs (6) and (8) for the five years  
35 preceding the filing of the statement.

36 (b) Notwithstanding paragraph (2) of subdivision (a), a  
37 corporation, the stock of which is listed on a national securities  
38 exchange and registered under the Securities Exchange Act of  
39 1934 (15 U.S.C. Sec. 78a et seq.), or a subsidiary of such a



1 corporation, is not subject to the fingerprint requirements of  
2 subdivision (a).

3 (c) (1) Before issuing a license pursuant to this chapter, the  
4 department shall submit the fingerprint cards or electronic  
5 fingerprint images and related identification information  
6 submitted pursuant to paragraph (2) of subdivision (a) to the  
7 Department of Justice for the purpose of obtaining information as  
8 to the existence and nature of a record of state and federal level  
9 convictions and state and federal level arrests for which the  
10 Department of Justice establishes that the applicant is incarcerated  
11 or was released on bail or on his or her own recognizance pending  
12 trial. The Department of Justice shall forward a request for federal  
13 level criminal offender record information, received by the  
14 Department of Justice, pursuant to this subdivision, to the Federal  
15 Bureau of Investigation.

16 (2) For each applicant or licensee whose fingerprint images and  
17 related identification information are submitted to the Department  
18 of Justice pursuant to this subdivision, the Department of Justice  
19 shall provide the following information to the department  
20 pursuant to this section:

21 (A) Every conviction rendered against that applicant or  
22 licensee.

23 (B) Every arrest for an offense for which that applicant or  
24 licensee is presently awaiting trial, whether the applicant or  
25 licensee is incarcerated or has been released on bail or on his or her  
26 own recognizance pending trial.

27 (3) The department, pursuant to this subdivision, shall request  
28 subsequent arrest notification service from the Department of  
29 Justice as provided under Section 11105.2 of the Penal Code.

30 (4) The department shall reimburse the Department of Justice  
31 for the actual costs incurred by the Department of Justice for  
32 searching and furnishing state and federal level criminal offender  
33 record information pursuant to this subdivision.

34 (d) For purposes of this section, “business concern” means a  
35 sole proprietorship, corporation, association, firm, partnership,  
36 trust, or other form of commercial organization.  
37





Article 5. Low-Level Radioactive Waste

1  
2  
3 25275. (a) For the purposes of this section, the following  
4 terms have the following meanings:  
5 (1) “Generate” means to produce or cause the production of,  
6 or to engage in an activity which otherwise results in the creation  
7 or increase in the volume of, low-level radioactive waste.  
8 (2) (A) “Generator” means any person who, by his or her  
9 actions, or by the actions of his or her agent, employee, or  
10 independent contractor, generates low-level radioactive waste in  
11 the state.  
12 (B) For purposes of this section, a person who provides for or  
13 arranges for the collection, transportation, treatment, storage, or  
14 disposal of low-level radioactive waste generated by others is a  
15 generator only to the extent that his or her actions, or the actions  
16 of his or her agent, employee, or independent contractor, generate  
17 low-level radioactive waste.  
18 (3) “Person” means an individual, partnership, corporation, or  
19 other legal entity, including any state, interstate, federal, or  
20 municipal governmental entity.  
21 (4) “Waste” means material that is not in use and is no longer  
22 useful.  
23 (5) “Generator category” includes, but is not limited to, any of  
24 the following:  
25 (A) Nuclear powerplants.  
26 (B) Reactor vendors or designers.  
27 (C) Government.  
28 (D) Medicine.  
29 (E) Academia.  
30 (F) Aerospace.  
31 (G) Military.  
32 (H) Research.  
33 (I) Industrial gauges.  
34 (J) Manufacturing.  
35 (6) “Low-level radioactive waste” or “LLRW” has the same  
36 meaning as defined in Article 2 of the Southwestern Low-Level  
37 Radioactive Waste Disposal Compact, as set forth in Section  
38 25276.1.  
39 (7) “Class” means the class of low-level radioactive waste.  
40 “Class A,” “class B,” and “class C” waste are those classes



1 defined in Section 61.55 of Title 10 of the Code of Federal  
2 Regulations.

3 (8) “Licensed LLRW disposal facility” means any of the three  
4 disposal facilities located at Barnwell, South Carolina; Clive,  
5 Utah; or Richland, Washington, that exist on January 1, 2003.

6 (b) The department shall, for the protection of public health and  
7 safety maintain a file of each manifest from each generator of  
8 LLRW that is sent to a disposal facility or to a facility subject to  
9 the Southwestern Low-level Radioactive Waste Disposal  
10 Compact, as set forth in Article 6 (commencing with Section  
11 25276).

12 (c) The department shall, for the protection of public health and  
13 safety, maintain a file of all LLRW transferred for disposal to a  
14 licensed LLRW disposal facility during the reporting period,  
15 either directly or through a broker or agent, which shall meet all  
16 of the following conditions:

17 (1) Specify the category of generator, class, quantity by  
18 activity, and volume of LLRW, including an estimate of the peak  
19 and average quantities in storage, along with the identity of the  
20 generator, and the chemical and physical characteristics of that  
21 waste, including its half-life, properties, or constituents, and  
22 radionuclides present at, or above, the minimum labeling  
23 requirements, with their respective concentrations and amounts of  
24 radioactivity.

25 (2) Be updated annually, at minimum, to ensure an accurate and  
26 timely depiction of radioactive waste in the state.

27 (3) Include all of the following information in the file:

28 (A) The total volume, volume by class, and activity by  
29 radionuclide and class.

30 (B) The types and specifications of individual containers used  
31 and the number of each type transferred for disposal.

32 (C) The maximum surface radiation exposure level on any  
33 single container of LLRW transferred, the number of disposal  
34 containers that exceed 200 mR/hour, and the volume, class, and  
35 activity by radionuclide.

36 (D) The identification of each licensed LLRW disposal facility  
37 to which LLRW was transferred, either directly or through a  
38 broker or agent, and the volume and activity by class of LLRW  
39 transferred by each broker to each licensed LLRW disposal  
40 facility.



1 (E) The identification of all brokers or agents to which LLRW  
2 was transferred and the volume and activity by class of the  
3 generator's LLRW transferred by each such broker or agent to  
4 each licensed LLRW disposal facility.

5 (F) The weight of source material by its type. For purposes of  
6 this paragraph, "type" includes, but is not limited to, natural  
7 uranium, depleted uranium, or thorium.

8 (G) The total number of grams of special nuclear material by  
9 radionuclide, and the maximum number of grams of special  
10 nuclear material in any single shipment by radionuclide.

11 (H) As complete a description as practicable of the principal  
12 chemical and physical form of the LLRW by volume and  
13 radionuclide, including the identification of any known hazardous  
14 properties, other than its radioactive property.

15 (I) For solidified or sorbed liquids, the nature of the liquid, the  
16 solidifying or sorbing agent used, and the final volume.

17 (J) For LLRW containing more than 0.1 percent by weight  
18 chelating agents, the identification of the chelating agent, the  
19 volume and weight of the LLRW and the weight percentage of  
20 chelating agent.

21 (K) For LLRW that was treated, either by the generator or its  
22 agent or independent contractor, in preparation for transfer to a  
23 licensed LLRW disposal facility described in paragraph (8) of  
24 subdivision (a) for the purpose of reducing its volume or activity  
25 by any method including reduction by storage for decay, or for the  
26 purpose of changing its physical or chemical characteristics in a  
27 manner other than by solidification or sorption of liquids, the file  
28 shall include a description of the treatment process.

29 (1) The volume, volume by class, and activity by radionuclide  
30 and class of that LLRW, if any, that the generator is holding at the  
31 end of the annual reporting period because the generator knows or  
32 has reason to believe that LLRW will not be accepted for disposal  
33 at any of the licensed LLRW disposal facilities. The file shall  
34 include a description of this LLRW.

35 (d) The department shall maintain a file on each generator's  
36 LLRW stored, including specific radionuclides, total volume,  
37 volume by class, total activity, and activity by radionuclide and  
38 class of LLRW stored for decay and stored for later transfer,  
39 including the periods of time for both types of storage.



1 (e) (1) The department shall prepare an annual report,  
2 including a set of tables summarizing data collected from the  
3 activities and maintenance of files specified in subdivisions (c) and  
4 (d) to the department. These annual data tables shall contain  
5 information that summarizes and categorizes, by category, and if  
6 applicable, subcategory, of generator and location by county and  
7 identity of generator, the nature, characteristics and the total  
8 volume, volume by class, total activity and activity by  
9 radionuclide and class of LLRW generated, disposed of, treated,  
10 transferred, stored for later transfer, and stored for decay during  
11 each calendar year.

12 (2) The department shall note, in the set of tables prepared  
13 pursuant to paragraph (1), any generator for which data are  
14 lacking.

15 (f) The department shall make the information described in  
16 subdivisions (c) and (d) available to the public in a format that  
17 aggregates the information by county. The department shall not  
18 make public the identity and location of any site where LLRW is  
19 stored or used. The department may combine information from  
20 multiple counties if necessary to protect public security.  
21 Notwithstanding any other provision of law, the department shall  
22 not make the report prepared pursuant to subdivision (e) available  
23 to the public, and the report is not subject to the California Public  
24 Records Act (Chapter 3.5 (commencing with Section 6250) of  
25 Division 6 of Title 1 of the Government Code).

26 (g) The department may make the information described in  
27 subdivisions (c) and (d) available upon request to any Member of  
28 the Legislature. No Member of the Legislature may disclose the  
29 identity or location of any site where LLRW is stored or used to  
30 any member of the general public.

31 (h) To meet the requirements of this section, each generator  
32 shall submit to the department the information included in Forms  
33 540, 541, and 542, and any successor forms, of the Nuclear  
34 Regulatory Commission, for each LLRW shipment. In addition,  
35 for purposes of subparagraph (L) of paragraph (4) of subdivision  
36 (c) and subdivision (d), each generator shall annually complete  
37 and submit to the department the information included on Forms  
38 540, 541, and 542, and any successor forms, of the Nuclear  
39 Regulatory Commission that describe the LLRW stored and  
40 shipped by the generator.



1 25275.1. In addition to the requirements imposed by Section  
2 25274.1, the department shall develop an overall plan, in  
3 consultation with other state, regional, and federal agencies, for  
4 the management, treatment, and disposal of low-level radioactive  
5 waste generated within California. The plan shall contain, at a  
6 minimum, all of the following elements:

7 (a) Specific contingency plans to address the needs of the state  
8 for the short-term storage of low-level radioactive waste in the  
9 event of a precipitous closure of existing out-of-state commercial  
10 waste disposal facilities and to evaluate feasible alternatives for  
11 meeting the state's needs. This element of the plan shall include,  
12 but is not limited to, all of the following factors:

13 (1) The amount and kinds of low-level radioactive waste  
14 generated by California licensees and current disposal locations.

15 (2) The size and nature of an interim storage facility required  
16 to meet California's interim low-level radioactive waste disposal  
17 needs.

18 (3) The cost of developing and operating an interim storage site  
19 by the department or contracting organizations.

20 (4) Criteria for the siting of an interim storage site, including,  
21 but not limited to, all of the following:

22 (A) Proximity to population.

23 (B) Geologic stability.

24 (C) Proximity to ground or surface water.

25 (D) Availability of transportation.

26 (E) General public health and economic considerations. This  
27 element of the plan shall be completed and submitted to the  
28 appropriate committees of each house of the Legislature on or  
29 before December 31, 1982.

30 (b) A classification scheme for the separation of low-level  
31 radioactive waste that will facilitate the management, treatment,  
32 storage, and ultimate disposal of the waste. This classification  
33 scheme shall consider the matters as possible de minimus radiation  
34 levels for specific radionuclides, the quantity and specific activity  
35 of the material, its persistence, toxicity, chemical form, reactivity,  
36 and the principal radionuclides present. The classification scheme  
37 shall also include the specifications necessary to determine which  
38 classes of waste may or may not be accepted for storage in an  
39 interim storage facility established pursuant to Section 25275.10,  
40 that may or may not be held by the licensee for decay to specified



1 residual radioactivity levels and that require long-term isolation  
2 from the environment, as the case may be, for the protection of the  
3 public health and safety. The department may require as a  
4 condition of licensure the submission of information necessary to  
5 determine the total amount of waste produced in each class of the  
6 classification scheme. The department may, by regulation, adopt  
7 the classification scheme establishing which wastes may or may  
8 not be accepted at an interim storage facility or at a treatment or  
9 disposal facility. This element of the plan shall be completed and  
10 submitted to the appropriate committees of each house of the  
11 Legislature on or before December 31, 1982.

12 (c) Siting criteria for potential land burial disposal sites and  
13 treatment facilities within the state. In establishing these criteria,  
14 the department shall consider the following factors, including, but  
15 not limited to:

16 (1) The present and projected future uses of land, water, and  
17 natural resources.

18 (2) The proximity of the site to major population centers.

19 (3) The presence of active earthquake faults.

20 (4) Geologic and other natural barriers which protect against  
21 surface or groundwater contamination.

22 (5) The effectiveness of engineered barriers, waste treatment,  
23 and waste packaging in ensuring isolation of the waste from the  
24 environment.

25 (6) Transportation of radioactive materials as it relates to  
26 public health and safety.

27 (7) The relative economic impact of location and operation of  
28 treatment or disposal facilities. This element of the plan shall be  
29 completed and submitted to the appropriate committees of each  
30 house of the Legislature on or before December 31, 1982.

31 (d) A plan of action to minimize the environmental,  
32 occupational, and public health impact of low-level radioactive  
33 waste and to protect the public health and safety by encouraging  
34 a reduction in the amount and toxicity of waste produced. This  
35 activity shall include conducting or having studies conducted that  
36 evaluate the technical and economic feasibility of (1) reducing the  
37 volume, reactivity, and chemical and radioactive hazard of the  
38 waste, (2) cleaning contaminated, nonactivated metals and other  
39 materials to permit their recycle and reuse, and (3) substituting  
40 nonradioactive or short-lived radioactive materials for those



1 radionuclides that require long-term isolation from the  
2 environment. The results of these studies, along with the  
3 departmental recommendations for their implementation, shall be  
4 reported by the department to the appropriate committees of the  
5 Legislature on or before December 31, 1983.

6 (e) Within six months after September 28, 1983, the Governor  
7 shall direct the appropriate state agency or agencies, as determined  
8 by the Governor, to conduct and complete a study that identifies  
9 those regions of the state within which it is likely the criteria  
10 developed pursuant to subdivision (c) could be met. The state  
11 agency or agencies, so directed, may also request, when  
12 appropriate, the assistance of state or federal agencies or private  
13 organizations.

14 25275.2. (a) The department shall not grant any license to  
15 receive radioactive material from other persons for disposal on  
16 land unless all of the following requirements are satisfied:

17 (1) The land on which the radioactive wastes are to be buried  
18 is owned by the federal or state government.

19 (2) The department determines that the site is consistent with  
20 the public health and safety.

21 (3) The applicant for the license will comply with the  
22 emergency regulations adopted by the department pursuant to  
23 subdivision (b).

24 (b) On or before March 28, 1984, the department shall adopt  
25 emergency regulations for the licensing of those persons engaged  
26 in the disposal of low-level radioactive waste and for  
27 implementing this section and Sections 25275.4, 25275.5, and  
28 25275.6.

29 The emergency regulations shall be consistent with the federal  
30 regulations found in Sections 301 through 311, inclusive, of Part  
31 20 of Title 10 and in Part 61 of Title 10 of the Code of Federal  
32 Regulations (Federal Register, Vol. 47, No. 28, page 57446,  
33 December 27, 1982) and shall be adopted solely for the purposes  
34 of clarifying and rendering specific, for application in California,  
35 these federal regulations and implementing this section and  
36 Sections 25275.4, 25275.5, and 25275.6.

37 (c) The emergency regulations specified in subdivision (b)  
38 shall be adopted by the department in accordance with Chapter 3.5  
39 (commencing with Section 11340) of Part 1 of Division 3 of Title  
40 2 of the Government Code, and for the purposes of that chapter,





1 including Section 11349.6 of the Government Code, the adoption  
2 of these regulations is an emergency and shall be considered by the  
3 Office of Administrative Law as necessary for the immediate  
4 preservation of the public peace, health and safety, and general  
5 welfare. Notwithstanding Chapter 3.5 (commencing with Section  
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
7 any emergency regulations adopted by the department pursuant to  
8 this subdivision shall not be repealed by the Office of  
9 Administrative Law and shall remain in effect until revised or  
10 repealed by the department.

11 (d) The department may, by emergency regulation adopted in  
12 accordance with subdivision (c), establish and collect a fee for the  
13 issuance or renewal of a license specified in subdivision (a).

14 25275.3. The department shall, by regulation, establish and  
15 collect a fee for the issuance or renewal of a license to dispose of  
16 low-level radioactive waste pursuant to this article. The fees  
17 collected shall be sufficient to cover the state's cost in reviewing  
18 the application, issuing or renewing the license, and inspecting and  
19 conducting oversight of the licensee.

20 25275.4. The department may limit the number of licenses  
21 issued pursuant to Sections 25274.4, 25275.2, and 25275.5  
22 authorizing the receipt of radioactive material from other persons  
23 for disposal on land.

24 25275.5. (a) All applicants filing a statement of capabilities  
25 and notice of intention to file an application for a license to receive  
26 radioactive materials from other persons for disposal on land shall  
27 file the statement and notice within three months after the  
28 department adopts the emergency regulations specified in  
29 subdivision (b) of Section 25275.2. Within 45 days after the  
30 termination of that three-month filing period, the department shall  
31 evaluate the statements of capabilities and notices of intent. The  
32 director shall determine, within that 45-day period, whether the  
33 department has received one or more statements and notices that  
34 are likely to result in the filing of an application for a license  
35 satisfying the requirements of Section 25275.2.

36 (b) If the director determines, within the 45-day period  
37 specified in subdivision (a), that the department has received one  
38 or more statements of capabilities and notices of intent which are  
39 likely to result in the filing of an application for a license, the  
40 department shall, within the 45-day period, select one of the



1 applicants who filed the statement of capabilities and notice of  
2 intent to file a license application as a license designee.

3 (c) The department shall adopt emergency regulations  
4 establishing procedures for the review and evaluation of the  
5 statements of capabilities and notices of intent, as specified in  
6 subdivision (a), and for the selection of a license designee, as  
7 specified in subdivision (b). These emergency regulations shall be  
8 adopted by the department in accordance with subdivision (c) of  
9 Section 25275.2 and shall include procedures for soliciting,  
10 evaluating, ranking, and designating license designees and for  
11 selecting alternative license designees based upon the ranking.

12 (d) The department may solicit additional statements of  
13 capabilities and notices of intent if a license designee withdraws  
14 or becomes ineligible for licensing, or if a license is issued and is  
15 then suspended, revoked, or terminated.

16 (e) The department may, by emergency regulations adopted in  
17 accordance with subdivision (c) of Section 25275.2, establish and  
18 collect a fee for filing a statement of capabilities and notice of  
19 intent.

20 (f) The department may require that a person selected as a  
21 license designee pursuant to this section post a bond of up to one  
22 million dollars (\$1,000,000) to guarantee that the person will carry  
23 out the activities connected with completing the license  
24 application and obtaining the license. The department shall, by  
25 emergency regulation adopted in accordance with subdivision (c)  
26 of Section 25275.2 establish standards for the forfeiture of the  
27 bond.

28 25275.6. (a) If, within 45 days after the termination of the  
29 three-month filing period specified in subdivision (a) of Section  
30 25275.5, the director determines that the department has not  
31 received a statement of capabilities and a notice of intent to file an  
32 application for a license to receive radioactive materials from  
33 other persons for disposal on land that is likely to result in the filing  
34 of an application that satisfies the requirements of Section  
35 25275.2, the director shall notify the secretary.

36 (b) Within one year after receiving the notification specified in  
37 subdivision (a), the secretary shall file with the department an  
38 application for a license to receive radioactive materials from  
39 other persons for disposal on land at a site within a region



1 identified pursuant to subdivision (e) of Section 25275.1, and that  
2 is owned, operated, or both, by the state.

3 (c) (1) Upon the request of the Environmental Protection  
4 Agency, the Director of Finance may provide a loan from the  
5 General Fund to the Environmental Protection Agency for the  
6 purposes of implementing this section. The Environmental  
7 Protection Agency shall repay any loans made pursuant to this  
8 section pursuant to the terms and conditions prescribed by the  
9 Department of Finance, including interest at the rate set by the  
10 Pooled Money Investment Board pursuant to Section 16314 of the  
11 Government Code.

12 (2) The Director of Finance shall not provide more than two  
13 million dollars (\$2,000,000) pursuant to this subdivision during  
14 the 1983-84 fiscal year. The amount for loans in the 1984-85 fiscal  
15 year, and subsequent fiscal years, shall be specified annually in the  
16 Budget Act and the total of all loans made pursuant to this  
17 subdivision shall not exceed fifteen million dollars (\$15,000,000).

18 (d) If a radioactive materials disposal site that is owned,  
19 operated, or both, by the state is established pursuant to this  
20 section, the secretary shall establish a schedule of fees to be  
21 charged each person who disposes of radioactive materials at the  
22 site. The schedule of fees shall be set at an amount sufficient to  
23 reimburse the state for any costs incurred in developing,  
24 constructing, and operating the site.

25 25275.7. The department may require that all schedules of  
26 fees charged for the disposal of radioactive material by a person  
27 owning or operating a site licensed pursuant to Section 25275.2 are  
28 to be submitted to the department prior to their implementation.  
29 The department may determine, following a public hearing and  
30 based upon written findings, if the fees to be charged are  
31 reasonable and may require the owner or operator to modify the  
32 fee schedule if so determined by the department.

33 25275.8. (a) The license designee shall file periodic financial  
34 reports with the department as directed by the department. These  
35 reports shall provide detailed information on past and projected  
36 expenditures for development and operation of the low-level  
37 radioactive waste disposal site according to programmatic  
38 function, including, but not limited to, all of the following:

- 39 (1) Program management.
- 40 (2) Candidate sites selection.



- 1 (3) Site characterization.
- 2 (4) Environmental.
- 3 (5) Public and agency involvement.
- 4 (6) Licensing and permitting.
- 5 (7) Site development.
- 6 (8) Land acquisition.
- 7 (9) Financing.
- 8 (10) Operations.

9 (b) The license designee shall file reports with the department,  
10 as directed by the department, that identify, quantify, and explain  
11 major causes of actual and projected cost overruns and cost  
12 underruns with regard to the cost projections provided in the  
13 statement of capabilities and notice of intent.

14 (c) The Legislature finds and declares that the purpose of this  
15 section is to identify minimum financial reporting requirements  
16 for the costs of developing and operating the state’s low-level  
17 radioactive waste disposal facility. This section does not limit the  
18 authority of the department to require the license designee to  
19 furnish any additional information that the department determines  
20 to be necessary to fulfill its duties under this chapter, including  
21 Section 25275.7.

22 25275.9. (a) The department may, pursuant to subdivision  
23 (d), establish and operate, or contract for the establishment and  
24 contract for operation, of one or more low-level radioactive waste  
25 interim storage facilities for the exclusive use of persons located  
26 in California who are licensed by the department or the United  
27 States Nuclear Regulatory Commission.

28 (b) In addition to the fees authorized to be levied pursuant to  
29 Section 25274.6, the department may set and collect fees by  
30 regulation, to be paid by generators in California of low-level  
31 radioactive waste in an amount sufficient to support the  
32 development and operation of the facilities including the  
33 surveillance and repair of damaged packages, maintenance of the  
34 facilities, decontamination, decommissioning, and postclosure  
35 maintenance of these facilities, recordkeeping systems, and other  
36 activities as the department finds necessary to ensure the safe  
37 operation of such a facility. The department shall not set any fee  
38 in an amount that exceeds the amount reasonably necessary to  
39 implement this section. The department may also require the  
40 operators or the users of the facilities to post bonds or possess



1 adequate insurance as may be reasonably necessary to protect the  
2 state against such liabilities as storage and ultimate disposal costs  
3 for abandoned waste and against claims arising out of accidents or  
4 failures of the storage facility.

5 (c) A user of any facility operated pursuant to this section shall  
6 meet state and federal orders, requirements, or regulations for  
7 handling and management of low-level radioactive waste  
8 including those prescribed pursuant to subdivision (b) of Section  
9 25275.1.

10 (d) No low-level radioactive waste interim storage facility may  
11 be established pursuant to subdivision (a) until all of the following  
12 occurs:

13 (1) The department has fulfilled the requirements of  
14 subdivisions (a) and (b) of Section 25275.8, and has submitted its  
15 findings to the Legislature.

16 (2) The establishment of the interim storage facility is  
17 consistent with the elements of the low-level radioactive waste  
18 disposal plan specified in subdivisions (a) and (b) of Section  
19 25275.1.

20 (3) The department files a notice with the Legislature, while in  
21 session, 60 days before establishing the facility.

22 (e) In addition to any other grounds authorizing the  
23 department, or any person with whom it contracts, to cease the  
24 operation of a low-level radioactive waste interim storage facility,  
25 the facility shall cease accepting low-level radioactive waste for  
26 interim storage (1) no later than five years after the date it  
27 commences operating or (2) if the director determines that an  
28 alternate disposal site is available to California licensees in the  
29 western region of the United States, whichever event occurs first.

30 (f) Within seven years of commencing operation of any interim  
31 storage facility all wastes stored at the facility shall be transferred  
32 to a permanent land burial disposal site or permanently disposed  
33 of by some other treatment or means of disposal and the facility  
34 shall be closed and thereafter, to the extent necessary, as  
35 determined by the department, decontaminated and  
36 decommissioned.

37 (g) The authority granted by this section shall remain operative  
38 for a period of eight years from the date of the establishment of a  
39 low-level radioactive waste interim storage facility pursuant to  
40 this section. The director shall report the date the facility is



1 established to the appropriate committees of each house of the  
2 Legislature and the Legislative Counsel Bureau.

3 25275.10. The Governor shall negotiate and enter into  
4 interstate agreements, interstate compacts, or agreements with  
5 compacts, for the purpose of establishing access to, or maintaining  
6 access to, land disposal facilities for low-level radioactive waste  
7 generated in California. The terms of the agreement or compact  
8 may include, but are not limited to, a provision that the other  
9 parties to the agreement or compact will have reciprocal access to  
10 California permanent disposal facilities, when operational.

11 The Governor shall report to the Legislature on the status of  
12 these negotiations within four months after September 28, 1983,  
13 and every four months thereafter, until an agreement or compact  
14 is entered into or the negotiations are terminated. Any agreement  
15 or compact that proposes membership for California in a compact  
16 made pursuant to the Low-Level Radioactive Waste Policy Act (42  
17 U.S.C. Secs. 2021b to 2021d, incl.) or any interstate agreement or  
18 agreement with a compact that includes a provision that the other  
19 parties to the agreement will have reciprocal access to California  
20 permanent disposal facilities, when operational, shall be submitted  
21 to the Legislature for ratification by statute.

22 25275.11. The director shall appoint, in consultation with the  
23 Chairperson of the Senate Committee on Rules and the Speaker of  
24 the Assembly, an advisory committee to advise the department  
25 regarding methods for minimizing the environmental impact of  
26 low-level radioactive waste, criteria for siting low-level  
27 radioactive waste treatment and burial facilities, alternatives to  
28 land burial of low-level radioactive waste, and waste classification  
29 schemes.

30 The committee shall include representatives from the field of  
31 medicine, and from research, industrial, environmental, and  
32 public health organizations, who have demonstrated expertise and  
33 experience with radioactive materials, waste management, the  
34 health effects of exposure to low-level radioactive waste, or the  
35 environmental impact associated with the storage of low-level  
36 radioactive waste. The director shall appoint to the advisory  
37 committee the director of environmental health of the county  
38 where a low-level radioactive waste disposal facility is sited.

39 25275.12. In implementing this chapter, the department,  
40 consistent with other requirements imposed by this chapter to



1 protect public health and safety, shall promote the reduction of  
2 low-level radioactive waste generated, both in volume and  
3 radioactivity, by encouraging waste reduction practices,  
4 including, but not limited to, all of the following:

5 (a) The minimization of waste produced by employing best  
6 practices to reduce the amount of contaminated materials.

7 (b) The substitution and use of nonradioactive materials or  
8 radioactive materials with shorter radioactive half-lives.

9 (c) The compaction of low-level radioactive waste to reduce  
10 the volume of waste that must be transported and disposed of in the  
11 state.

12  
13 Article 6. Southwestern Low-Level Radioactive Waste  
14 Disposal Compact  
15

16 25276. The Legislature of the State of California hereby  
17 enacts and ratifies the agreement set forth in Section 25276.1 and  
18 designated as the “Southwestern Low-Level Radioactive Waste  
19 Disposal Compact,” entered into pursuant to the Low-Level  
20 Radioactive Waste Policy Act, as amended by the Low-Level  
21 Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C.  
22 Sec. 2021b to 2021j, incl.). This compact became effective in  
23 accordance with Article 7 of the compact as set forth in former  
24 Section 115255, as that section read on January 1, 2003.

25 25276.1. The provisions of the Southwestern Low-Level  
26 Radioactive Waste Disposal Compact are as follows:

27  
28 Article 1. Compact Policy and Formation  
29

30 The party states hereby find and declare all of the following:

31 (A) The United States Congress, by enacting the Low-Level  
32 Radioactive Waste Policy Act, Public Law 96-573, as amended by  
33 the Low-Level Radioactive Waste Policy Amendments Act of  
34 1985 (42 U.S.C. Sec. 2021b to 2021j, incl.), has encouraged the  
35 use of interstate compacts to provide for the establishment and  
36 operation of facilities for regional management of low-level  
37 radioactive waste.

38 (B) It is the purpose of this compact to provide the means for  
39 such a cooperative effort between or among party states to protect  
40 the citizens of the states and the states’ environments.



1 (C) It is the policy of party states to this compact to encourage  
2 the reduction of the volume of low-level radioactive waste  
3 requiring disposal within the compact region.

4 (D) It is the policy of the party states that the protection of the  
5 health and safety of their citizens and the most ecological and  
6 economical management of low-level radioactive wastes can be  
7 accomplished through cooperation of the states by minimizing the  
8 amount of handling and transportation required to dispose of these  
9 wastes and by providing facilities that serve the compact region.

10 (E) Each party state, if an agreement state pursuant to Section  
11 2021 of Title 42 of the United States Code, or the Nuclear  
12 Regulatory Commission if not an agreement state, is responsible  
13 for the primary regulation of radioactive materials within its  
14 jurisdiction.

15

16 Article 2. Definitions

17

18 As used in this compact, unless the context clearly indicates  
19 otherwise, the following definitions apply:

20 (A) “Commission” means the Southwestern Low-Level  
21 Radioactive Waste Commission established in Article 3 of this  
22 compact.

23 (B) “Compact region” or “region” means the combined  
24 geographical area within the boundaries of the party states.

25 (C) “Disposal” means the permanent isolation of low-level  
26 radioactive waste pursuant to requirements established by the  
27 Nuclear Regulatory Commission and the Environmental  
28 Protection Agency under applicable laws, or by a party state if that  
29 state hosts a disposal facility.

30 (D) “Generate,” when used in relation to low-level radioactive  
31 waste, means to produce low-level radioactive waste.

32 (E) “Generator” means a person whose activity, excluding the  
33 management of low-level radioactive waste, results in the  
34 production of low-level radioactive waste.

35 (F) “Host county” means a county, or other similar political  
36 subdivision of a party state, in which a regional disposal facility  
37 is located or being developed.

38 (G) “Host state” means a party state in which a regional  
39 disposal facility is located or being developed. The State of  
40 California is the host state under this compact for the first 30 years



1 from the date the California regional disposal facility commences  
2 operations.

3 (H) “Institutional control period” means that period of time in  
4 which the facility license is transferred to the disposal site owner  
5 in compliance with the appropriate regulations for long-term  
6 observation and maintenance following the postclosure period.

7 (I) “Low-level radioactive waste” means regulated  
8 radioactive material that meets all of the following requirements:

9 (1) The waste is not high-level radioactive waste, spent nuclear  
10 fuel, or byproduct material (as defined in Section 11e(2) of the  
11 Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2))).

12 (2) The waste is not uranium mining or mill tailings.

13 (3) The waste is not any waste for which the federal  
14 government is responsible pursuant to subdivision (b) of Section  
15 3 of the Low-Level Radioactive Waste Policy Amendments Act of  
16 1985 (42 U.S.C. Sec. 2021c(b)).

17 (4) The waste is not an alpha emitting transuranic nuclide with  
18 a half-life greater than five years and with a concentration greater  
19 than 100 nanocuries per gram, or Plutonium-241 with a  
20 concentration greater than 3,500 nanocuries per gram, or  
21 Curium-242 with a concentration greater than 20,000 nanocuries  
22 per gram.

23 (J) “Management” means collection, consolidation, storage,  
24 packaging, or treatment.

25 (K) “Major generator state” means a party state that generates  
26 10 percent of the total amount of low-level radioactive waste  
27 produced within the compact region and disposed of at the regional  
28 disposal facility.

29 If no party state other than California generates at least 10  
30 percent of the total amount, “major generator state” means the  
31 party state which is second to California in the amount of waste  
32 produced within the compact region and disposed of at the regional  
33 disposal facility.

34 (L) “Operator” means a person who operates a regional  
35 disposal facility.

36 (M) “Party state” means any state that has become a party in  
37 accordance with Article 7 of this compact.

38 (N) “Person” means an individual, corporation, partnership,  
39 or other legal entity, whether public or private.



1 (O) “Postclosure period” means that period of time after  
2 completion of closure of a disposal facility during which the  
3 licensee shall observe, monitor, and carry out necessary  
4 maintenance and repairs at the disposal facility to assure that the  
5 disposal facility will remain stable and will not need ongoing  
6 active maintenance. This period ends with the beginning of the  
7 institutional control period.

8 (P) “Regional disposal facility” means a nonfederal low-level  
9 radioactive waste disposal facility established and operated under  
10 this compact.

11 (Q) “Site closure and stabilization” means the activities of the  
12 disposal facility operator taken at the end of the disposal facility’s  
13 operating life to assure the continued protection of the public from  
14 any residual radioactivity or other potential hazards present at the  
15 disposal facility.

16 (R) “Transporter” means a person who transports low-level  
17 radioactive waste.

18 (S) “Uranium mine and mill tailings” means waste resulting  
19 from mining and processing of ores containing uranium.

20

21

### Article 3. The Commission

22

23 (A) There is hereby established the Southwestern Low-Level  
24 Radioactive Waste Commission.

25 (1) The commission shall consist of one voting member from  
26 each party state to be appointed by the Governor, confirmed by the  
27 Senate of that party state, and to serve at the pleasure of the  
28 Governor of each party state, and one voting member from the host  
29 county. The appointing authority of each party state shall notify the  
30 commission in writing of the identity of the member and of any  
31 alternates. An alternate may act in the member’s absence.

32 (2) The host state shall also appoint that number of additional  
33 voting members of the commission that is necessary for the host  
34 state’s members to compose at least 51 percent of the membership  
35 on the commission. The host state’s additional members shall be  
36 appointed by the host state Governor and confirmed by the host  
37 state Senate.

38 If there is more than one host state, only the state in which is  
39 located the regional disposal facility actively accepting low-level



1 radioactive waste pursuant to this compact may appoint these  
2 additional members.

3 (3) If the host county has not been selected at the time the  
4 commission is appointed, the Governor of the host state shall  
5 appoint an interim local government member, who shall be an  
6 elected representative of a local government. After a host county  
7 is selected, the interim local government member shall resign and  
8 the Governor shall appoint the host county member pursuant to  
9 paragraph (4).

10 (4) The Governor shall appoint the host county member from  
11 a list of at least seven candidates compiled by the board of  
12 supervisors of the host county.

13 (5) In recommending and appointing the host county member  
14 pursuant to paragraph (4), the board of supervisors and the  
15 Governor shall give first consideration to recommending and  
16 appointing the member of the board of supervisors in whose  
17 district the regional disposal facility is located or being developed.  
18 If the board of supervisors of the host county does not provide a  
19 list to the Governor of at least seven candidates from which to  
20 choose, the Governor shall appoint a resident of the host county as  
21 the host county member.

22 (6) The host county member is subject to confirmation by the  
23 Senate of that party state and shall serve at the pleasure of the  
24 Governor of the host state.

25 (B) The commission is a legal entity separate and distinct from  
26 the party states and shall be so liable for its actions. Members of  
27 the commission shall not be personally liable for actions taken in  
28 their official capacity. The liabilities of the commission shall not  
29 be deemed liabilities of the party states.

30 (C) The commission shall conduct its business affairs pursuant  
31 to the laws of the host state and disputes arising out of commission  
32 action shall be governed by the laws of the host state. The  
33 commission shall be located in the capital city of the host state in  
34 which the regional disposal facility is located.

35 (D) The commission's records shall be subject to the host  
36 state's public records law, and the meetings of the commission  
37 shall be open and public in accordance with the host state's open  
38 meeting law.

39 (E) The commission members are public officials of the  
40 appointing state and shall be subject to the conflict-of-interest



1 laws, as well as any other law, of the appointing state. The  
2 commission members shall be compensated according to the  
3 appointing state's law.

4 (F) Each commission member is entitled to one vote. A  
5 majority of the commission constitutes a quorum. Unless  
6 otherwise provided in this compact, a majority of the total number  
7 of votes on the commission is necessary for the commission to take  
8 any action.

9 (G) The commission has all of the following duties and  
10 authority:

11 (1) The commission shall do, pursuant to the authority granted  
12 by this compact, whatever is reasonably necessary to ensure that  
13 low-level radioactive wastes are safely disposed of and managed  
14 within the region.

15 (2) The commission shall meet at least once a year and  
16 otherwise as business requires.

17 (3) The commission shall establish a compact surcharge to be  
18 imposed upon party state generators. The surcharge shall be based  
19 upon the cubic feet of low-level radioactive waste and the  
20 radioactivity of the low-level radioactive waste and shall be  
21 collected by the operator of the disposal facility.

22 The host state shall set, and the commission shall impose, the  
23 surcharge after congressional approval of the compact. The  
24 amount of the surcharge shall be sufficient to establish and  
25 maintain at a reasonable level funds for all of the following  
26 purposes:

27 (a) The activities of the commission and commission staff.

28 (b) At the discretion of the host state, a third-party liability fund  
29 to provide compensation for injury to persons or property during  
30 the operational, closure, stabilization, and postclosure and  
31 institutional control periods of the regional disposal facility. This  
32 subparagraph does not limit the responsibility or liability of the  
33 operator, who shall comply with any federal or host state statutes  
34 or regulations regarding third-party liability claims.

35 (c) A local government reimbursement fund, for the purpose of  
36 reimbursing the local government entity or entities hosting the  
37 regional disposal facility for any costs or increased burdens on the  
38 local governmental entity for services, including, but not limited  
39 to, general fund expenses, the improvement and maintenance of  
40 roads and bridges, fire protection, law enforcement, monitoring by



1 local health officials, and emergency preparation and response  
2 related to the hosting of the regional disposal facility.

3 (4) The surcharges imposed by the commission for purposes of  
4 subparagraphs (b) and (c) of paragraph (3) and surcharges  
5 pursuant to paragraph (3) of subdivision (E) of Article 4 shall be  
6 transmitted on a monthly basis to the host state for distribution to  
7 the proper accounts.

8 (5) The commission shall establish a fiscal year that conforms  
9 to the fiscal years of the party states to the extent possible.

10 (6) The commission shall keep an accurate account of all  
11 receipts and disbursements. An annual audit of the books of the  
12 commission shall be conducted by an independent certified public  
13 accountant, and the audit report shall be made a part of the annual  
14 report of the commission.

15 (7) The commission shall prepare and include in the annual  
16 report a budget showing anticipated receipts and disbursements  
17 for the subsequent fiscal year.

18 (8) The commission may accept any grants, equipment,  
19 supplies, materials, or services, conditional or otherwise, from the  
20 federal or state government. The nature, amount and condition, if  
21 any, of any donation, grant, or other resources accepted pursuant  
22 to this paragraph and the identity of the donor or grantor shall be  
23 detailed in the annual report of the commission.

24 However, the host state shall receive, for the uses specified in  
25 subparagraph (E) of paragraph (2) of subsection (d) of Section  
26 2021e of Title 42 of the United States Code, any payments paid  
27 from the special escrow account for which the Secretary of Energy  
28 is trustee pursuant to subparagraph (A) of paragraph (2) of  
29 subsection (d) of Section 2021 (e) of Title 42 of the United States  
30 Code.

31 (9) The commission shall submit communications to the  
32 governors and to the presiding officers of the legislatures of the  
33 party states regarding the activities of the commission, including  
34 an annual report to be submitted on or before January 15 of each  
35 year. The commission shall include in the annual report a review  
36 of, and recommendations for, low-level radioactive waste disposal  
37 methods which are alternative technologies to the shallow land  
38 burial of low-level radioactive waste.

39 (10) The commission shall assemble and make available to the  
40 party states, and to the public, information concerning low-level



1 radioactive waste management needs, technologies, and  
2 problems.

3 (11) The commission shall keep a current inventory of all  
4 generators within the region, based upon information provided by  
5 the party states.

6 (12) The commission shall keep a current inventory of all  
7 regional disposal facilities, including information on the size,  
8 capacity, location, specific low-level radioactive wastes capable of  
9 being managed, and the projected useful life of each regional  
10 disposal facility.

11 (13) The commission may establish advisory committees for  
12 the purpose of advising the commission on the disposal and  
13 management of low-level radioactive waste.

14 (14) The commission may enter into contracts to carry out its  
15 duties and authority, subject to projected resources. No contract  
16 made by the commission shall bind a party state.

17 (15) The commission shall prepare contingency plans, with the  
18 cooperation and approval of the host state, for the disposal and  
19 management of low-level radioactive waste in the event that any  
20 regional disposal facility should be closed.

21 (16) The commission may sue and be sued and, when  
22 authorized by a majority vote of the members, may seek to  
23 intervene in an administrative or judicial proceeding related to this  
24 compact.

25 (17) The commission shall be managed by an appropriate staff,  
26 including an executive director. Notwithstanding any other  
27 provision of law, the commission may hire or retain, or both, legal  
28 counsel.

29 (18) The commission may, subject to applicable federal and  
30 state laws, recommend to the appropriate host state authority  
31 suitable land and rail transportation routes for low-level  
32 radioactive waste carriers.

33 (19) The commission may enter into an agreement to import  
34 low-level radioactive waste into the region only if both of the  
35 following requirements are met:

36 (a) The commission approves the importation agreement by a  
37 two-thirds vote of the commission.

38 (b) The commission and the host state assess the affected  
39 regional disposal facilities' capability to handle imported  
40 low-level radioactive wastes and any relevant environmental or





1 economic factors, as defined by the host state’s appropriate  
2 regulatory authorities.

3 (20) The commission may, upon petition, allow an individual  
4 generator, a group of generators, or the host state of the compact,  
5 to export low-level radioactive wastes to a low-level radioactive  
6 waste disposal facility located outside the region. The commission  
7 may approve the petition only by a two-thirds vote of the  
8 commission. The permission to export low-level radioactive  
9 wastes shall be effective for that period of time and for the amount  
10 of low-level radioactive waste, and subject to any other term or  
11 condition, which may be determined by the commission.

12 (21) The commission may approve, only by a two-thirds vote  
13 of the commission, the exportation outside the region of material,  
14 which otherwise meets the criteria of low-level radioactive waste,  
15 if the sole purpose of the exportation is to process the material for  
16 recycling.

17 (22) The commission shall, not later than 10 years before the  
18 closure of the initial or subsequent regional disposal facility,  
19 prepare a plan for the establishment of the next regional disposal  
20 facility.

21

22 Article 4. Rights, Responsibilities, and Obligations of Party  
23 States  
24

25 (A) There shall be regional disposal facilities sufficient to  
26 dispose of the low-level radioactive waste generated within the  
27 region.

28 (B) Low-level radioactive waste generated within the region  
29 shall be disposed of at regional disposal facilities and each party  
30 state shall have access to any regional disposal facility without  
31 discrimination.

32 (C) (1) Upon the effective date of this compact, the State of  
33 California shall serve as the host state and shall comply with the  
34 requirements of subdivision (E) for at least 30 years from the date  
35 the regional disposal facility begins to accept low-level  
36 radioactive waste for disposal. The extension of the obligation and  
37 duration shall be at the option of the State of California.

38 If the State of California does not extend this obligation, the  
39 party state, other than the State of California, which is the largest



1 major generator state shall then serve as the host state for the  
2 second regional disposal facility.

3 The obligation of a host state which hosts the second regional  
4 disposal facility shall also run for 30 years from the date the second  
5 regional disposal facility begins operations.

6 (2) The host state may close its regional disposal facility when  
7 necessary for public health or safety.

8 (D) The party states of this compact cannot be members of  
9 another regional low-level radioactive waste compact entered into  
10 pursuant to the Low-Level Radioactive Waste Policy Act, as  
11 amended by the Low-Level Radioactive Waste Policy  
12 Amendments Act of 1985 (42 U.S.C. Secs. 2021b to 2021j, incl.).

13 (E) A host state shall do all of the following:

14 (1) Cause a regional disposal facility to be developed on a  
15 timely basis.

16 (2) Ensure by law, consistent with any applicable federal laws,  
17 the protection and preservation of public health and safety in the  
18 siting, design, development, licensing, regulation, operation,  
19 closure, decommissioning, and long-term care of the regional  
20 disposal facilities within the state.

21 (3) Ensure that charges for disposal of low-level radioactive  
22 waste at the regional disposal facility are reasonably sufficient to  
23 do all of the following:

24 (a) Ensure the safe disposal of low-level radioactive waste and  
25 long-term care of the regional disposal facility.

26 (b) Pay for the cost of inspection, enforcement, and  
27 surveillance activities at the regional disposal facility.

28 (c) Assure that charges are assessed without discrimination as  
29 to the party state of origin.

30 (4) Submit an annual report to the commission on the status of  
31 the regional disposal facility including projections of the facility's  
32 anticipated future capacity.

33 (5) The host state and the operator shall notify the commission  
34 immediately upon the occurrence of any event which could cause  
35 a possible temporary or permanent closure of a regional disposal  
36 facility.

37 (F) Each party state is subject to the following duties and  
38 authority:

39 (1) To the extent authorized by federal law, each party state  
40 shall develop and enforce procedures requiring low-level



1 radioactive waste shipments originating within its borders and  
2 destined for a regional disposal facility to conform to packaging  
3 and transportation requirements and regulations. These  
4 procedures shall include, but are not limited to, all of the following  
5 requirements:

6 (a) Periodic inspections of packaging and shipping practices.

7 (b) Periodic inspections of low-level radioactive waste  
8 containers while in the custody of transporters.

9 (c) Appropriate enforcement actions with respect to violations.

10 (2) A party state may impose a surcharge on the low-level  
11 radioactive waste generators within the state to pay for activities  
12 required by paragraph (1).

13 (3) To the extent authorized by federal law, each party state  
14 shall, after receiving notification from a host state that a person in  
15 a party state has violated packaging, shipping, or transportation  
16 requirements or regulations, take appropriate actions to ensure that  
17 these violations do not continue. Appropriate actions may include,  
18 but are not limited to, requiring that a bond be posted by the  
19 violator to pay the cost of repackaging at the regional disposal  
20 facility and prohibit future shipments to the regional disposal  
21 facility.

22 (4) Each party state shall maintain a registry of all generators  
23 within the state that may have low-level radioactive waste to be  
24 disposed of at a regional disposal facility, including, but not  
25 limited to, the amount of low-level radioactive waste and the class  
26 of low-level radioactive waste generated by each generator.

27 (5) Each party state shall encourage generators within its  
28 borders to minimize the volume of low-level radioactive waste  
29 requiring disposal.

30 (6) Each party state may rely on the good faith performance of  
31 the other party states to perform those acts which are required by  
32 this compact to provide regional disposal facilities, including the  
33 use of the regional disposal facilities in a manner consistent with  
34 this compact.

35 (7) Each party state shall provide the commission with any data  
36 and information necessary for the implementation of the  
37 commission's responsibilities, including taking those actions  
38 necessary to obtain this data or information.

39 (8) Each party state shall agree that only low-level radioactive  
40 waste generated within the jurisdiction of the party states shall be



1 disposed of in the regional disposal facility, except as provided in  
2 paragraph (19) of subdivision (G) of Article 3.

3 (9) Each party state shall agree that if there is any injury to  
4 persons on property resulting from the operation of a regional  
5 disposal facility, the damages resulting from the injury may be  
6 paid from the third-party liability fund pursuant to subparagraph  
7 (b) of paragraph (3) of subdivision (G) of Article 3, only to the  
8 extent that the damages exceed the limits of liability insurance  
9 carried by the operator. No party state, by joining this compact,  
10 assumes any liability resulting from the siting, operation,  
11 maintenance, long-term care, or other activity relating to a  
12 regional facility, and no party state shall be liable for any harm or  
13 damage resulting from a regional facility not located within the  
14 state.

15  
16 Article 5. Approval of Regional Facilities

17  
18 A regional disposal facility shall be approved by the host state  
19 in accordance with its laws. This compact does not confer any  
20 authority on the commission regarding the siting, design,  
21 development, licensure, or other regulation, or the operation,  
22 closure, decommissioning, or long-term care of, any regional  
23 disposal facility within a party state.

24  
25 Article 6. Prohibited Acts and Penalties

26  
27 (A) No person shall dispose of low-level radioactive waste  
28 within the region unless the disposal is at a regional disposal  
29 facility, except as otherwise provided in paragraphs (20) and (21)  
30 of subdivision (G) of Article 3.

31 (B) No person shall dispose of or manage any low-level  
32 radioactive waste within the region unless the low-level  
33 radioactive waste was generated within the region, except as  
34 provided in paragraphs (19), (20), and (21) of subdivision (G) of  
35 Article 3.

36 (C) Violations of this section shall be reported to the  
37 appropriate law enforcement agency within the party state's  
38 jurisdiction.

39 (D) Violations of this section may result in prohibiting the  
40 violator from disposing of low-level radioactive waste in the



1 regional disposal facility, as determined by the commission or the  
2 host state.

3

4 Article 7. Eligibility, Entry into Effect, Congressional  
5 Consent, Withdrawal, Exclusion

6

7 (A) The States of Arizona, North Dakota, South Dakota, and  
8 California are eligible to become parties to this compact. Any  
9 other state may be made eligible by a majority vote of the  
10 commission and ratification by the legislatures of all of the party  
11 states by statute, and upon compliance with those terms and  
12 conditions for eligibility which the host state may establish. The  
13 host state may establish all terms and conditions for the entry of  
14 any state, other than the states named in this subparagraph, as a  
15 member of this compact.

16 (B) Upon compliance with the other provisions of this  
17 compact, an eligible state may become a party state by legislative  
18 enactment of this compact or by executive order of the governor  
19 of the state adopting this compact. A state becoming a party state  
20 by executive order shall cease to be a party state upon adjournment  
21 of the first general session of its legislature convened after the  
22 executive order is issued, unless before the adjournment the  
23 legislature enacts this compact.

24 (C) A party state, other than the host state, may withdraw from  
25 the compact by repealing the enactment of this compact, but this  
26 withdrawal shall not become effective until two years after the  
27 effective date of the repealing legislation. If a party state which is  
28 a major generator of low-level radioactive waste voluntarily  
29 withdraws from the compact pursuant to this subdivision, that state  
30 shall make arrangements for the disposal of the other party states'  
31 low-level radioactive waste for a time period equal the period of  
32 time it was a member of this compact.

33 If the host state withdraws from the compact, the withdrawal  
34 shall not become effective until five years after the effective date  
35 of the repealing legislation.

36 (D) A party state may be excluded from this compact by a  
37 two-thirds vote of the commission members, acting in a meeting,  
38 if the state to be excluded has failed to carry out any obligations  
39 required by compact.



1 (E) This compact shall take effect upon the enactment by  
2 statute by the legislatures of the State of California and at least one  
3 other eligible state and upon the consent of Congress and shall  
4 remain in effect until otherwise provided by federal law. This  
5 compact is subject to review by Congress and the withdrawal of  
6 the consent of Congress every five years after its effective date,  
7 pursuant to federal law.

8

9

#### Article 8. Construction and Severability

10

11 (A) The provisions of this compact shall be broadly construed  
12 to carry out the purposes of the compact, but the sovereign powers  
13 of a party state shall not be infringed unnecessarily.

14 (B) This compact does not affect any judicial proceeding  
15 pending on the effective date of this compact.

16 (C) If any provision of this compact or the application thereof  
17 to any person or circumstances is held invalid, that invalidity shall  
18 not affect other provisions or applications of the compact that can  
19 be given effect without the invalid provision or application, and to  
20 this end the provisions of this compact are severable.

21 (D) Nothing in this compact diminishes or otherwise impairs  
22 the jurisdiction, authority, or discretion of either of the following:

23 (1) The Nuclear Regulatory Commission pursuant to the  
24 Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et  
25 seq.).

26 (2) An agreement state under Section 274 of the Atomic  
27 Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

28 (E) Nothing in this compact confers any new authority on the  
29 states or commission to do any of the following:

30 (1) Regulate the packaging or transportation of low-level  
31 radioactive waste in a manner inconsistent with the regulations of  
32 the Nuclear Regulatory Commission or the United States  
33 Department of Transportation.

34 (2) Regulate health, safety, or environmental hazards from  
35 source, byproduct, or special nuclear material.

36 (3) Inspect the activities of licensees of the agreement states or  
37 of the Nuclear Regulatory Commission.

38 25276.2. Notwithstanding Section 25276.1, authority for  
39 on-highway routing and enforcement relating to low-level  
40 radioactive waste shall, pursuant to other provisions of law, remain



1 with the Department of the California Highway Patrol for  
2 low-level radioactive waste generated from, and shipments into,  
3 California.

4 25276.4. (a) The department may not issue a license to  
5 dispose of low-level radioactive waste pursuant to this chapter, or  
6 renew a license that has been issued by the department pursuant to  
7 this chapter, unless the department determines that the siting,  
8 design, operation, and closure of the facility will, at a minimum,  
9 comply with the performance requirements and objectives of the  
10 Nuclear Regulatory Commission specified in Part 61 of Title 10  
11 of the Code of Federal Regulations.

12 (b) The department may not issue a license to dispose of  
13 low-level radioactive waste pursuant to this chapter, or renew a  
14 license that has been issued by the department pursuant to this  
15 chapter, unless the disposal facility is sited, designed, constructed,  
16 and operated to do all of the following:

17 (1) Consist of multiple, engineered barriers to provide for the  
18 retention of the radioactive waste within the engineered barriers to  
19 last not less than 500 years, using best available technology.

20 (2) Provide visual inspection or remote monitoring to detect  
21 potential or actual releases of low-level radioactive waste from the  
22 engineered barriers.

23 (3) Provide methods to prevent potential releases or remediate  
24 actual releases of low-level radioactive waste from the engineered  
25 barriers when monitoring detects potential or actual releases.

26 (4) Be sited in a location and with soils and hydrology that, if  
27 the engineered barriers fail, the natural site characteristics would  
28 minimize migration of radioactive materials.

29 (c) A facility for the disposal of low-level radioactive waste  
30 may not use shallow land burial.

31 (d) (1) The department may issue a license to dispose of  
32 low-level radioactive waste pursuant to this chapter only if the  
33 department determines there is a preponderance of scientific  
34 evidence that there is not a hydrologic pathway whereby the  
35 Colorado River or any other agricultural or drinking water source  
36 could be contaminated with radioactive waste and harm public  
37 health or the environment.

38 (2) The proposed Ward Valley low-level radioactive disposal  
39 site in San Bernardino County may not serve as the state's





1 low-level radioactive disposal facility for purposes of Article 5 of  
2 the compact.

3 (3) The state may not accept ownership or any other property  
4 rights to the site of the Ward Valley low-level radioactive waste  
5 disposal facility.

6 (e) For the purposes of this section, the following terms have  
7 the following meanings:

8 (1) “Commission” means the United States Nuclear  
9 Regulatory Commission.

10 (2) “Compact” means the Southwestern Low-Level  
11 Radioactive Waste Disposal Compact described in Section  
12 25276.1.

13 (3) “Department” means the Department of Toxic Substances  
14 Control.

15 (4) “Low-level radioactive waste” has the same meaning as  
16 defined in Article 2 of the compact.

17 (5) “Low-level radioactive waste disposal facility,” or  
18 “facility” means all contiguous land and structures, other  
19 appurtenances, and improvements, on the land used for the  
20 disposal of low-level radioactive waste.

21 (6) “Shallow land burial” means the disposal of low-level  
22 radioactive waste in or within the upper 30 meters of the earth’s  
23 surface without the use of additional confinement by engineered  
24 barriers. Shallow land burial does not include the disposal of  
25 low-level radioactive waste if the disposal facility meets the  
26 requirements of subdivisions (b) and (c).

27 (f) The provisions of this section are severable. If any provision  
28 of this section or its application is held invalid, that invalidity shall  
29 not affect other provisions or applications that can be given effect  
30 without the invalid provision or application.

31 25276.6. Notwithstanding Section 25276.1, authority for rail  
32 transportation routing and enforcement relating to low-level  
33 radioactive waste shall remain with the Public Utilities  
34 Commission pursuant to the Public Utilities Act (Part 1  
35 (commencing with Section 201) of Division 1 of the Public  
36 Utilities Code) for low-level radioactive waste generated from,  
37 and shipped into, California.

38 25276.7. The department shall adopt regulations specifying  
39 the modes of transportation which are most protective of public



1 health and the environment that shall be used by generators to  
2 transport low-level radioactive waste within the state.

3  
4  
5

Article 7. Federal-State Agreements

6 25277. The Governor, on behalf of this state, may enter into  
7 agreements with the federal government providing for  
8 discontinuance of certain of the federal government's  
9 responsibilities with respect to sources of ionizing radiation and  
10 the assumption thereof by this state. The agreements shall become  
11 effective only when ratified by law.

12 25277.1. Any person who, on the effective date of an  
13 agreement under former Section 115120, as that section read on  
14 January 1, 2003, possesses a license issued by the federal  
15 government shall be deemed to possess the same pursuant to a  
16 license issued under this chapter. The license shall expire either 90  
17 days after receipt from the department of a notice of expiration of  
18 the license, or on the date of expiration specified in the federal  
19 license, whichever is the earlier.

20 25277.2. The Legislature of the State of California hereby  
21 ratifies and approves that certain agreement designated as the  
22 "Agreement between the United States Atomic Energy  
23 Commission and the State of California for Discontinuance of  
24 Certain Commission Regulatory Authority and Responsibility  
25 within the State Pursuant to Section 274 of the Atomic Energy Act  
26 of 1954, as Amended," that was approved by the Chairman of the  
27 Atomic Energy Commission on the ninth day of March 1962,  
28 under authority of Section 274 of the Atomic Energy Act of 1954,  
29 as amended (Public Law 86-373), and by the Governor of  
30 California on the 12th day of March 1962, under authority of and  
31 in conformity with former Section 115120 as that section read on  
32 January 1, 2003, and the provisions of this agreement became  
33 effective in accordance with Article IX of the agreement set forth  
34 in former Section 115235, as that section read on January 1, 2003.

35 25277.3. The provisions of the agreement are as follows:

36  
37  
38

Article 1

39 Subject to the exceptions provided in Articles II, III, and IV, the  
40 Commission shall discontinue, as of the effective date of this



1 Agreement, the regulatory authority of the Commission in the  
2 State under Chapters 6, 7, and 8, and Section 161 of the Act with  
3 respect to the following materials:

- 4 A. Byproduct materials;
- 5 B. Source materials; and
- 6 C. Special nuclear materials in quantities not sufficient to form  
7 a critical mass.

8

9

Article II

10

11 This Agreement does not provide for discontinuance of any  
12 authority and the Commission shall retain authority and  
13 responsibility with respect to regulation of:

14 A. The construction and operation of any production or  
15 utilization facility;

16 B. The export from or import into the United States of  
17 byproduct, source, or special nuclear material, or of any  
18 production or utilization facility;

19 C. The disposal into the ocean or sea of byproduct, source, or  
20 special nuclear waste materials as defined in regulations or orders  
21 of the Commission;

22 D. The disposal of other byproduct, source, or special nuclear  
23 material as the Commission from time to time determines by  
24 regulation or order should, because of the hazards or potential  
25 hazards thereof, not be so disposed of without a license from the  
26 Commission.

27

28

Article III

29

30 Notwithstanding this Agreement, the Commission may from  
31 time to time by rule, regulation, or order, require that the  
32 manufacturer, processor, or producer of any equipment, device,  
33 commodity, or other product containing source, byproduct, or  
34 special nuclear material shall not transfer possession or control of  
35 the product except pursuant to a license or an exemption from  
36 licensing issued by the Commission.

37



1 Article IV

2  
3 This Agreement shall not affect the authority of the Commission  
4 under Subsection 161 b. or i. of the Act to issue rules, regulations,  
5 or orders to protect the common defense and security, to protect  
6 restricted data or to guard against the loss or diversion of special  
7 nuclear material.

8  
9 Article V

10  
11 The State will use its best efforts to maintain continuing  
12 compatibility between its program and the program of the  
13 Commission for the regulation of like materials. To this end the  
14 State will use its best efforts to keep the Commission informed of  
15 proposed changes in its regulations, and licensing, inspection, and  
16 enforcement policies and criteria, and of proposed requirements  
17 for the design and distribution of products containing source,  
18 byproduct, or special nuclear material, and to obtain the comments  
19 and assistance of the Commission thereon.

20  
21 Article VI

22  
23 The Commission will use its best efforts to keep the State  
24 informed of proposed changes in its regulations, and licensing,  
25 inspection, and enforcement policies and criteria and to obtain the  
26 comments and assistance of the State thereon.

27  
28 Article VII

29  
30 The Commission and the State agree that it is desirable to  
31 provide for reciprocal recognition of licenses for the materials  
32 listed in Article I licensed by the other party or by any agreement  
33 State. Accordingly, the Commission and the State agree to use  
34 their best efforts to develop appropriate rules, regulations, and  
35 procedures by which such reciprocity will be accorded.

36  
37 Article VIII

38  
39 The Commission, upon its own initiative after reasonable notice  
40 and opportunity for hearing to the State, or upon request of the

1 Governor of the State, may terminate or suspend this Agreement  
2 and reassert the licensing and regulatory authority vested in it  
3 under the Act if the Commission finds that such termination or  
4 suspension is required to protect the public health and safety.

5

6

Article IX

7

8 This Agreement, upon ratification by law of the State, shall  
9 become effective on the ninety-first day after the adjournment of  
10 the First Extraordinary Session of the 1962 California Legislature  
11 or on September 1, 1962, whichever is later, and shall remain in  
12 effect unless, and until such time as it is terminated pursuant to  
13 Article VIII.

14

15

Article 8. Radionuclide Air Contaminants

16

17 25277.4. (a) For purposes of this article, the following terms  
18 have the following meaning:

19

20 (1) "Federal act" means the Clean Air Act (42 U.S.C. Sec.  
21 7401 et seq.) as amended by the Clean Air Act Amendments of  
22 1990 (P.L. 101-549), and as the Clean Air Act may be further  
23 amended.

24

25 (2) "Person" means, notwithstanding subdivision (i) of  
26 Section 25274, any individual, corporation, partnership, limited  
27 liability company, firm, association, trust, estate, public or private  
28 institution, group, agency, political subdivision of this state, and  
29 any other state or political subdivision or agency thereof, any legal  
30 successor, representative, agent, or agency of the foregoing,  
31 including, but not limited to, the United States Nuclear Regulatory  
32 Commission, the Department of Energy, or any successor thereto,  
33 and other federal agencies.

34

35 (b) Except as provided in subdivision (b) of Section 25277.7,  
36 the definitions set forth in Section 112 of the federal act (42 U.S.C.  
37 Sec. 7412) and Subpart A (commencing with Section 61.01) of  
38 Subchapter C of Chapter 1 of Title 40 of the Code of Federal  
39 Regulations shall apply to this article and to any regulations  
40 adopted pursuant to this article.

41

42 25277.5. The department may establish a program to enable  
43 the state to receive federal approval to implement and enforce  
44 emission standards for radionuclides pursuant to Section 112 of



1 the federal act (42 U.S.C. Sec. 7412). The department may  
2 regulate federal facilities pursuant to this article only in  
3 accordance with the Clean Air Act, as specified in Section 7418 of  
4 Title 42 of the United States Code.

5 25277.6. If the state receives federal approval to implement  
6 and enforce emission standards for radionuclides pursuant to  
7 Section 25277.5, the department shall be responsible for the  
8 control of emissions of radionuclides into the air. However,  
9 nothing in this article shall be construed in any way to give the  
10 department any authority to regulate, or be construed to apply to,  
11 air emissions from nuclear powerplants that are licensed and  
12 regulated by the United States Nuclear Regulatory Commission.

13 25277.8. (a) Except as provided in subdivision (b), the  
14 regulations found in Subpart H (commencing with Section 61.90)  
15 of, and in Subpart I (commencing with Section 61.100) of, Part 61  
16 of Subchapter C of Chapter I of Title 40 of the Code of Federal  
17 Regulations and Appendixes B, D, and E of Part 61 (commencing  
18 with Section 61.01) of Subchapter C of Chapter I of Title 40 of the  
19 Code of Federal Regulations and Appendix A of Part 60  
20 (commencing with Section 60.01) of Subchapter C of Chapter I of  
21 Title 40 of the Code of Federal Regulations shall be deemed to be  
22 the regulations of the department for purposes of the regulation of  
23 radionuclide air emissions. Except for Sections 61.93 and 61.103  
24 of Title 40 of the Code of Federal Regulations, any reference to the  
25 Environmental Protection Agency, or any division thereof, in  
26 those regulations shall be deemed to be a reference to the  
27 department. The department may amend those regulations in  
28 whole or in part pursuant to subdivision (b) or (c).

29 (b) (1) The department shall evaluate any proposed  
30 amendment to the federal regulations specified in subdivision (b)  
31 of Section 25277.4 and in subdivision (a) of this section that  
32 becomes effective on or after January 1, 1997.

33 (2) The department shall publish a notice in the California  
34 Regulatory Notice Register indicating that the amendment has  
35 been adopted by the Environmental Protection Agency as a final  
36 rule. The notice shall include the citation to the Federal Register  
37 or the Code of Federal Regulations related to the amendment. The  
38 notice shall also include the department's determination regarding  
39 whether the amendment is more stringent, equivalent to, or less  
40 stringent than, current state law or regulation.



1 (3) If the department determines that the amended federal  
 2 regulation would be equivalent to, or more stringent than, state law  
 3 or regulation, the amended federal regulation shall be deemed to  
 4 be a regulation of the department on the date that is 90 days from  
 5 the effective date of the amendment of the federal regulation or the  
 6 publication of the notice required by paragraph (2), whichever  
 7 date is later.

8 (c) In addition to the adoption of federal regulations as  
 9 department regulations pursuant to this article, the department  
 10 may adopt any other regulation that it determines to be necessary  
 11 to establish, implement, and enforce a program for the regulation  
 12 of radionuclide air emissions, consistent with the federal act.

13 (d) The department may charge each owner or operator of a  
 14 facility emitting radionuclides into the air, which is subject to  
 15 Section 61.90 or 61.100 of Title 40 of the Code of Federal  
 16 Regulations, an annual fee to pay the costs of implementing this  
 17 article. The department shall deposit the fees in the Radioactive  
 18 Materials Control Fund, for expenditure, upon appropriation by  
 19 the Legislature, for the implementation of this article.

20  
 21 Article 9. Recordkeeping and Enforcement

22  
 23 25278. (a) The department shall require each person who  
 24 acquires, possesses or uses a source of ionizing radiation to  
 25 maintain records relating to its receipt, storage, transfer or  
 26 disposal, and other records as the department may require, subject  
 27 to those exemptions that may be provided by regulation.

28 (b) The department shall require each person who possesses or  
 29 uses a source of ionizing radiation to maintain appropriate records  
 30 showing the radiation exposure of all individuals for whom  
 31 personnel monitoring is required by regulations of the department.  
 32 Copies of these records and those required to be kept in accordance  
 33 with subdivision (a) shall be submitted to the department upon  
 34 request.

35 (c) The department shall adopt reasonable regulations,  
 36 compatible with those of the United States Atomic Energy  
 37 Commission, pertaining to reports of exposure of personnel. The  
 38 regulations shall require that reports of excessive exposure be  
 39 made to the individual exposed and to the department, and shall





1 provide for periodic and terminal reports to individuals for whom  
2 personnel monitoring is required.

3 (d) Section 6411 of the Labor Code does not exempt any person  
4 from making any report required by this section.

5 25278.1. (a) *The person responsible for registering*  
6 *mammographic X-ray equipment shall be responsible for assuring*  
7 *that the mammographic X-ray equipment under his or her*  
8 *jurisdiction has been inspected and that mammography quality*  
9 *assurance tests are performed by a medical physicist, health*  
10 *physicist, or other individual with qualifications similar to those*  
11 *approved by the State Department of Health Services and*  
12 *prescribed in the May 1990 version of the “Rules of Good Practice*  
13 *for Supervision and Operation of Mammographic X-Ray*  
14 *Equipment,” as approved by the Radiologic Technology*  
15 *Certification Committee.*

16 (b) *If the department adopts regulations on or after January 1,*  
17 *1993, that provide similar or stronger protection of a patient’s*  
18 *health and safety than the “Rules of Good Practice for Supervision*  
19 *and Operation of Mammographic X-Ray Equipment,” as*  
20 *determined by the department, then those rules shall no longer*  
21 *apply to this section.*

22 25781.1.5. Whenever, in the judgment of the department, any  
23 person has engaged in or is about to engage in any act or practice  
24 that constitutes or will constitute a violation of this chapter or any  
25 regulation or order issued pursuant to this chapter, and at the  
26 request of the department, the Attorney General may apply to the  
27 superior court for an order enjoining the act or practice, or for an  
28 order directing compliance. Upon a showing by the department  
29 that the person has engaged in or is about to engage in the act or  
30 practice, the court may grant a permanent or temporary injunction,  
31 restraining order, or other order.

32 25278.2. (a) A person may not use, manufacture, produce,  
33 knowingly transport, transfer, receive, acquire, own, or possess,  
34 any low-level radioactive waste unless the person is licensed by  
35 with the department in accordance with this chapter and  
36 regulations adopted pursuant to this chapter.

37 (b) A person may not manufacture, produce, transfer, acquire,  
38 use, or possess any low-level radioactive waste or construct a  
39 facility for those purposes, for which a permit or license is required  
40 under the provisions of the Atomic Energy Act of 1954 (Public



1 Law 85-256) and that is subject to this chapter, unless the person  
2 first obtains a license pursuant to this chapter.

3 (c) A violation of subdivision (b) is a misdemeanor.

4 25278.3. In the event of an emergency, the department may  
5 impound or order the impounding of a source of ionizing radiation  
6 in the possession of any person who is not equipped to observe or  
7 fails to observe this chapter or any regulation issued pursuant to  
8 this chapter.

9 25278.4. (a) The city attorney of the city or the district  
10 attorney of the county in which any violation of this chapter  
11 occurs, occurred, or will occur or the Attorney General, at the  
12 request of the department, may institute, on behalf of the people  
13 of the State of California any civil action necessary to carry out this  
14 chapter including, but not restricted to, the enforcement of liens,  
15 the obtaining of injunctions, or the imposition of civil penalties.

16 (b) (1) If a civil penalty is awarded pursuant to subdivision (a)  
17 and the action is brought by a city attorney or district attorney, the  
18 penalty shall be paid directly to the city or county. If no penalty is  
19 awarded or paid, or both, the state shall have no obligation to make  
20 any payment to the city or county.

21 (2) If a civil penalty is awarded pursuant to subdivision (a) and  
22 the action is brought by the Attorney General, the penalty shall be  
23 deposited in the General Fund.

24 25278.5. (a) Any person who violates this chapter or any  
25 regulation adopted or order issued pursuant to this chapter is guilty  
26 of a misdemeanor and shall, upon conviction, be punished by a fine  
27 not to exceed ~~two thousand dollars (\$2,000)~~ *one thousand dollars*  
28 *(\$1,000)*, or by imprisonment in the county jail for a period not to  
29 exceed one year, or by both that fine and imprisonment.

30 (b) A person is guilty of a public offense if the person  
31 knowingly disposes or causes the disposal of any radioactive  
32 material regulated by this chapter in violation of this chapter or a  
33 regulation adopted or order issued pursuant to this chapter at any  
34 of the following, or if the person reasonably should have known  
35 that the person was disposing or causing the disposal of the  
36 material in violation of this chapter or a regulation adopted or  
37 order issued pursuant to this chapter, at any of the following:

38 (1) A facility within the state that does not have a license for  
39 disposal issued by the department pursuant to this chapter.



1 (2) At any point in the state that is not authorized according to  
2 this chapter.

3 (3) At any point not authorized by any other local, state, or  
4 federal agency having authority over radioactive materials.

5 (c) A person convicted of a violation of a public offense  
6 specified in subdivision (b) may be punished as follows:

7 (1) If the disposal is found to have caused a substantial danger  
8 to the public health or safety, the person may be punished by  
9 imprisonment in the county jail for not more than one year, or by  
10 imprisonment in the state prison for 32, 48, or 72 months, except  
11 as otherwise provided in paragraph (2). The court may also  
12 impose, upon a person convicted of violating subdivision (b), a  
13 fine of not more than ~~two hundred thousand dollars (\$200,000)~~ *one*  
14 *hundred thousand dollars (\$100,000)* for each day of violation,  
15 except as otherwise provided in paragraph (2).

16 (2) If the act that violated subdivision (b) caused great bodily  
17 injury or caused a substantial probability that death could result,  
18 the person convicted may be punished by imprisonment in the state  
19 prison for 6, 10, or 14 years and may be fined not more than ~~five~~  
20 ~~hundred thousand dollars (\$500,000)~~ *two hundred fifty thousand*  
21 *dollars (\$250,000)* for each day of violation.

22 (d) A person is guilty of a public offense if the person  
23 knowingly transports or causes the transportation of any  
24 radioactive material regulated by this chapter in violation of this  
25 chapter or a regulation adopted or order issued pursuant to this  
26 chapter to any of the following, or if the person reasonably should  
27 have known that the person was causing the transportation of the  
28 material in violation of this chapter or a regulation adopted or  
29 order issued pursuant to this chapter, to any of the following:

30 (1) A facility in the state that does not have a license from the  
31 department issued pursuant to this chapter.

32 (2) Any point in the state not authorized by this chapter.

33 (3) Any point in the state that is not authorized by any other  
34 local, state, or federal agency having authority over radioactive  
35 materials.

36 (e) A person convicted of a violation of a public offense  
37 specified in subdivision (d) may be punished as follows:

38 (1) If the transportation is found to have caused a substantial  
39 danger to the public health or safety, the person may be punished  
40 by imprisonment in the county jail for not more than one year, or



1 by imprisonment in the state prison for 32, 48, or 72 months,  
2 except as otherwise provided in paragraph (2). The court may also  
3 impose, upon a person convicted of violating subdivision (d), a  
4 fine of not more than ~~two hundred thousand dollars (\$200,000)~~ *one*  
5 *hundred thousand dollars (\$100,000)* for each day of violation,  
6 except as provided by paragraph (2).

7 (2) If the transportation that violated subdivision (d) caused  
8 great bodily injury or caused a substantial probability that death  
9 could result, the person convicted may be punished by  
10 imprisonment in the state prison for 6, 10, or 14 years and may be  
11 fined not more than ~~five hundred thousand dollars (\$500,000)~~ *two*  
12 *hundred fifty thousand dollars (\$250,000)* for each day of  
13 violation.

14 (f) Notwithstanding any other provision of this chapter,  
15 radioactive materials resulting from medical treatment that are  
16 disposed or transported in a manner authorized pursuant to this  
17 chapter, are exempt from subdivisions (b) to (e), inclusive.

18 ~~(g) A person convicted of the theft, as defined in Section 484~~  
19 ~~of the Penal Code, of any amount of a radioactive material may be~~  
20 ~~punished by imprisonment in the state prison for three, five, or~~  
21 ~~seven years and may be fined not more than two hundred fifty~~  
22 ~~thousand dollars (\$250,000) for each day of violation, or by both~~  
23 ~~that fine and imprisonment.~~

24 (g) *Notwithstanding subdivision (a), any person who violates*  
25 *any provision of this chapter relating to mammography or the*  
26 *regulations adopted pursuant to this chapter relating to*  
27 *mammography is guilty of a misdemeanor and shall, upon*  
28 *conviction thereof, be punished by a fine not to exceed five*  
29 *thousand dollars (\$5,000), per day of offense, or by imprisonment*  
30 *in the county jail not to exceed 180 days, or by both that fine and*  
31 *imprisonment.*

32 25278.6. (a) In any proceeding under this chapter for  
33 granting or amending any license, or for determining compliance  
34 with, or granting exceptions from, regulations adopted in  
35 accordance with this chapter, the department shall afford an  
36 opportunity for a hearing on the record upon the request of any  
37 person whose interest may be affected by the proceeding, and shall  
38 admit that person as a party to the proceeding.



1 (b) Proceedings for the suspension or revocation of licenses  
2 under this chapter shall be conducted in the same manner as a  
3 hearing conducted pursuant to Section 100171.

4 25278.7. Whenever the department finds that an emergency  
5 exists requiring immediate action to protect the public health and  
6 safety, the department may, without notice or hearing, issue a  
7 regulation or order reciting the existence of the emergency and  
8 requiring that action be taken as is deemed necessary to meet the  
9 emergency. Notwithstanding any provision of this chapter, the  
10 regulation or order shall be effective immediately. Any person to  
11 whom the regulation or order is directed shall comply therewith  
12 immediately, but on application to the department shall be  
13 afforded a hearing within 15 days. On the basis of the hearing, the  
14 emergency regulation or order shall be continued, modified, or  
15 revoked within 30 days after the hearing.

16 25278.8. Any final order entered in any proceeding under  
17 Sections 25278.6 and 25278.7 shall be subject to judicial review  
18 in the manner prescribed in Chapter 5 (commencing with Section  
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

20 ~~25278.81. (a) A person is liable to the department for a civil  
21 penalty of not more than five thousand dollars (\$5,000) per  
22 offense, for each day the person intentionally or through gross  
23 negligence violates this chapter, or a rule or regulation adopted  
24 pursuant to this chapter, or who fails or refuses to comply with a  
25 cease and desist order or other order of the department issued  
26 under this chapter, and that action causes a substantial danger to the  
27 health of others.~~

28 ~~(b) The remedies under this section are in addition to, and do  
29 not supersede or limit, any and all other remedies, civil or criminal.~~

30 ~~(c) The department may issue an order to impose an  
31 administrative penalty not to exceed five thousand dollars  
32 (\$5,000) per day, per offense upon any person who intentionally  
33 or through gross negligence violates this chapter, or a regulation  
34 adopted pursuant to this chapter or who fails or refuses to comply  
35 with a cease and desist order or other order of the department  
36 issued pursuant to this chapter.~~

37 ~~(1) In establishing a penalty amount pursuant to this  
38 subdivision, the department shall take into consideration the  
39 nature, circumstances, extent, and gravity of the violation, the  
40 violator's past and present efforts to prevent, abate, or clean up~~



1 conditions posing a threat to the public health or safety or the  
2 environment, the violator's ability to pay the penalty, and the  
3 deterrent effect that the imposition of the penalty would have on  
4 both the violator and the regulated community.

5 (2) ~~An order issued pursuant to this subdivision shall be served  
6 by personal service or certified mail and shall inform the person  
7 served of the right to a hearing.~~

8 (3) ~~A person served with an order pursuant to this section who  
9 has been unable to resolve all violations with the department may,  
10 within 15 days after service of the order, request a hearing pursuant  
11 to paragraph (4) by filing with the department a notice of defense.  
12 A notice of defense shall be deemed filed within the 15-day period  
13 provided by this paragraph if it is postmarked within that 15-day  
14 period. If no notice of defense is filed within the time limits  
15 provided by this paragraph the order shall become final.~~

16 (4) ~~Within 90 days of receipt of the notice of defense by the  
17 department, the department shall schedule a hearing using an  
18 administrative law judge of the Office of Administrative Hearings  
19 of the Department of General Services, who shall conduct the  
20 hearing in accordance with Chapter 4.5 (commencing with  
21 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
22 Code.~~

23 (5) ~~The hearing decision issued pursuant to paragraph (4) shall  
24 be effective and final upon issuance. A copy of the decision shall  
25 be served by personal service or by certified mail upon the party  
26 served with the order, or their representative, if any.~~

27 (6) ~~A decision issued pursuant to paragraph (4) may be  
28 reviewed by a court pursuant to Section 11523 of the Government  
29 Code. In all proceedings pursuant to this subdivision, the court  
30 shall uphold the decision of the department if the decision is based  
31 upon substantial evidence in the record as a whole. The filing of  
32 a petition for writ of mandate may not stay an action required  
33 pursuant to this chapter or the accrual of any penalties assessed  
34 pursuant to this chapter. This subdivision does not prohibit the  
35 court from granting any appropriate relief within its jurisdiction.~~

36

### 37 Article 10. Transfer of Authority

38

39 25278.9. The Department of Toxic Substances Control  
40 succeeds to, and is vested with, all the duties, powers, purposes,





1 responsibilities, and jurisdiction of the State Department of Health  
2 ~~Services specified in Article 1 (commencing with Section 114705)~~  
3 ~~of, and Article 3 (commencing with Section 114815) of, Chapter~~  
4 ~~5 of Part 9 of Division 104, as those provisions read on January 1,~~  
5 ~~2003, and all the duties, powers, purposes, responsibilities, and~~  
6 ~~jurisdiction of the State Department of Health Services specified~~  
7 ~~in Chapter 8 (commencing with Section 114965) of Part 9 of Title~~  
8 ~~104, as those provisions read on January 1, 2003, with respect to~~  
9 ~~the any radioactive material or source of ionizing radiation not~~  
10 ~~subject to Chapter 8 (commencing with Section 114965) of Part 9~~  
11 ~~of Title 104, as added by the act adding this chapter. *Services*~~  
12 ~~*specified in Article 3 (commencing with Section 114662) of*~~  
13 ~~*Chapter 4 of, Chapter 5 (commencing with Section 114705) of, and*~~  
14 ~~*Chapter 8 (commencing with Section 114960) of, Part 9 of*~~  
15 ~~*Division 104.*~~

16 25278.10. The department may expend the unexpended  
17 balance of funds available for use in connection with the  
18 performance of the functions of the State Department of Health  
19 Services transferred to the department pursuant to Section  
20 25278.9.

21 25278.11. All officers and employees of the State Department  
22 of Health Services who, on January 1, 2004, are performing any  
23 duty, power, purpose, responsibility, or jurisdiction transferred to  
24 the department pursuant to Section 25278.9 and who are serving  
25 in the state civil service, other than as temporary employees, shall  
26 be transferred to the department. The status, positions, and rights  
27 of those persons shall not be affected by the transfer and shall be  
28 retained by those persons as officers and employees of the  
29 department, pursuant to the State Civil Service Act (Part 2  
30 (commencing with Section 18500) of Division 5 of Title 2 of the  
31 Government Code), except as to positions exempted from civil  
32 service.

33 25278.12. The department shall have possession and control  
34 of all records, papers, offices, equipment, supplies, moneys, funds,  
35 appropriations, licenses, permits, agreements, contracts, claims,  
36 judgments, land, and other property, real or personal, connected  
37 with the administration of, or held for the benefit or use of, the  
38 State Department of Health Services for the performance of the  
39 functions transferred to the department by Section 25278.9.





1 25278.13. All officers or employees of the department  
2 employed on and after January 1, 2004, shall be appointed by the  
3 director.

4 ~~SEC. 2.—~~

5 SEC. 3. Chapter 6.69 (commencing with Section 25279) is  
6 added to Division 20 of the Health and Safety Code, to read:

7

8 CHAPTER 6.69. REMEDIATION OF NUCLEAR WASTE

9

10 Article 1. Definitions

11

12 25279. For purposes of this article the following definitions  
13 shall apply:

14 (a) “CERCLA” means the Comprehensive Environmental  
15 Response, Compensation, and Liability Act of 1980, as amended  
16 (42 U.S.C. Sec. 9601 et seq.).

17 (b) “EPA” means the federal Environmental Protection  
18 Agency.

19 (c) “Person” means an individual, trust, firm, joint stock  
20 company, business concern, partnership, limited liability  
21 company, association, or corporation, including, but not limited  
22 to, a government corporation. “Person” also includes any city,  
23 county, district, commission, the state or any department, agency,  
24 or political subdivision thereof, any interstate body, and the federal  
25 government or any department or agency thereof, to the extent  
26 permitted by law.

27 (d) “Radioactively contaminated property” means real  
28 property under common ownership or control that is a location  
29 where activities were undertaken that were subject to a license  
30 issued pursuant to former Chapter 8 (commencing with Section  
31 114960) of Part 9 of Division 104, as that chapter read on January  
32 1, 2003, or by the Nuclear Regulatory Commission pursuant to the  
33 Atomic Energy Act (42 U.S.C. Sec. 2014 et seq.), or the activities  
34 were by, or for, an unlicensed federal entity, and the property is  
35 contaminated with radioactive waste or radioactive material from  
36 those activities.

37 25279.1. *The Legislature finds and declares that, for purposes*  
38 *of cleanup of military bases, the radiation cleanup guidance of the*  
39 *United States Department of Defense under the Base Realignment*  
40 *and Closure Program is effectively consistent with the EPA*



1 *CERCLA standards, guidance, procedures, and practices, and*  
2 *therefore a closed military base is not subject to this chapter*  
3 *pursuant to subdivision (b) of Section 25279.2.*

4

5 Article 2. Remediation and Decontamination Standards

6

7 25279.2. (a) A person may not sell, transfer, or lease  
8 radioactively contaminated property ~~for any subsequent land use~~  
9 until the department certifies that the radioactive contamination  
10 has been remediated. The department may not certify that the  
11 radioactive contamination is remediated unless the remediation is  
12 conducted pursuant to the standards, guidance, procedures, and  
13 practices established by the EPA for sites with radioactive  
14 contamination being remediated pursuant to CERCLA. The  
15 department shall require that buildings with radioactive  
16 contamination to be remediated employing the EPA's CERCLA  
17 risk range and point of departure, the EPA criteria for determining  
18 whether and how far to permit falling back from the risk point of  
19 departure, and other applicable EPA standards, guidance,  
20 procedures, and practices, *in effect on January 1, 2003, unless the*  
21 *EPA determines that the standards, guidance, procedures, and*  
22 *practices in effect on that date are not fully protective of human*  
23 *health and the environment. In that case, the department may*  
24 *adopt any subsequently adopted standards, guidance, procedures,*  
25 *and practices that are incorporated by the EPA CERCLA program*  
26 *that are more protective of human health and the environment*  
27 *pursuant to this chapter.*

28 (b) This chapter does not apply to ~~former military bases~~ *any*  
29 *portion of the real property, improved or otherwise, at a closed*  
30 *military base, closed military facility, or closed military*  
31 *installation that is transferred, sold, or leased by the United States*  
32 *or by any subsequent owner or lessee.*

33 (c) Notwithstanding subdivision (a), a person may, prior to  
34 completion of remediation of the radioactively contaminated  
35 property, lease uncontaminated portions of the property for  
36 industrial uses, or uses consistent with land zoned for open space,  
37 including, but not limited to, grazing livestock and similar uses.

38 ~~SEC. 3.—~~

39 *SEC. 4. Section 107100 of the Health and Safety Code is*  
40 *amended to read:*



1 107100. (a) ~~All fees payable under the Radiologic~~  
2 ~~Technology Act (Section 27) shall be collected by and paid to the~~  
3 ~~department for deposit into the Radiation Control Fund~~  
4 ~~established pursuant to Section 114980~~ *The Nuclear Medicine and*  
5 *Radiological Materials Control Fund, is hereby created as a*  
6 *special fund in the State Treasury. All fees, penalties, interest*  
7 *earned, and fines collected under the Radiologic Technology Act,*  
8 *as defined in subdivision (f) of Section 27 or under Article 6*  
9 *(commencing with Section 107150) that is in the Radiation*  
10 *Control Fund as of January 1, 2004, is hereby transferred to the*  
11 *Nuclear Medicine and Radiological Materials Control Fund.*

12 (b) ~~This section shall become operative on July 1, 1993. All~~  
13 ~~moneys, including fees, penalties, interest earned, and fines~~  
14 ~~collected under the Radiologic Technology Act, as defined in~~  
15 ~~subdivision (f) of Section 27, under Section 107160, and under the~~  
16 ~~regulations adopted pursuant to those sections, shall be deposited~~  
17 ~~in the Nuclear Medicine and Radiological Materials Control~~  
18 ~~Fund. The moneys in the fund may be expended by the department,~~  
19 ~~upon appropriation by the Legislature, to cover the costs related~~  
20 ~~to the enforcement of the Radiologic Technology Act, as defined in~~  
21 ~~subdivision (f) of Section 27, and Article 6 (commencing with~~  
22 ~~Section 107150). In addition to any moneys collected by, or on~~  
23 ~~behalf of, the department, for deposit in the Nuclear Medicine and~~  
24 ~~Radiological Materials Control Fund, all interest earned by the~~  
25 ~~Nuclear Medicine and Radiological Materials Control Fund shall~~  
26 ~~be deposited in the Nuclear Medicine and Radiological Materials~~  
27 ~~Control Fund.~~

28 SEC. 5. Section 114650 of the Health and Safety Code is  
29 amended to read:

30 114650. (a) As used in this chapter, the following definitions  
31 shall apply:

32 (1) "Department" means the ~~State Department of Health~~  
33 ~~Services~~ *Department of Toxic Substances Control.*

34 (2) "Disburse or disbursement" means a payment in advance  
35 from the Nuclear Planning Assessment Special Account, as  
36 specified in paragraph (5) of subdivision (b) of Section 8610.5 of  
37 the Government Code.

38 (3) "Emergency planning zone" means a zone identified in  
39 state and local government emergency plans where immediate



1 decisions for effective public protective action from radiation may  
2 be necessary.

3 (4) “Exercise” means an event that tests emergency plans and  
4 organizations and that the Federal Emergency Management  
5 Agency evaluates pursuant to Part 350 (commencing with Section  
6 350.1) of Subchapter E of Chapter I of Title 44 of the Code of  
7 Federal Regulations.

8 (5) “Ingestion pathway phase” means the period beginning  
9 after any release of radioactive material from a nuclear powerplant  
10 accident when the plume emergency phase has ceased, and reliable  
11 environmental measurements are available for making decisions  
12 on additional protective actions to protect the food chain. The main  
13 concern is to prevent exposure from ingestion of contaminated  
14 water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

15 (6) “Ingestion pathway zone” means the 50-mile radius  
16 around each of the state’s nuclear powerplants in which protective  
17 actions may be required to protect the food chain in the event of  
18 an emergency.

19 (7) “Interjurisdictional Planning Committee” means the  
20 planning committee, comprised of representatives of the Counties  
21 of Orange and San Diego, the Cities of Dana Point, San Clemente,  
22 and San Juan Capistrano, the Camp Pendleton Marine Corps Base,  
23 the State Department of Parks and Recreation, and the Southern  
24 California Edison Company, established as a mechanism for  
25 coordinating integrated preparedness and response in the event of  
26 an emergency at the San Onofre Nuclear Generating Station.

27 (8) “Local government” means a city or county that provides  
28 emergency response for a nuclear powerplant emergency.

29 (9) “Local jurisdiction” means an entity that provides  
30 emergency response for a nuclear powerplant emergency in  
31 accordance with the plans of a local government.

32 (10) “Office” means the Office of Emergency Services.

33 (11) “Plume emergency phase” means the period beginning at  
34 the onset of an emergency at a nuclear powerplant when immediate  
35 decisions for public protective actions are needed.

36 (12) “Recovery phase” means the period when actions  
37 designed to reduce radiation levels in the environment to  
38 acceptable levels for unrestricted use are commenced, and ending  
39 when all recovery actions have been completed.



1 (13) "Site" means the location of a nuclear powerplant and its  
2 surrounding emergency planning zone.

3 SEC. 6. The heading of Article 3 (commencing with Section  
4 114662) of Chapter 4 of Part 9 of Division 104 of the Health and  
5 Safety Code is amended to read:

6  
7 Article 3. Responsibilities of the ~~State Department of Health~~  
8 ~~Services Department of Toxic Substances Control~~

9  
10 SEC. 7. Chapter 5 (commencing with Section 114705) of Part  
11 9 of Division 104 of the Health and Safety Code is repealed.

12 ~~SEC. 4. Chapter 5 (commencing with Section 114705) is~~  
13 ~~added to Part 9 of Division 104 of the Health and Safety Code, to~~  
14 ~~read:~~

15  
16 ~~CHAPTER 5. RADIATION MONITORING DEVICES FOR NUCLEAR~~  
17 ~~POWERPLANTS~~

18  
19 ~~114705. As used in this chapter the following terms have the~~  
20 ~~meanings described in this section:~~

21 ~~(a) "Department" means the State Department of Health~~  
22 ~~Services.~~

23 ~~(b) "Environment" means all places outside the control of the~~  
24 ~~person responsible for the radioactive materials.~~

25 ~~(c) "Person" includes any association of persons,~~  
26 ~~copartnership or corporation.~~

27 ~~(d) "Radiation," or "ionizing radiation," means gamma rays~~  
28 ~~and X rays; alpha and beta particles, high speed electrons,~~  
29 ~~neutrons, protons, and other nuclear particles; but not sound or~~  
30 ~~radio waves, or visible, infrared, or ultraviolet light.~~

31 ~~(e) "Radioactive material" means any material or combination~~  
32 ~~of materials that spontaneously emits ionizing radiation.~~

33 ~~(f) "Radiological monitoring" means the measurement of the~~  
34 ~~amounts and kinds of radioactive materials in the environment.~~

35 ~~114785. Each privately owned and publicly owned public~~  
36 ~~utility operating a nuclear powerplant with a generating capacity~~  
37 ~~of 50 megawatts or more shall establish a system of offsite~~  
38 ~~radiation monitoring devices as specified by the Nuclear~~  
39 ~~Regulatory Commission pursuant to Regulatory Guide 1.97 or~~  
40 ~~related standards. The utility shall consult with the department and~~



1 ~~the appropriate county emergency services agency regarding the~~  
2 ~~type, number, and locations of the radiation monitoring devices.~~  
3 ~~The consultation with the department and the appropriate county~~  
4 ~~emergency services agency shall be completed prior to submitting~~  
5 ~~a plan to the Nuclear Regulatory Commission regarding the~~  
6 ~~radiation monitoring devices.~~

7 ~~114790. The information transmitted to the radiation~~  
8 ~~monitoring displays in the technical support center or emergency~~  
9 ~~operating facility of a nuclear powerplant shall be simultaneously~~  
10 ~~transmitted to the Office of Emergency Services State Warning~~  
11 ~~Center.~~

12 ~~114795. The Public Utilities Commission shall allow the~~  
13 ~~funds expended by privately owned utilities in compliance with~~  
14 ~~this article to be included for ratemaking purposes. A publicly~~  
15 ~~owned utility shall include the funds expended complying with~~  
16 ~~this chapter in its rates.~~

17 ~~114800. A plant operator may not be required to spend more~~  
18 ~~than one million dollars (\$1,000,000) in capital outlay for a~~  
19 ~~nuclear powerplant site in complying with this chapter.~~

20 ~~114805. This chapter does not require powerplant~~  
21 ~~modifications or the conduct of operations that may be in conflict~~  
22 ~~with conditions of the license to operate issued by the Nuclear~~  
23 ~~Regulatory Commission or with other activities authorized by the~~  
24 ~~Nuclear Regulatory Commission, or that may be in conflict with~~  
25 ~~the regulations of the Environmental Protection Agency.~~

26 ~~114810. Failure to comply with this article shall not constitute~~  
27 ~~the basis for an action in a court of law or in an administrative~~  
28 ~~proceeding to enjoin or prevent the operation or startup of a~~  
29 ~~nuclear facility.~~

30 ~~SEC. 5.—~~

31 ~~SEC. 8. Chapter 8 (commencing with Section 114960) of Part~~  
32 ~~9 of Division 104 of the Health and Safety Code is repealed.~~

33 ~~SEC. 6. Chapter 8 (commencing with Section 114960) is~~  
34 ~~added to Part 9 of Division 104 of the Health and Safety Code, to~~  
35 ~~read:~~

36



1 CHAPTER 8. NUCLEAR MEDICINE AND RADIOLOGICAL  
2 MATERIALS LICENSING ACT

3  
4 114960. — This chapter shall be known, and may be cited, as the  
5 Nuclear Medicine and Radiological Materials Licensing Act.

6 114961. — (a) For purposes of this section the following  
7 definitions shall apply:

8 (1) “Health care facility” means a medical or dental office,  
9 clinic, hospital, surgery center, laboratory, research laboratory,  
10 those facilities required to be licensed pursuant to Division 2  
11 (commencing with Section 1200), chronic dialysis clinics, as  
12 regulated pursuant to Division 2 (commencing with Section  
13 1200), and education and research facilities, veterinary offices,  
14 veterinary clinics, and veterinary hospitals.

15 (2) “Nuclear medicine technology” has the same meaning as  
16 defined in Section 107150.

17 (3) “Onsite” means the location of a health care facility or a  
18 common storage facility on the same or immediately adjacent  
19 property as the health care facility.

20 (4) “Offsite” means any location that is not onsite.

21 (b) Except as provided in subdivision (c), this chapter applies  
22 only to the following materials:

23 (1) A radioactive material or a source of ionizing radiation that  
24 is located onsite at a health care facility.

25 (2) A radioactive material or source of ionizing radiation that  
26 is used in the performance of nuclear medicine technology.

27 (c) This chapter does not apply to a radioactive material or  
28 source of ionizing radiation specified in subdivision (b) that meets  
29 any of the following conditions:

30 (1) The radioactive material or source of ionizing radiation is  
31 being transported to, or is transported offsite from, a health care  
32 facility or a location used for the conduct of nuclear medicine  
33 technology.

34 (2) The radioactive material or source of ionizing radiation is  
35 discarded, relinquished, or abandoned.

36 (3) The radioactive materials or source of ionizing radiation is  
37 discharged, deposited, dumped, spilled, leaked, or placed, so that  
38 the material or source is, or may be, emitted into the air or  
39 discharged into or on any land or waters, including, but not limited  
40 to, groundwater, or may otherwise enter the environment.





1 ~~114965. It is the policy of the State of California, in~~  
2 ~~furtherance of its responsibility to protect the public health and~~  
3 ~~safety, to institute and maintain a regulatory program for sources~~  
4 ~~of ionizing radiation so as to provide for all of the following:~~

5 ~~(a) Compatibility with the standards and regulatory programs~~  
6 ~~of the federal government.~~

7 ~~(b) An integrated effective system of regulation within the~~  
8 ~~state.~~

9 ~~(c) A system consonant insofar as possible with those of other~~  
10 ~~states.~~

11 ~~114970. It is the purpose of this chapter to effectuate the~~  
12 ~~policies set forth in Section 114965 by providing for programs to~~  
13 ~~do all of the following:~~

14 ~~(a) Effectively regulate sources of ionizing radiation for the~~  
15 ~~protection of the occupational and public health and safety.~~

16 ~~(b) Promote an orderly regulatory pattern within the state,~~  
17 ~~among the states, and between the federal government and the~~  
18 ~~state, and facilitate intergovernmental cooperation with respect to~~  
19 ~~use and regulation of sources of ionizing radiation to the end that~~  
20 ~~duplication of regulation may be minimized.~~

21 ~~(c) Establish procedures for assumption and performance of~~  
22 ~~certain regulatory responsibilities with respect to byproduct,~~  
23 ~~source, and special nuclear materials.~~

24 ~~(d) Permit maximum utilization of sources of ionizing~~  
25 ~~radiation consistent with the health and safety of the public.~~

26 ~~114975. Rules and regulations adopted under this chapter~~  
27 ~~shall be adopted in accordance with Chapter 3.5 (commencing~~  
28 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~  
29 ~~Government Code, and Section 114920 of this code.~~

30 ~~114980. The Nuclear Medicine and Radiological Materials~~  
31 ~~Control Fund is hereby created as a special fund in the State~~  
32 ~~Treasury. All moneys, including fees, penalties, interest earned,~~  
33 ~~and fines collected under Sections 107100, 107160, 115065, and~~  
34 ~~115080, and the regulations adopted pursuant to those sections,~~  
35 ~~shall be deposited in the Nuclear Medicine and Radiological~~  
36 ~~Materials Control Fund to cover the costs related to the~~  
37 ~~enforcement of this chapter, including, but not limited to,~~  
38 ~~implementation of Article 6 (commencing with Section 107150)~~  
39 ~~of Chapter 4 of Part 1, and the Radiologic Technology Act, as~~  
40 ~~defined in subdivision (f) of Section 27, and shall be available for~~



1 expenditure by the department only upon appropriation by the  
2 Legislature. In addition to any moneys collected by, or on behalf  
3 of, the department for deposit in the Nuclear Medicine and  
4 Radiological Materials Control Fund, all interest earned by the  
5 Nuclear Medicine and Radiological Materials Control Fund shall  
6 be deposited in the Nuclear Medicine and Radiological Materials  
7 Control Fund.

8 114985. — As used in this chapter the following definitions shall  
9 apply:

10 (a) “Secretary” means the Secretary of the Resources Agency.

11 (b) “Ionizing radiation” means gamma rays and X-rays; alpha  
12 and beta particles, high-speed electrons, neutrons, protons, and  
13 other nuclear particles; but not sound or radio waves, visible,  
14 infrared, or ultraviolet light, or low-level radioactive waste.

15 (c) “Person” means any individual, corporation, partnership,  
16 limited liability company, firm, association, trust, estate, public or  
17 private institution, group, agency, political subdivision of this  
18 state, any other state or political subdivision or agency thereof, and  
19 any legal successor, representative, agent, or agency of the  
20 foregoing, other than the United States Nuclear Regulatory  
21 Commission, the United States Department of Energy, or any  
22 successor thereto, and other than federal government agencies  
23 licensed by the United States Nuclear Regulatory Commission,  
24 under prime contract to the United States Department of Energy,  
25 or any successor thereto.

26 (d) “Byproduct material” means any radioactive material,  
27 except special nuclear material, yielded in, or made radioactive by,  
28 exposure to the radiation incident to, the process of producing or  
29 utilizing special nuclear material.

30 (e) “Source material” means any of the following:

31 (1) Uranium, thorium, or any other material that the  
32 department declares by regulation to be source material after the  
33 United States Nuclear Regulatory Commission, or any successor  
34 thereto, has determined the material to be source material.

35 (2) Ores containing one or more of the materials specified in  
36 paragraph (1) in a concentration that the department declares by  
37 regulation to be source material after the United States Nuclear  
38 Regulatory Commission, or any successor thereto, has determined  
39 the material in that concentration to be source material.

40 (f) “Special nuclear material” means either of the following:



1 ~~(1) Plutonium, uranium 233, uranium enriched in the isotope~~  
2 ~~233 or in the isotope 235, and any other material that the~~  
3 ~~department declares by regulation to be special nuclear material~~  
4 ~~after the United States Nuclear Regulatory Commission, or any~~  
5 ~~successor thereto, determines the material to be special nuclear~~  
6 ~~material, excluding source material.~~

7 ~~(2) Any material artificially enriched by any of the materials~~  
8 ~~specified in paragraph (1), excluding source material.~~

9 ~~(g) “General license” means a license, pursuant to regulations~~  
10 ~~promulgated by the department, effective without the filing of an~~  
11 ~~application, to transfer, acquire, own, possess or use quantities of,~~  
12 ~~or devices or equipment utilizing, byproduct, source, or special~~  
13 ~~nuclear materials or other radioactive material occurring naturally~~  
14 ~~or produced artificially.~~

15 ~~(h) “Specific license” means a license, issued after~~  
16 ~~application, to use, manufacture, produce, transfer, receive,~~  
17 ~~acquire, own, or possess quantities of, or devices or equipment~~  
18 ~~utilizing, byproduct, source, or special nuclear materials or other~~  
19 ~~radioactive material occurring naturally or produced artificially.~~

20 ~~(i) “Registration” means the reporting of possession of a~~  
21 ~~source of radiation and the furnishing of information with respect~~  
22 ~~thereto, in accordance with subdivision (b) of Section 115060.~~

23 ~~(j) “Department” means the State Department of Health~~  
24 ~~Services.~~

25 ~~(k) “Director” means the State Director of Health Services.~~

26 ~~(l) “Federal research and development activity” means any~~  
27 ~~activity of the Secretary of Energy conducted at any research~~  
28 ~~facility owned or operated by the United States Department of~~  
29 ~~Energy.~~

30 ~~(m) “Low level radioactive waste” means radioactive waste~~  
31 ~~not classified as high-level radioactive waste, transuranic waste,~~  
32 ~~spent nuclear fuel, or the byproduct material defined in Section~~  
33 ~~11(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.~~  
34 ~~2014(c)(2)). For purposes of this subdivision, the following~~  
35 ~~definitions shall apply:~~

36 ~~(1) “High-level radioactive waste” means either of the~~  
37 ~~following:~~

38 ~~(A) The highly radioactive material resulting from the~~  
39 ~~reprocessing of spent nuclear fuel, including liquid waste~~  
40 ~~produced directly in reprocessing and any solid material derived~~



1 from this liquid waste that contains fission products in sufficient  
2 concentrations.

3 (B) ~~Other highly radioactive material that the Nuclear~~  
4 ~~Regulatory Commission, consistent with existing law, determines~~  
5 ~~by rule requires permanent isolation.~~

6 (2) ~~“Spent nuclear fuel” means fuel that has been withdrawn~~  
7 ~~from a nuclear reactor following irradiation, the constituent~~  
8 ~~elements of which have not been separated by reprocessing.~~

9 (3) ~~“Transuranic waste” means any waste containing more~~  
10 ~~than 100 nanocuries of alpha emitting transuranic nuclides with~~  
11 ~~half-life greater than five years per gram of waste material.~~

12 (n) ~~“Mammogram” means an X-ray image of the human~~  
13 ~~breast.~~

14 (o) ~~“Mammography” means the procedure for creating a~~  
15 ~~mammogram.~~

16 (p) ~~“Mammography quality assurance” means the detection of~~  
17 ~~a change in X-ray and ancillary equipment that adversely affects~~  
18 ~~the quality of films and the glandular radiation dose, and the~~  
19 ~~correction of this change.~~

20 (q) ~~“Mammogram certification” means a certification, issued~~  
21 ~~by the department after registration, that the equipment dedicated~~  
22 ~~to or used for mammography meets the standards prescribed~~  
23 ~~pursuant to this chapter.~~

24

### 25 Article 3.—Control Agency

26

27 114990. ~~The department is designated as the agency~~  
28 ~~responsible for the issuance of licenses. In carrying out its duties~~  
29 ~~under this section, the department may enter into an agreement~~  
30 ~~with the Division of Occupational Safety and Health and other~~  
31 ~~state and local agencies to conduct technical evaluations of license~~  
32 ~~applications prior to issuance of licenses. The agreements shall~~  
33 ~~also include provisions for conducting inspections in accordance~~  
34 ~~with Section 115095.~~

35 115000. ~~The department shall, for the protection of public~~  
36 ~~health and safety do all of the following:~~

37 (a) ~~Develop programs for evaluation of hazards associated with~~  
38 ~~use of sources of ionizing radiation.~~

39 (b) ~~Develop programs, with due regard for compatibility with~~  
40 ~~federal programs, for licensing and regulation of byproduct,~~



1 ~~source, and special nuclear materials, and other radioactive~~  
2 ~~materials.~~

3 ~~(e) Except as provided in Section 18930, adopt regulations~~  
4 ~~relating to control of other sources of ionizing radiation.~~

5 ~~(d) Issue any regulations that may be necessary in connection~~  
6 ~~with proceedings under Article 4 (commencing with Section~~  
7 ~~115060).~~

8 ~~(e) Collect and disseminate information relating to control of~~  
9 ~~sources of ionizing radiation, including all of the following:~~

10 ~~(1) Maintenance of a file of all license applications, issuances,~~  
11 ~~denials, amendments, transfers, renewals, modifications,~~  
12 ~~suspensions, and revocations.~~

13 ~~(2) Maintenance of a file of all regulations relating to~~  
14 ~~regulation of sources of ionizing radiation, pending or adopted,~~  
15 ~~and proceedings thereon.~~

16 ~~(3) Disseminate information regarding the evaluation of~~  
17 ~~hazards associated with the use of sources of ionizing radiation.~~

18 ~~115011. Nothing in this chapter shall be construed as~~  
19 ~~precluding the Division of Occupational Safety and Health from~~  
20 ~~adopting and enforcing regulations relating to matters within its~~  
21 ~~jurisdiction consistent with, in furtherance of, and designed to~~  
22 ~~implement this chapter and the regulations adopted pursuant to this~~  
23 ~~chapter.~~

24

25 ~~Article 4. Licensing and Regulation of Sources of Ionizing~~  
26 ~~Radiation~~

27

28 ~~115060. (a) The department shall adopt regulations for~~  
29 ~~general or specific licensing of persons to receive, possess, or~~  
30 ~~transfer radioactive materials, or devices or equipment utilizing~~  
31 ~~these materials. The regulations shall provide for the amendment,~~  
32 ~~suspension, or revocation of licenses.~~

33 ~~(b) The department may require registration and inspection of~~  
34 ~~sources of ionizing radiation other than those that require a specific~~  
35 ~~license, and compliance with specific safety standards to be~~  
36 ~~adopted by the department.~~

37 ~~(c) The department may exempt certain sources of ionizing~~  
38 ~~radiation or kinds of uses or users from the licensing or registration~~  
39 ~~requirements set forth in this section when the department makes~~  
40 ~~a finding that the exemption of these sources of ionizing radiation~~



1 or kinds of uses or users will not constitute a significant risk to the  
2 health and safety of the public.

3 (d) Regulations adopted pursuant to this chapter may provide  
4 for recognition of other state or federal licenses as the department  
5 may deem desirable, subject to registration requirements as the  
6 department may prescribe.

7 (e) The department shall adopt registration and certification  
8 regulations for mammography equipment. These regulations shall  
9 include, but not be limited to, all of the following requirements:

10 (1) An X-ray machine used for mammography shall be  
11 specifically designed for mammography and inspected by the  
12 department, or deemed satisfactory by the department based upon  
13 evidence of certification by the American College of Radiology  
14 mammography accreditation program, or an accreditation  
15 program that the department deems equivalent before it is  
16 certified.

17 (2) That all persons who have a certificate for mammography  
18 equipment follow a quality assurance program to be adopted by the  
19 department to ensure the protection of the public health and safety.

20 (3) That quality assurance tests, as determined by the  
21 department, are performed on all mammography equipment  
22 located in a mobile van or unit after each relocation of the mobile  
23 van or unit to a different location for the purpose of providing  
24 mammography. This equipment shall be recalibrated if images are  
25 not of diagnostic quality as determined by the department. A  
26 written record of the location of mobile vans or units with dates  
27 and times shall be maintained and available for inspection by the  
28 department.

29 (4) On or after July 15, 1993, all mammography equipment  
30 shall be registered with and certified by the department. If this  
31 mammography equipment is certified by a private accreditation  
32 organization, the department shall take into consideration  
33 evidence of this private certification when deciding to issue a  
34 mammogram certification.

35 (5) All licenses, permits, and certificates issued by the  
36 department pursuant to this chapter and the Radiologic  
37 Technology Act, as defined in subdivision (f) of Section 27,  
38 relating to the use of mammography equipment shall be publicly  
39 posted pursuant to this section and regulations adopted by the  
40 department.



1 ~~(f) To further ensure the quality of mammograms, the~~  
2 ~~department shall require all mammogram facilities, other than~~  
3 ~~mobile units or vans, to operate quickly and efficiently so as to~~  
4 ~~ensure that the facilities are able to develop mammograms of~~  
5 ~~diagnostic quality prior to when the patient leaves the facility.~~

6 ~~115065. (a) Notwithstanding Section 6103 of the~~  
7 ~~Government Code, the department shall provide by regulation a~~  
8 ~~schedule of the fees that shall be paid by the following persons:~~

9 ~~(1) Persons possessing radioactive materials under licenses~~  
10 ~~issued by the department or under other state or federal licenses for~~  
11 ~~the use of these radioactive materials, when these persons use these~~  
12 ~~radioactive materials in the state in accordance with the~~  
13 ~~regulations adopted pursuant to subdivision (d) of Section 115060.~~

14 ~~(2) Persons generally licensed for the use of devices and~~  
15 ~~equipment utilizing radioactive materials that are designed and~~  
16 ~~manufactured for the purpose of detecting, measuring, gauging, or~~  
17 ~~controlling thickness, density, level, interface location, radiation,~~  
18 ~~leakage, or qualitative or quantitative chemical composition, or~~  
19 ~~for producing light or an ionized atmosphere, if the devices are~~  
20 ~~manufactured pursuant to a specific license authorizing~~  
21 ~~distribution to general licensees.~~

22 ~~(b) The revenues derived from the fees shall be used, together~~  
23 ~~with other funds made available therefor, for the purpose of the~~  
24 ~~issuance of licenses or the inspection and regulation of the~~  
25 ~~licensees.~~

26 ~~(c) The department may adopt emergency regulations pursuant~~  
27 ~~to Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
28 ~~Division 3 of Title 2 of the Government Code to establish and~~  
29 ~~adjust fees for radioactive materials licenses in an amount to~~  
30 ~~produce estimated revenues equal to at least 95 percent of the~~  
31 ~~department's costs in carrying out these licensing requirements, if~~  
32 ~~the new fees were to remain in effect throughout the fiscal year for~~  
33 ~~which the fee is established or adjusted.~~

34 ~~(d) A local agency participating in a negotiated agreement~~  
35 ~~pursuant to Section 114990 shall be fully reimbursed for direct and~~  
36 ~~indirect costs based upon activities governed by Section 115070.~~  
37 ~~With respect to these agreements, any salaries, benefits, and other~~  
38 ~~indirect costs shall not exceed comparable costs of the department.~~





1 ~~(c) The fees for licenses for radioactive materials and of~~  
2 ~~devices and equipment utilizing those materials shall be adjusted~~  
3 ~~annually pursuant to Section 100425.~~

4 ~~115070. The frequency of inspections of radioactive~~  
5 ~~materials shall be based on priorities established by the United~~  
6 ~~States Nuclear Regulatory Commission.~~

7 ~~115075. In addition to the annual adjustment of the fees~~  
8 ~~authorized by this chapter pursuant to Section 100425, on or~~  
9 ~~before January 1, 1991, the director may adopt emergency~~  
10 ~~regulations in accordance with Chapter 3.5 (commencing with~~  
11 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
12 ~~Code, to establish and adjust these fees, and for purposes of that~~  
13 ~~chapter, including Section 11349.6 of the Government Code, an~~  
14 ~~adoption of these regulations is an emergency and shall be~~  
15 ~~considered by the Office of Administrative Law as necessary for~~  
16 ~~the immediate preservation of the public peace, health and safety,~~  
17 ~~and general welfare.~~

18 ~~115080. (a) Notwithstanding Section 6103 of the~~  
19 ~~Government Code, the department shall provide by regulation a~~  
20 ~~ranking of priority for inspection, as determined by the degree of~~  
21 ~~potentially damaging exposure of persons by ionizing radiation~~  
22 ~~and the requirements of Section 115085, and a schedule of fees,~~  
23 ~~based upon that priority ranking, that shall be paid by persons~~  
24 ~~possessing sources of ionizing radiation that are subject to~~  
25 ~~registration in accordance with subdivisions (b) and (c) of Section~~  
26 ~~115060, and regulations adopted pursuant thereto.~~

27 ~~(b) The revenues derived from the fees imposed pursuant to~~  
28 ~~subdivision (a) shall be used, together with other funds made~~  
29 ~~available therefor, for the purpose of carrying out any inspections~~  
30 ~~of the sources of ionizing radiation required by this chapter or~~  
31 ~~regulations adopted pursuant to this chapter.~~

32 ~~(c) The department shall set the fees imposed pursuant to~~  
33 ~~subdivision (a), together with any other funds made available to~~  
34 ~~the department, in an amount sufficient to cover the costs of~~  
35 ~~administering this chapter, and an amount intended to cover the~~  
36 ~~costs of administering this chapter for each priority source of~~  
37 ~~ionizing radiation. Revenues generated by the fees shall not offset~~  
38 ~~any general funds appropriated for the support of the radiologic~~  
39 ~~programs authorized pursuant to this chapter, and the Radiologic~~



1 ~~Technology Act, as defined in subdivision (f) of Section 27, and~~  
2 ~~Chapter 7.6 (commencing with Section 114960).~~

3 ~~(d) The department may not require a person who pays the fees~~  
4 ~~imposed pursuant to this section to pay, directly or indirectly, for~~  
5 ~~the share of the costs of administering this chapter of those persons~~  
6 ~~for whom fees are waived. The department shall take into~~  
7 ~~consideration any contract payment from the Health Care~~  
8 ~~Financing Administration for performance of inspections for~~  
9 ~~Medicare certification and shall reduce this fee accordingly.~~

10 ~~115081. (a) A local agency participating in a negotiated~~  
11 ~~agreement pursuant to Section 114990 shall be fully reimbursed~~  
12 ~~for direct and indirect costs based upon activities governed by~~  
13 ~~Section 115085.~~

14 ~~(b) With respect to these agreements, any salaries, benefits, and~~  
15 ~~other indirect costs shall not exceed comparable costs of the~~  
16 ~~department. Any changes in the frequency of inspections or the~~  
17 ~~level of reimbursement to local agencies made by this section or~~  
18 ~~Section 115085 during the 1985-86 Regular Session shall not~~  
19 ~~affect ongoing contracts.~~

20 ~~(c) The fees paid by persons possessing sources of ionizing~~  
21 ~~radiation shall be adjusted annually pursuant to Section 100425.~~

22 ~~(d) The department shall establish two different registration~~  
23 ~~fees for mammography equipment pursuant to this section based~~  
24 ~~upon whether the equipment is accredited by an independent~~  
25 ~~accrediting agency recognized under the federal Mammography~~  
26 ~~Quality Standards Act (42 U.S.C. Sec. 263b).~~

27 ~~115085. The average inspection frequency for ionizing~~  
28 ~~radiation machines shall be once each year for mammography~~  
29 ~~X-ray units, once every three years for high-priority sources of~~  
30 ~~ionizing radiation, and once every four and one-quarter years for~~  
31 ~~medium-priority sources. Sources of ionizing radiation used in~~  
32 ~~dentistry shall be screened for defects by mail or other offsite~~  
33 ~~methodology not less frequently than once every five years, with~~  
34 ~~physical inspection of the 50 percent, determined by the~~  
35 ~~department to be most in need of inspection, to average at least~~  
36 ~~once every six years.~~

37 ~~115090. In making the determination of whether to grant,~~  
38 ~~deny, amend, revoke, suspend, or restrict a certification,~~  
39 ~~registration, or license, the department may consider those aspects~~  
40 ~~of a person's background that, in its judgment, bear materially on~~



1 that person's ability to fulfill her or his obligations, including, but  
2 not limited to, technical competency and her or his current or prior  
3 record in areas involving ionizing radiation.

4 ~~115091. The department shall require a licensee or an~~  
5 ~~applicant for a license pursuant to Section 115060 to receive,~~  
6 ~~possess, or transfer radioactive materials, or devices or equipment~~  
7 ~~utilizing radioactive materials, to provide a financial surety to~~  
8 ~~ensure performance of its obligations under this chapter. The~~  
9 ~~department shall establish, by regulation, the amount and type of~~  
10 ~~financial surety that is required to be provided in order to provide~~  
11 ~~for maximum protection of the public health and safety and the~~  
12 ~~environment. The financial surety shall be in the form of surety~~  
13 ~~bonds, deposits of government securities, escrow accounts, lines~~  
14 ~~of credit, trust funds, credit insurance, or any other equivalent~~  
15 ~~financial surety arrangement acceptable to the department. The~~  
16 ~~department shall adopt the regulations in accordance with, but not~~  
17 ~~limited to, the following criteria:~~

18 ~~(a) Consideration of the need for, and scope of, any~~  
19 ~~decontamination, decommissioning, reclamation, or disposal~~  
20 ~~activities required to protect the public health and safety and the~~  
21 ~~environment.~~

22 ~~(b) Estimates of the costs of the required decontamination,~~  
23 ~~decommissioning, reclamation, or disposal.~~

24 ~~(c) The costs of long-term maintenance and surveillance, if~~  
25 ~~required.~~

26 ~~(d) Consideration of the appropriateness of specific~~  
27 ~~requirements imposed in the financial assurance regulations~~  
28 ~~adopted by the Nuclear Regulatory Commission, including, but~~  
29 ~~not limited to, the minimum levels of financial assurance required~~  
30 ~~to be provided by different categories of facilities, and the~~  
31 ~~categories of facilities which are exempted from the requirement~~  
32 ~~to provide a financial surety.~~

33 ~~115092. (a) The department shall deposit all money received~~  
34 ~~from a financial surety provided pursuant to Section 115091 in the~~  
35 ~~Financial Surety Account, which is hereby created in the Nuclear~~  
36 ~~Medicine and Radiological Materials Control Fund.~~

37 ~~(b) Notwithstanding Section 13340 of the Government Code,~~  
38 ~~the money in the Financial Surety Account is hereby continuously~~  
39 ~~appropriated to the department for expenditure only for the~~  
40 ~~decontamination, decommissioning, reclamation, and disposal of~~



1 ~~radioactive materials, and for long-term maintenance and~~  
2 ~~surveillance for the protection of the public health and safety and~~  
3 ~~the environment, in accordance with subdivision (c), with regard~~  
4 ~~to the facility or operations of the licensee who provided the~~  
5 ~~financial surety.~~

6 ~~(e) The department may not expend the money in the Financial~~  
7 ~~Surety Account for normal operating expenses of the department.~~

8 ~~(d) The department shall, by regulation, establish a procedure~~  
9 ~~whereby a licensee may be refunded the amount of the financial~~  
10 ~~surety provided by the licensee in excess of any amounts expended~~  
11 ~~by the department and any amounts that are required to be retained~~  
12 ~~to cover the costs of long-term maintenance and surveillance~~  
13 ~~pursuant to subdivision (b), with regard to that licensee's facility~~  
14 ~~or operations. The regulations shall specify that the refund may be~~  
15 ~~received only after the department has determined that the licensee~~  
16 ~~has fully satisfied all of its obligations under its license, and all~~  
17 ~~other obligations which the regulations require to be satisfied~~  
18 ~~before the licensee may receive a refund.~~

19 ~~(e) If the department finds that a radioactive materials licensee~~  
20 ~~is unable to, or is unwilling to, conduct any decontamination,~~  
21 ~~decommissioning, reclamation, disposal, or long-term~~  
22 ~~maintenance and surveillance that may be necessary, the~~  
23 ~~department shall issue an order directing any action and corrective~~  
24 ~~measures it finds necessary to protect the public health and safety~~  
25 ~~and the environment. The department may undertake, or contract~~  
26 ~~for the undertaking of, any actions or corrective measures which~~  
27 ~~the licensee fails to satisfactorily complete, and may expend the~~  
28 ~~amount of the financial surety provided by the licensee to pay the~~  
29 ~~costs of those actions and corrective measures.~~

30 ~~115093. (a) The department shall require, as a condition of~~  
31 ~~issuing a license to receive, possess, or transfer radioactive~~  
32 ~~materials, or devices or equipment utilizing radioactive materials,~~  
33 ~~that the licensee take corrective action with regard to all~~  
34 ~~contamination that results from the handling, use, storage, or~~  
35 ~~transportation of radioactive materials at the licensee's facility~~  
36 ~~regardless of when the contamination commenced at the facility.~~

37 ~~(b) Any corrective action required pursuant to this section shall~~  
38 ~~require that corrective action be taken beyond the facility~~  
39 ~~boundary if necessary to protect human health and safety or the~~  
40 ~~environment, unless the licensee demonstrates to the satisfaction~~



1 of the department that, despite the licensee's best efforts, the  
2 licensee is unable to obtain the necessary permission to undertake  
3 the corrective action.

4 (e) When corrective action cannot be completed prior to  
5 issuance of the license, the license shall contain schedules of  
6 compliance for corrective action and assurances of financial  
7 responsibility for completing the corrective action.

8

9

#### Article 5.— Inspection

10

11 115095.— Any officer, employee, or agent of the department or  
12 of any state or local agency with which an agreement has been  
13 made pursuant to Section 114990 shall have the power to enter at  
14 all reasonable times upon any private or public property within the  
15 jurisdiction of the agency for the purpose of determining whether  
16 or not there is compliance with or violation of this chapter,  
17 building standards published in the State Building Standards Code  
18 relating to buildings in which there are sources of ionizing  
19 radiation, or of the regulations adopted pursuant to this chapter,  
20 and the owner, occupant, or person in charge of the property shall  
21 permit that entry and inspection. Entry into areas under the  
22 jurisdiction of the federal government shall be effected only with  
23 the concurrence of the federal government or its duly designated  
24 representative.

25 115100.— (a) The person responsible for registering  
26 mammographic X-ray equipment shall be responsible for assuring  
27 that the mammographic X-ray equipment under his or her  
28 jurisdiction has been inspected and that mammography quality  
29 assurance tests are performed by a medical physicist, health  
30 physicist, or other individual with qualifications similar to those  
31 approved by the department and prescribed in the May 1990  
32 version of the “Rules of Good Practice for Supervision and  
33 Operation of Mammographic X-Ray Equipment,” as approved by  
34 the Radiologic Technology Certification Committee.

35 (b) If the department adopts regulations on or after January 1,  
36 1993, that provide similar or stronger protection of a patient's  
37 health and safety than the “Rules of Good Practice for Supervision  
38 and Operation of Mammographic X-Ray Equipment,” as  
39 determined by the department, then those rules shall no longer  
40 apply to this section.



Article 6. — Records

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~~115105. The department shall require each person who acquires, possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal, and other records as the department may require, subject to exemptions as maybe provided by regulations.~~

~~115110. (a) The department shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by regulations of the department. Copies of these records and those required to be kept in accordance with Section 115105 shall be submitted to the department upon request.~~

~~(b) The department shall adopt reasonable regulations, compatible with those of the United States Atomic Energy Commission, pertaining to reports of exposure of personnel. The regulations shall require that reports of excessive exposure be made to the individual exposed and to the department, and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required.~~

~~(c) Section 6411 of the Labor Code shall not be construed as exempting any person from making any report required by this section.~~

~~115115. The person responsible for registering mammographic X-ray equipment or a certified supervisor, as defined in subdivision (i) of Section 114850, shall establish and maintain a Mammography Quality Assurance Program that includes all of the following:~~

~~(a) A Mammography Quality Assurance Manual for the identification of mammography quality assurance tests performed, test frequency, test equipment used, maintenance and calibration of test equipment, and the qualifications of individuals who perform the tests in order to ensure compliance with the May 1990 version of “Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment” or the regulations of the department.~~

~~(b) A “Mammography X-Ray Equipment and Facility Accreditation Certificate” issued by the department that shall be~~



1 ~~posted on each X-ray machine specifically dedicated for the~~  
2 ~~purpose of mammography.~~

3

4 ~~Article 7. Federal State Agreements~~

5

6 ~~115120. The Governor, on behalf of this state, may enter into~~  
7 ~~agreements with the federal government providing for~~  
8 ~~discontinuance of certain of the federal government's~~  
9 ~~responsibilities with respect to sources of ionizing radiation and~~  
10 ~~the assumption thereof by this state. The agreements shall become~~  
11 ~~effective only when ratified by law.~~

12 ~~115125. Any person who, on the effective date of an~~  
13 ~~agreement under former Section 115120, as that section read on~~  
14 ~~January 1, 2003, possesses a license issued by the federal~~  
15 ~~government shall be deemed to possess the same pursuant to a~~  
16 ~~license issued under this chapter. The license shall expire either 90~~  
17 ~~days after receipt from the department of a notice of expiration of~~  
18 ~~the license, or on the date of expiration specified in the federal~~  
19 ~~license, whichever is the earlier.~~

20

21 ~~Article 8. Inspection Agreements and Training Programs~~

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23 ~~115130. The department, on behalf of this state, may enter~~  
24 ~~into an agreement or agreements with the federal government,~~  
25 ~~other states, or interstate agencies, whereby this state will perform~~  
26 ~~on a cooperative basis with the federal government, other states,~~  
27 ~~or interstate agencies, inspections or other functions relating to~~  
28 ~~control of sources of ionizing radiation.~~

29 ~~115135. The department and any other appropriate state~~  
30 ~~agency may institute training programs for the purpose of~~  
31 ~~qualifying personnel to carry out this chapter, and may make those~~  
32 ~~personnel available for participation in any program or programs~~  
33 ~~of the federal government, other states, or interstate agencies in~~  
34 ~~furtherance of the purposes of this chapter.~~

35 ~~115140. An ordinance, resolution, or regulation, in effect on~~  
36 ~~or before January 1, 2004, or in effect after that date, of the~~  
37 ~~governing body of a city or county relating to radioactive materials~~  
38 ~~or other sources of radiation shall not be superseded by this~~  
39 ~~chapter, if the ordinance, resolution, or regulation is, and continues~~  
40 ~~to be, consistent with this chapter, any amendments to this chapter,~~





1 and the regulations adopted pursuant to this chapter. A city or  
2 county may not require the payment of a fee in connection with the  
3 activities governed by Section 115065 when a fee is required by  
4 the regulations adopted pursuant to that section, and a city or  
5 county may not require the payment of a fee in connection with the  
6 activities governed by Section 115080 when a fee is required by  
7 the regulations adopted pursuant to that section.

8  
9 Article 10.— Administrative Procedure

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11 115145.— (a) In any proceeding under this chapter for granting  
12 or amending any license, or for determining compliance with, or  
13 granting exceptions from, regulations adopted in accordance with  
14 this chapter, the department shall afford an opportunity for a  
15 hearing on the record upon the request of any person whose  
16 interest may be affected by the proceeding, and shall admit that  
17 person as a party to the proceeding.

18 (b) A proceeding for the suspension or revocation of licenses  
19 under this chapter shall be conducted pursuant to Section 100171.

20 (c) The adoption, repeal, or amendment of regulations pursuant  
21 to this chapter shall be accomplished in conformity with Chapter  
22 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
23 Title 2 of the Government Code.

24 115150.— If the department finds that an emergency exists  
25 requiring immediate action to protect the public health and safety,  
26 the department may, without notice or hearing, issue a regulation  
27 or order reciting the existence of the emergency and requiring that  
28 action be taken that the department deems necessary to meet the  
29 emergency. Notwithstanding this chapter, the regulation or order  
30 shall be effective immediately. Any person to whom the regulation  
31 or order is directed shall comply immediately with the order or  
32 regulations, but on application to the department shall be afforded  
33 a hearing within 15 days. On the basis of the hearing, the  
34 department shall continue, modify, or revoke the emergency  
35 regulation or order within 30 days after the hearing.

36 115155.— Any final order entered in any proceeding under  
37 Sections 115145 and 115150 shall be subject to judicial review in  
38 the manner prescribed in Chapter 5 (commencing with Section  
39 11500) of Part 1 of Division 3 of Title 2 of the Government Code.



## Article 11.— Injunction Proceedings

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3 115160.— Whenever, in the judgment of the department, any  
4 person has engaged in or is about to engage in any act or practice  
5 that constitutes or will constitute a violation of this chapter, or any  
6 regulation or order issued pursuant to this chapter, and at the  
7 request of the department, the Attorney General may apply to the  
8 superior court for an order enjoining the act or practice, or for an  
9 order directing compliance, and upon a showing by the department  
10 that the person has engaged in or is about to engage in any act or  
11 practice, the court may issue a permanent or temporary injunction,  
12 restraining order, or other order.

## Article 12.— Uses

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16 115165.— It shall be unlawful for any person to use,  
17 manufacture, produce, knowingly transport, transfer, receive,  
18 acquire, own, or possess, any source of ionizing radiation subject  
19 to this chapter unless licensed by or registered with the department  
20 in accordance with this chapter and the regulations issued pursuant  
21 to this chapter.

22 115170.— (a) It is unlawful for any person to manufacture,  
23 construct, produce, transfer, acquire, use, or possess any of the  
24 materials or facilities for which a permit or license is required  
25 under the provisions of the Atomic Energy Act of 1954 (Public  
26 Law 85-256) and that is subject to this chapter unless he or she shall  
27 have first obtained a permit or license.

28 (b) A violation of this section is a misdemeanor.

## Article 13.— Impounding of Materials

29  
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32 115175.— The department shall have the authority in the event  
33 of an emergency to impound or order the impounding of sources  
34 of ionizing radiation in the possession of any person who is not  
35 equipped to observe or fails to observe this chapter or any  
36 regulations adopted pursuant to this chapter.

37 115210.— (a) The city attorney of the city or the district  
38 attorney of the county in which a violation of this chapter occurs,  
39 occurred, or will occur, or the Attorney General, at the request of  
40 the department, may institute on behalf of the people of the State



1 of California any civil action necessary to carry out this chapter,  
2 including, but not limited to, obtaining an injunction or the  
3 imposition of a civil penalty.

4 (b) If a civil penalty is awarded and the action is brought by a  
5 city attorney or district attorney, the penalty shall be paid directly  
6 to the city or county. If no penalty is awarded or paid, or both, the  
7 state is not required to pay the city or county.

8 (c) If a civil penalty is awarded and the action is brought by the  
9 Attorney General, the penalty shall be deposited in the General  
10 Fund.

11  
12 Article 14. — Penalties

13  
14 115215. (a) Any person who violates this chapter, any  
15 regulation adopted pursuant to this chapter, or any orders issued  
16 pursuant to this chapter, is guilty of a misdemeanor and shall, upon  
17 conviction, be punished by a fine not to exceed one thousand  
18 dollars (\$1,000) or by imprisonment in the county jail for a period  
19 not to exceed 180 days, or by both that fine and imprisonment.

20 (b) Any person who knowingly disposes or causes the disposal  
21 of any radioactive material regulated by this chapter, or who  
22 reasonably should have known that the person was disposing or  
23 causing the disposal of the material, at a facility within the state  
24 that does have a license for disposal, or at any point in the state that  
25 is not authorized by any local, state, or federal agency having  
26 authority over radioactive materials, and is in violation of this  
27 chapter, or any regulation or order adopted pursuant to this chapter,  
28 is guilty of a public offense, and upon conviction, may be punished  
29 as follows:

30 (1) If the disposal is found to have caused a substantial danger  
31 to the public health or safety, the person may be punished by  
32 imprisonment in the county jail for not more than one year, or by  
33 imprisonment in the state prison for 16, 24, or 36 months, except  
34 as otherwise provided in paragraph (2). The court may also  
35 impose, upon a person convicted of violating this subdivision, a  
36 fine of not more than one hundred thousand dollars (\$100,000) for  
37 each day of violation, except as otherwise provided in paragraph  
38 (2).

39 (2) If the act that violated this subdivision caused great bodily  
40 injury or caused a substantial probability that death could result,



1 the person convicted may be punished by imprisonment in the state  
2 prison for three, five, or seven years and may be fined not more  
3 than two hundred fifty thousand dollars (\$250,000) for each day  
4 of violation.

5 (e) Any person who knowingly transports or causes the  
6 transportation of any radioactive material regulated by this  
7 chapter, or who reasonably should have known that the person was  
8 causing the transportation of the material, to a facility in the state  
9 that does not have a license from the department issued pursuant  
10 to this chapter, to any point in the state that is not authorized by this  
11 chapter, or to any point in the state that is not authorized by any  
12 other local, state, or federal agency having authority over  
13 radioactive materials, and is in violation of this chapter, or any  
14 regulation or order adopted pursuant to this chapter, is guilty of a  
15 public offense and, upon conviction, may be punished as follows:

16 (1) If the transportation is found to have caused a substantial  
17 danger to the public health or safety, the person may be punished  
18 by imprisonment in the county jail for not more than one year, or  
19 by imprisonment in the state prison for 16, 24, or 36 months,  
20 except as otherwise provided in paragraph (2). The court may also  
21 impose, upon a person convicted of violating this subdivision, a  
22 fine of not more than one hundred thousand dollars (\$100,000) for  
23 each day of violation, except as provided by paragraph (2).

24 (2) If the transportation that violated this subdivision caused  
25 great bodily injury or caused a substantial probability that death  
26 could result, the person convicted may be punished by  
27 imprisonment in the state prison for three, five, or seven years and  
28 may be fined not more than two hundred fifty thousand dollars  
29 (\$250,000) for each day of violation.

30 (d) Notwithstanding any other provision of this chapter,  
31 radioactive materials used in medical treatment or that result from  
32 medical treatment, that are disposed, stored, handled, or  
33 transported in a manner authorized pursuant to this chapter, are  
34 exempt from subdivisions (b) and (e).

35 (e) Notwithstanding subdivision (a), any person who violates  
36 any provision of this chapter relating to mammography or the  
37 regulations adopted pursuant to this chapter relating to  
38 mammography is guilty of a misdemeanor and shall, upon  
39 conviction thereof, be punished by a fine not to exceed five  
40 thousand dollars (\$5,000), per day of offense, or by imprisonment



1 in the county jail not to exceed 180 days, or by both that fine and  
2 imprisonment.

3 115220. — (a) Any person who intentionally or through gross  
4 negligence violates this chapter, or any regulation adopted  
5 pursuant to this chapter or who fails or refuses to comply with a  
6 cease and desist order or other order of the department issued  
7 pursuant to this chapter, and that action causes a substantial danger  
8 to the health of others, shall be liable to the department for a civil  
9 penalty not to exceed five thousand dollars (\$5,000) per day, per  
10 offense.

11 (b) The remedies under this section are in addition to, and do  
12 not supersede or limit, any and all other remedies, civil or criminal.

13  
14 Article 15. — Effective Date of Licensing Provisions

15  
16 115225. — Subdivision (a) of Section 115060 and other  
17 provisions of this chapter relating to licensing and the enforcement  
18 thereof shall become effective only upon execution of an  
19 agreement pursuant to Section 115120. Section 115080 shall  
20 become operative on July 1, 1962.

21  
22 Article 16. — Agreement Between the United States Atomic  
23 Energy Commission and the State of California

24  
25 115230. — The Legislature of the State of California hereby  
26 ratifies and approves that certain agreement designated as the  
27 “Agreement between the United States Atomic Energy  
28 Commission and the State of California for Discontinuance of  
29 Certain Commission Regulatory Authority and Responsibility  
30 within the State Pursuant to Section 274 of the Atomic Energy Act  
31 of 1954, as Amended,” that was approved by the Chairman of the  
32 Atomic Energy Commission on the ninth day of March 1962,  
33 under authority of Section 274 of the Atomic Energy Act of 1954,  
34 as amended (Public Law 86-373), and by the Governor of  
35 California on the 12th day of March 1962, under authority of and  
36 in conformity with Section 115120; and the provisions of this  
37 agreement shall become effective in accordance with Article IX of  
38 the agreement set forth in former Section 115235, as that section  
39 read on January 1, 2003.

40 115235. — The provisions of the agreement are as follows:

Article I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct materials;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of the product except pursuant to a license or an exemption from licensing issued by the Commission.



Article IV

This Agreement shall not affect the authority of the Commission under Subsection 161 b or i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The State will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the State will use its best efforts to keep the Commission informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to obtain the comments and assistance of the Commission thereon.

Article VI

The Commission will use its best efforts to keep the State informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria and to obtain the comments and assistance of the State thereon.

Article VII

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the





1 ~~Governor of the State, may terminate or suspend this Agreement~~  
2 ~~and reassert the licensing and regulatory authority vested in it~~  
3 ~~under the Act if the Commission finds that such termination or~~  
4 ~~suspension is required to protect the public health and safety.~~

5

6

Article IX

7

8 ~~This Agreement, upon ratification by law of the State, shall~~  
9 ~~become effective on the ninety first day after the adjournment of~~  
10 ~~the First Extraordinary Session of the 1962 California Legislature~~  
11 ~~or on September 1, 1962, whichever is later, and shall remain in~~  
12 ~~effect unless, and until such time as it is terminated pursuant to~~  
13 ~~Article VIII.~~

14

15 ~~SEC. 7. No reimbursement is required by this act pursuant to~~  
16 ~~Section 6 of Article XIII B of the California Constitution because~~  
17 ~~the only costs that may be incurred by a local agency or school~~  
18 ~~district will be incurred because this act creates a new crime or~~  
19 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
20 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
21 ~~the Government Code, or changes the definition of a crime within~~  
22 ~~the meaning of Section 6 of Article XIII B of the California~~  
23 ~~Constitution.~~

23

~~SEC. 8.~~

24

25 *SEC. 9.* (a) The Legislature finds and declares that the  
26 transfer of the functions of the radiological health branch and the  
27 environmental management branch from the State Department of  
28 Health Services to the Department of Toxic Substances Control  
29 will increase public safety and improve the level of public service  
provided by the state.

30

31 (b) (1) Effective January 1, 2004, Unit 10 scientific positions  
32 through first level supervisor, necessary support positions, and  
33 program funding that supports these positions in the radiological  
34 health and environmental management branches of the State  
35 Department of Health Services shall be transferred from the State  
36 Department of Health Services to the Department of Toxic  
Substances Control.

37

38 (2) "Scientific positions" means junior through senior health  
39 physicist classifications. All incumbents in these classifications,  
and only these incumbents, shall be offered a transfer to the



1 Department of Toxic Substances Control with no loss of  
2 compensation. The transfer includes the following:

3

4	HX38	3781	Junior Health Physicist
5	HX34	3779	Assistant Health Physicist
6	HX30	3803	Associate Health Physicist
7	HX20	3802	Senior Health Physicist

8

9 (c) The first level supervisor is in the senior health physicist  
10 classification.

11 (d) The second level supervisor shall be a new classification,  
12 tentatively titled radiological health program supervisor.  
13 Specifications for this new classification shall be developed by the  
14 Department of Toxic Substances Control and established by the  
15 State Personnel Board as soon as practicable after the transfer takes  
16 place.

17 (e) Management shall consist of a new classification titled  
18 radiological health program manager. Minimum education and  
19 experience qualifications of the manager classification shall be  
20 developed by the Department of Toxic Substances Control and  
21 established by the State Personnel Board. The program manager  
22 shall be recruited nationally. The program manager shall receive  
23 civil service status upon hire.

24 (f) By January 1, 2005, the Department of Toxic Substances  
25 Control shall complete and implement a classification review of  
26 the health physicist classification. The review shall be done in  
27 consultation with the exclusive representative to ensure that this  
28 classification series has the appropriate titles, minimum  
29 qualifications, and compensation. The review shall define a  
30 rank-and-file senior health physicist classification that has no  
31 supervisory duties, but rather handles the most difficult and  
32 complex issues.

33 (g) This provision may not be interpreted to provide personnel  
34 in managerial positions above first level supervisor a right to  
35 transfer to the Department of Toxic Substances Control. It is the  
36 intent of the Legislature that existing personnel in those positions  
37 should not, in general, be transferred. Notwithstanding any other  
38 provision of law, the state restriction of appointment list does not  
39 apply to positions above first supervisor.



1 (h) Effective January 1, 2004, the functions performed on and  
2 after January 1, 2003, by both the radiological health branch and  
3 the environmental management branch of the State Department of  
4 Health Services shall be transferred to the Department of Toxic  
5 Substances Control. *Any functions of the environmental health*  
6 *branch of the State Department of Health Services that are not*  
7 *related to radioactivity shall remain with State Department of*  
8 *Health Services.* The Department of Toxic Substances Control  
9 shall submit to the Legislature on or before January 1, 2004,  
10 recommendations on any statutory changes needed to effectuate  
11 the transfer of functions.

12 *SEC. 10. The California Constitution requires the state to*  
13 *reimburse local agencies and school districts for certain costs*  
14 *mandated by the state. Statutory provisions establish procedures*  
15 *for making that reimbursement.*

16 *This bill would provide that no reimbursement is required by this*  
17 *act for a specified reason.*

