

ASSEMBLY BILL

No. 1635

Introduced by Assembly Member Brown

February 10, 2014

An act to amend Sections 114975, 114985, 115000.1, 115060, 115061, 115080, and 115145 of, and to add and repeal Section 114986 of, the Health and Safety Code, relating to radioactive materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1635, as introduced, Brown. Radioactive materials: federal regulation.

(1) The Radiation Control Law requires the State Department of Public Health to regulate the use and control of radiologic materials. The department is required to adopt the regulations pursuant to that law in accordance with the requirements of the Administrative Procedure Act. A violation of the Radiation Control Law, or a regulation adopted pursuant to that law, is a misdemeanor. The federal Atomic Energy Act of 1954, as amended, authorizes the Nuclear Regulatory Commission to enter into agreements with the governor of a state providing for discontinuance of certain regulatory authority of the commission with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass.

This bill would authorize the department to adopt a regulation adopted by the Nuclear Regulatory Commission that is in effect on or after January 1, 2015, by either the procedures specified in the bill or pursuant to the Administrative Procedure Act. The procedures specified in the bill would require the department to take specified actions with regard to providing public notice, conducting a hearing, providing comments, and publishing a final notice of the regulations. The bill would require

the department, upon receiving a formal request, as specified, during the comment period, to instead adopt the regulation in accordance with the Administrative Procedure Act. The bill would prohibit the department from using the procedures established by the bill to adopt a federal regulation that either conflicts with state law or requires the operation of certain federal regulations relating to facilities decommissioning. The bill would also prohibit the department from adopting regulations that are determined by the Nuclear Regulatory Commission, or its successor, to address areas of regulation that cannot be relinquished to agreement states. The bill would repeal the department’s authority to adopt regulations pursuant to the bill’s procedures on January 1, 2020.

The bill would also make conforming changes and would delete obsolete provisions and erroneous or duplicative references.

Since a violation of the regulations adopted pursuant to the law is a crime, the bill would impose a state-mandated local program.

(2) 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 114975 of the Health and Safety Code
- 2 is amended to read:
- 3 114975. Rules and regulations adopted under this chapter shall
- 4 be adopted in accordance with Chapter 3.5 (commencing with
- 5 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
- 6 Code, ~~Code and Sections 25733 and Section~~ 114920 of this code.
- 7 SEC. 2. Section 114985 of the Health and Safety Code is
- 8 amended to read:
- 9 114985. As used in this chapter:
- 10 (a) “Secretary” means the Secretary of the *Natural Resources*
- 11 *Agency*.
- 12 (b) “Ionizing radiation” means gamma rays and X-rays; alpha
- 13 and beta particles, high-speed electrons, neutrons, protons, and

1 other nuclear particles; but not sound or radio waves, or visible,
2 infrared, or ultraviolet light.

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

14 (d) "Byproduct material" means any radioactive material, except
15 special nuclear material, yielded in, or made radioactive by
16 exposure to the radiation incident to, the process of producing or
17 utilizing special nuclear material.

18 (e) "Source material" means either of the following:

19 (1) Uranium, thorium, or any other material that the department
20 declares by rule to be source material after the United States
21 Nuclear Regulatory Commission, or any successor to that
22 commission, has determined the material to be source material.

23 ~~(e) "Source material" means (1) uranium, thorium, or any other~~
24 ~~material which the department declares by rule to be source~~
25 ~~material after the United States Nuclear Regulatory Commission,~~
26 ~~or any successor thereto, has determined the material to be such;~~
27 ~~or (2) ores~~

28 (2) Ores containing one or more of the ~~foregoing materials,~~
29 ~~materials described in such paragraph (1), in a concentration as~~
30 ~~that the department declares by rule to be source material after the~~
31 United States Nuclear Regulatory Commission, or any successor
32 ~~thereto~~, *to that commission*, has determined the material in ~~such~~
33 *that* concentration to be source material.

34 (f) "Special nuclear material" means ~~(1) plutonium,~~ *either of*
35 *the following:*

36 (1) Plutonium, uranium 233, uranium enriched in the isotope
37 233 or in the isotope 235, and any other material ~~which that~~
38 department declares by rule to be special nuclear material after the
39 United States Nuclear Regulatory Commission, or any successor
40 ~~thereto~~, *to that commission*, has determined the material to be ~~such,~~

1 *special nuclear material*, but *that* does not include source material;
2 or ~~(2) any material artificially enriched by any of the foregoing,~~
3 ~~but does not include source material.~~

4 (2) *Any material artificially enriched by a material described*
5 *in paragraph (1), but does not include source material.*

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

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

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

21 (j) “Department” means the State Department of ~~Health~~
22 ~~Services.~~ *Public Health.*

23 (k) “Director” means the ~~State Director of Health Services.~~
24 *Public Health.*

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

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

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

35 (A) The highly radioactive material resulting from the
36 reprocessing of spent nuclear fuel, including liquid waste produced
37 directly in reprocessing and any solid material derived from this
38 liquid waste that contains fission products in sufficient
39 concentrations.

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

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

7 (3) “Transuranic waste” means ~~any~~ waste containing more than
8 100 nanocuries of alpha emitting transuranic nuclides with half-life
9 greater than five years per gram of waste material.

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

11 (o) “Mammography” means the procedure for creating a
12 mammogram.

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

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

21 (r) “*Nuclear Regulatory Commission*” means the United States
22 *Nuclear Regulatory Commission or its successor.*

23 SEC. 3. Section 114986 is added to the Health and Safety Code,
24 to read:

25 114986. (a) (1) For purposes of this section, the following
26 terms have the following meanings:

27 (A) “Agreement state” means a state with which the Nuclear
28 Regulatory Commission has entered into an effective agreement
29 under Section 274b of the Atomic Energy Act of 1954, as amended
30 (42 U.S.C. Sec. 2021(b)).

31 (B) “Plain English” has the same meaning as that term is
32 described in Section 11342.580 of the Government Code and, for
33 this purpose, meets the standards for clarity specified in
34 subdivisions (a) and (b) of Section 16 of Title 1 of the California
35 Code of Regulations, as that section read on January 1, 2014.

36 (2) This section shall not be construed to exempt the department
37 from complying with the requirements of the California
38 Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code).

1 (b) Except as provided in subdivisions (g) and (i), the department
2 may adopt a regulation, or an amendment of a regulation, adopted
3 by the Nuclear Regulatory Commission and in effect on or after
4 January 1, 2015, either pursuant to the procedures specified in this
5 section or pursuant to Section 114975. A regulation, or an
6 amendment of a regulation, adopted by the Nuclear Regulatory
7 Commission for which the department takes action pursuant to the
8 procedures specified in this section shall be deemed to be an
9 adopted regulation of the state.

10 (1) On or before January 1, 2016, with regard to a regulation
11 adopted by the Nuclear Regulatory Commission that went into
12 effect before January 1, 2015, and is in effect on that date, or on
13 or before six months after the effective date a regulation adopted
14 by the Nuclear Regulatory Commission that would go into effect
15 on or after January 1, 2015, the department shall do all of the
16 following with regard to providing a notice containing the
17 information specified in paragraph (2):

18 (A) Provide the initial notice of proposed action containing the
19 information specified in paragraph (2) to interested persons and
20 licensees.

21 (B) Post the initial notice on the department's Internet Web site.

22 (C) Submit the initial notice to the Office of Administrative
23 Law, which shall publish the initial notice, in the California
24 Regulatory Notice Register.

25 (2) Except as provided in subparagraph (F), the department shall
26 include all of the following information in the initial notice required
27 by paragraph (1):

28 (A) An informative digest drafted in plain English, which shall
29 include all of the following:

30 (i) A concise and clear summary of existing laws and
31 regulations, if any, related directly to the proposed action and the
32 effect of the proposed action.

33 (ii) If the proposed action differs substantially from an existing
34 comparable federal regulation or statute, a brief description of the
35 significant differences and the full citation of the federal regulations
36 or statutes.

37 (iii) A policy statement overview explaining the broad objectives
38 of the regulation adopted by the Nuclear Regulatory Commission
39 and the specific benefits anticipated by the proposed adoption,
40 amendment, or repeal of the regulation by the state, including, to

1 the extent applicable, nonmonetary benefits, including, but not
2 limited to, the protection of public health and safety, worker safety,
3 or the environment, the prevention of discrimination, the promotion
4 of fairness or social equity, and the increase in openness and
5 transparency in business and government.

6 (iv) An evaluation of whether the regulation adopted by the
7 Nuclear Regulatory Commission that is proposed to be deemed
8 the regulation of the state is inconsistent or incompatible with
9 existing state regulations.

10 (B) A copy of the express terms of the proposed state regulation
11 that would result if the regulation of the Nuclear Regulatory
12 Commission is adopted pursuant to this section. The text shall be
13 written in the same manner as required by subdivision (a) of
14 Section 11346.2 of the Government Code. If the regulation adopted
15 by the Nuclear Regulatory Commission uses the term “byproduct
16 material,” as defined by the Nuclear Regulatory Commission, the
17 department’s proposed regulation shall instead use the term
18 “byproduct material” as defined in Section 114985, or an equivalent
19 term deemed appropriate by the department.

20 (C) An identification of the specific regulation adopted by the
21 Nuclear Regulatory Commission under consideration, with a
22 citation to the federal register publication in which the Nuclear
23 Regulatory Commission published its final rule, including
24 instructions regarding how to obtain a copy of the specific federal
25 register.

26 (D) A description of reasonable alternatives to the regulation
27 adopted by the Nuclear Regulatory Commission and the
28 department’s reasons for rejecting those alternatives. The
29 reasonable alternatives that the department shall consider shall
30 include, but are not limited to, alternatives that are proposed as
31 less burdensome and equally effective in achieving the purposes
32 of the regulation in a manner that ensures full compliance with the
33 authorizing statute, federal regulation, or other law being
34 implemented or made specific by the proposed regulation.

35 (E) A description of reasonable alternatives to the regulation
36 that would lessen any adverse impact on small business and the
37 department’s reasons for rejecting those alternatives.

38 (F) Notwithstanding subparagraph (D) or (E), the department
39 is not required to artificially construct alternatives or describe
40 unreasonable alternatives.

1 (G) A request for public comments on the proposed action.

2 (H) The name and telephone number of the department's
3 representative and designated backup contact person for whom
4 comments on the initial finding and inquiries concerning the notice
5 may be directed.

6 (I) The date by which comments submitted in writing are
7 required to be received.

8 (c) (1) The department shall provide the initial notice described
9 in paragraph (2) of subdivision (b) in the manner required by
10 paragraph (1) of subdivision (b) for public comment for no less
11 than 45 calendar days after publication of the notice in the
12 California Regulatory Notice Register. If a member of the public
13 requests a public hearing during the first 30 days of the public
14 comment period, the department shall conduct a hearing and
15 consider comments received before the department adopts the
16 regulation pursuant to this section.

17 (2) If, during the comment period, the department receives a
18 formal request, submitted in accordance with paragraph (3), to
19 comply with Section 114975, the regulation shall not be adopted
20 pursuant to this section and the department shall adopt the
21 regulation in compliance with Section 114975.

22 (3) For purposes of this subdivision, a formal request means a
23 request received by the department in writing.

24 (4) The department is required to accept a formal request
25 submitted pursuant to paragraph (2) only if the request meets both
26 of the following conditions:

27 (A) It is substantially related to the proposed action.

28 (B) It includes reasons for the request and supporting
29 justifications as to why the proposed action should not be taken
30 pursuant to this section.

31 (d) (1) The department may adopt, amend, or repeal a regulation
32 that has been changed from that which was originally made
33 available to the public pursuant to subdivision (c) if the change
34 meets either of the following conditions:

35 (A) The change is nonsubstantial or solely grammatical in
36 nature.

37 (B) The change is sufficiently related to the original text that
38 the public was adequately placed on notice that the change could
39 result from the originally proposed regulatory action.

1 (2) If the department makes a change to a regulation that meets
2 the conditions of subparagraph (B) of paragraph (1), the department
3 shall make available to the public, for no less than 15 days before
4 the department adopts, amends, or repeals the resulting regulation,
5 the full text of the resulting adoption, amendment, or repeal, with
6 the changes clearly indicated. The department shall respond to any
7 written comments received regarding the changes in the same
8 manner as specified in paragraph (2) of subdivision (f).

9 (e) The department may add any material to the record of a
10 proposed action taken pursuant to this section after the close of
11 the public hearing or comment period, as provided in Section
12 11347.1 of the Government Code, except that the department shall
13 do the following:

14 (1) Summarize and respond to written comments on the
15 document or information received by the department during the
16 availability period in the same manner as specified in paragraph
17 (2) of subdivision (f), instead of as specified in subdivision (d) of
18 Section 11347.1.

19 (2) Include in the rulemaking file a statement confirming that
20 the department complied with the requirements of this paragraph,
21 instead of Section 11347.1, and stating the date on which the notice
22 was mailed.

23 (f) On or before January 1, 2016, with regard to a regulation
24 adopted by the Nuclear Regulatory Commission that went into
25 effect before January 1, 2015, and within one year after the
26 effective date of the federal regulation adopted by the Nuclear
27 Regulatory Commission on or after January 1, 2015, for which the
28 department has taken the actions required by this section, the
29 department shall publish a notice containing all of the following
30 information:

31 (1) An updated informative digest containing a clear and concise
32 summary of the immediately preceding laws and regulations, if
33 any, relating directly to the adopted, amended, or repealed
34 regulation that is deemed adopted pursuant to this section, and the
35 effect of the adopted, amended, or repealed regulation. The updated
36 informative digest shall include the changes in the information
37 provided in the initial notice made pursuant to subdivision (d).

38 (2) A summary of each objection or recommendation received
39 pursuant to subdivisions (c), (d), and (e) and an explanation of
40 how the proposed action has been changed to accommodate each

1 objection or recommendation, or the reasons for making no
2 changes.

3 (A) This paragraph applies only to objections or
4 recommendations specifically directed at the department's proposed
5 action or to the procedures followed by the department in proposing
6 or adopting the action.

7 (B) The department may aggregate and summarize repetitive
8 or irrelevant comments as a group, and may respond to repetitive
9 comments or summarily dismiss irrelevant comments as a group.
10 For these purposes, a comment is irrelevant if it is not specifically
11 directed at the department's proposed action or to the procedures
12 followed by the department in proposing or adopting the action.

13 (3) The effective date of the regulation deemed adopted by the
14 state pursuant to this section.

15 (4) The text of the adopted regulation, which shall be published
16 in the California Code of Regulations.

17 (5) If a formal request was submitted pursuant to paragraph (2)
18 of subdivision (c), and the department did not accept the formal
19 request, the reason why the request was not accepted.

20 (g) (1) This section does not apply to a regulation adopted by
21 the Nuclear Regulatory Commission under either of the following
22 circumstances:

23 (A) The regulation conflicts with existing state law.

24 (B) The regulation requires the operation of those regulations
25 found in Subpart E (commencing with Section 20.1401) of Part
26 20 of Chapter I of Title 10 of the Code of Federal Regulations.

27 (2) The department may adopt a regulation that meets the
28 conditions specified in paragraph (1) only pursuant to Section
29 114975. Subparagraph (B) of paragraph (1) does not prohibit the
30 department from adopting equivalent regulations in accordance
31 with Section 114975.

32 (h) A regulation that the department has adopted pursuant to
33 this section is exempt from Chapter 3.5 (commencing with Section
34 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
35 The department shall submit the text of the adopted regulation, as
36 specified in paragraph (4) of subdivision (f), to the Office of
37 Administrative Law, and the office shall publish, in the California
38 Code of Regulations, the adopted regulation.

39 (i) The department shall not adopt regulations pursuant to this
40 section or Section 114975 determined by the Nuclear Regulatory

1 Commission to address areas of regulation that cannot be
2 relinquished to agreement states pursuant to the Atomic Energy
3 Act of 1954, as amended, or the regulations adopted by the Nuclear
4 Regulatory Commission.

5 (j) The department may adopt a regulation that is more restrictive
6 than a regulation adopted by the Nuclear Regulatory Commission
7 if the Nuclear Regulatory Commission designates its regulation
8 as one the essential objectives of which an agreement state should
9 adopt.

10 (k) Any person may obtain a judicial declaration as to the
11 validity of a regulation adopted pursuant to this section by bringing
12 an action for declaratory relief in a superior court.

13 (l) This section shall remain in effect only until January 1, 2020,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2020, deletes or extends that date.

16 SEC. 4. Section 115000.1 of the Health and Safety Code is
17 amended to read:

18 115000.1. (a) For the purposes of this section, the following
19 terms have the following meanings:

20 (1) “Generate” means to produce or cause the production of, or
21 to engage in an activity ~~which~~ *that* otherwise results in the creation
22 or increase in the volume of, low-level radioactive waste.

23 (2) (A) “Generator” means ~~any~~ *a* person who, by his or her
24 actions, or by the actions of his or her agent, employee, or
25 independent contractor, generates low-level radioactive waste in
26 the state.

27 (B) For purposes of this section, a person who provides for or
28 arranges for the collection, transportation, treatment, storage, or
29 disposal of low-level radioactive waste generated by others is a
30 generator only to the extent that his or her actions, or the actions
31 of his or her agent, employee, or independent contractor, generate
32 low-level radioactive waste.

33 (3) “Person” means an individual, partnership, corporation, or
34 other legal entity, including any state, interstate, federal, or
35 municipal governmental entity.

36 (4) “Waste” means material that is not in use and is no longer
37 useful.

38 (5) “Generator category” includes, but is not limited to, any of
39 the following:

40 (A) Nuclear powerplants.

- 1 (B) Reactor vendors or designers.
- 2 (C) Government.
- 3 (D) Medicine.
- 4 (E) Academia.
- 5 (F) Aerospace.
- 6 (G) Military.
- 7 (H) Research.
- 8 (I) Industrial gauges.
- 9 (J) Manufacturing.

10 (6) “Low-level radioactive waste” or “LLRW” has the same
11 meaning as defined in Article 2 of the Southwestern Low-Level
12 Radioactive Waste Disposal Compact, as set forth in Section
13 115255.

14 (7) “Class” means the class of low-level radioactive waste.
15 “Class ~~A~~”, *A*,” “class ~~B~~”, *B*,” and “class C” waste are those classes
16 defined in Section 61.55 of Title 10 of the Code of Federal
17 Regulations.

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

21 (b) The department shall, for the protection of public health and
22 safety maintain a file of each manifest from each generator of
23 LLRW that is sent to a disposal facility or to a facility subject to
24 the Southwestern ~~Low-level~~ *Low-Level* Radioactive Waste Disposal
25 Compact, as set forth in Article 17 (commencing with Section
26 115250).

27 (c) The department shall, for the protection of public health and
28 safety, maintain a file of all LLRW transferred for disposal to a
29 licensed LLRW disposal facility during the reporting period, either
30 directly or through a broker or agent, that shall meet all of the
31 following conditions:

32 (1) Specify the category of generator, class, quantity by activity,
33 and volume of LLRW, including an estimate of the peak and
34 average quantities in storage, along with the identity of the
35 generator, and the chemical and physical characteristics of that
36 waste, including its half-life, properties, or constituents, and
37 radionuclides present at, or above, the minimum labeling
38 requirements, with their respective concentrations and amounts of
39 radioactivity.

- 1 (2) Be updated annually, at minimum, to ensure an accurate and
2 timely depiction of radioactive waste in the state.
- 3 (3) Include all of the following information in the file:
- 4 (A) The total volume, volume by class, and activity by
5 radionuclide and class.
- 6 (B) The types and specifications of individual containers used
7 and the number of each type transferred for disposal.
- 8 (C) The maximum surface radiation exposure level on any single
9 container of LLRW transferred, the number of disposal containers
10 that exceed 200 mR/hour, and the volume, class, and activity by
11 radionuclide.
- 12 (D) The identification of each licensed LLRW disposal facility
13 to which LLRW was transferred, either directly or through a broker
14 or agent, and the volume and activity by class of LLRW transferred
15 by each broker to each licensed LLRW disposal facility.
- 16 (E) The identification of all brokers or agents to which LLRW
17 was transferred and the volume and activity by class of the
18 generator's LLRW transferred by each broker or agent to each
19 licensed LLRW disposal facility.
- 20 (F) The weight of source material by its type. For purposes of
21 ~~this paragraph~~, *subparagraph*, "type" includes, but is not limited
22 to, natural uranium, depleted uranium, or thorium.
- 23 (G) The total number of grams of special nuclear material by
24 radionuclide, and the maximum number of grams of special nuclear
25 material in any single shipment by radionuclide.
- 26 (H) As complete a description as practicable of the principal
27 chemical and physical form of the LLRW by volume and
28 radionuclide, including the identification of any known hazardous
29 properties, other than its radioactive property.
- 30 (I) For solidified or sorbed liquids, the nature of the liquid, the
31 solidifying or sorbing agent used, and the final volume.
- 32 (J) For LLRW containing more than 0.1 percent by weight *of*
33 chelating agents, the identification of the chelating agent, the
34 volume and weight of the ~~LLRW~~ LLRW, and the weight percentage
35 of *the* chelating agent.
- 36 (K) For LLRW that was treated, either by the generator or its
37 agent or independent contractor, in preparation for transfer to a
38 licensed LLRW disposal facility described in paragraph (8) of
39 subdivision (a) for the purpose of reducing its volume or activity
40 by any ~~method~~ *method*, including reduction by storage for decay,

1 or for the purpose of changing its physical or chemical
2 characteristics in a manner other than by solidification or sorption
3 of liquids, the file shall include a description of the treatment
4 process.

5 (L) The volume, volume by class, and activity by radionuclide
6 and class of that LLRW, if any, that the generator is holding at the
7 end of the annual reporting period because the generator knows
8 or has reason to believe that LLRW will not be accepted for
9 disposal at any of the licensed LLRW disposal facilities. The file
10 shall include a description of this LLRW.

11 (d) The department shall maintain a file on each generator's
12 LLRW stored, including specific radionuclides, total volume,
13 volume by class, total activity, and activity by radionuclide and
14 class of LLRW stored for decay and stored for later transfer,
15 including the periods of time for both types of storage.

16 (e) (1) The department shall prepare an annual report, including
17 a set of tables summarizing data collected from the activities and
18 maintenance of files specified in subdivisions (c) and (d) to the
19 department. These annual data tables shall contain information
20 that summarizes and categorizes, by category, and if applicable,
21 subcategory, of *each* generator and location by county and identity
22 of *the* generator, the nature, ~~characteristics and the characteristics,~~
23 total volume, volume by class, total ~~activity~~ *activity*, and activity
24 by radionuclide and class of LLRW generated, disposed of, treated,
25 transferred, stored for later transfer, and stored for decay during
26 each calendar year.

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

29 (f) The department shall make the information described in
30 subdivisions (c) and (d) available to the public in a format that
31 aggregates the information by county. The department shall not
32 make public the identity and location of any site where LLRW is
33 stored or used. The department may combine information from
34 multiple counties if necessary to protect public security.
35 Notwithstanding any other provision of law the department shall
36 not make the report prepared pursuant to subdivision (e) available
37 to the public, and the report is not subject to the California Public
38 Records Act (Chapter 3.5 (commencing with Section 6250) of
39 Division 6 of Title 1 of the Government Code).

1 (g) The department may make the information described in
2 subdivisions (c) and (d) available upon request to any Member of
3 the Legislature. No Member of the Legislature may disclose the
4 identity or location of any site where LLRW is stored or used to
5 any member of the general public.

6 (h) To meet the requirements of this section, each generator
7 shall submit to the department the information included in Forms
8 540, 541, and 542, and any successor forms, of the Nuclear
9 Regulatory Commission, for each LLRW shipment. In addition,
10 for purposes of subparagraph (L) of paragraph—(4) (3) of
11 subdivision (c) and subdivision (d), each generator shall annually
12 complete and submit to the department the information included
13 on Forms 540, 541, and 542, and any successor forms, of the
14 Nuclear Regulatory Commission that describe the LLRW stored
15 and shipped by the generator.

16 SEC. 5. Section 115060 of the Health and Safety Code is
17 amended to read:

18 115060. (a) The department shall provide by rule or regulation
19 for general or specific licensing of persons to receive, possess, or
20 transfer radioactive materials, or devices or equipment utilizing
21 these materials. That rule or regulation shall provide for *the*
22 amendment, suspension, or revocation of licenses.

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

27 (c) The department may exempt certain sources of ionizing
28 radiation or kinds of uses or users from the licensing or registration
29 requirements set forth in this section ~~when~~ *if* the department makes
30 a finding that the exemption of these sources of ionizing radiation
31 or kinds of uses or users will not constitute a significant risk to the
32 health and safety of the public.

33 (d) ~~Regulations~~ *The regulations* adopted pursuant to this chapter
34 may provide for recognition of other state or federal licenses as
35 the department may deem desirable, subject to *the* registration
36 requirements ~~as~~ *that* the department may prescribe.

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

1 (1) An X-ray machine used for mammography shall be
2 specifically designed for mammography and inspected by the
3 department, or deemed satisfactory by the department based upon
4 evidence of certification by the American College of Radiology
5 mammography accreditation program, or an accreditation program
6 that the department deems equivalent before it is certified.

7 (2) ~~That all~~ All persons who have a certificate for mammography
8 equipment *shall* follow a quality assurance program to be adopted
9 by the department to ensure the protection of the public health and
10 safety.

11 (3) ~~That quality~~ *Quality* assurance tests, as determined by the
12 department, ~~are~~ *shall be* performed on all mammography
13 equipment located in a mobile van or unit after each relocation of
14 the mobile van or unit to a different location for the purpose of
15 providing mammography. This equipment shall be recalibrated if
16 images are not of diagnostic quality as determined by the
17 department. A written record of the location of mobile vans or
18 units with dates and times shall be maintained and available for
19 inspection by the department.

20 (4) ~~On or after July 15, 1993, all~~ All mammography equipment
21 shall be registered with and certified by the department. If this
22 mammography equipment is certified by a private accreditation
23 organization, the department shall take into consideration evidence
24 of this private certification when deciding to issue a mammogram
25 certification.

26 (5) All licenses, permits, and certificates issued by the
27 department pursuant to this chapter and the Radiologic Technology
28 Act (Section 27) relating to the use of mammography equipment
29 shall be publicly posted pursuant to this section and regulations
30 adopted by the department.

31 (f) To further ensure the quality of mammograms, the
32 department shall require all mammogram facilities, other than
33 mobile units or vans, to operate quickly and efficiently so as to
34 ensure that the facilities are able to develop mammograms of
35 diagnostic quality prior to when the patient leaves the facility.

36 SEC. 6. Section 115061 of the Health and Safety Code is
37 amended to read:

38 115061. (a) In order to better protect the public and radiation
39 workers from unnecessary exposure to radiation and to reduce the
40 occurrence of misdiagnosis, the Radiologic Health Branch within

1 the State Department of *Public Health—Services* shall adopt
2 regulations that require personnel and facilities using
3 radiation-producing equipment for medical and dental purposes
4 to maintain and implement medical and dental quality assurance
5 standards that protect the public health and safety by reducing
6 unnecessary exposure to ionizing radiation while ensuring that
7 images are of diagnostic quality. The standards shall require quality
8 assurance tests to be performed on all radiation-producing
9 equipment used for medical and dental purposes.

10 (b) The Radiologic Health Branch shall adopt the regulations
11 described in subdivision (a) and provide the regulations to the
12 health committees of the Assembly and the Senate on or before
13 January 1, 2008.

14 (c) For purposes of this section, “medical and dental quality
15 assurance” means the detection of a change in X-ray and ancillary
16 equipment that adversely affects the quality of films or images and
17 the radiation dose to the patients, and the correction of this change.

18 SEC. 7. Section 115080 of the Health and Safety Code is
19 amended to read:

20 115080. (a) (1) Notwithstanding Section 6103 of the
21 Government Code, the department shall provide by regulation a
22 ranking of priority for inspection, as determined by the degree of
23 potentially damaging exposure of persons by ionizing radiation
24 and the requirements of Section 115085, and a schedule of fees,
25 based upon that priority ranking, that shall be paid by persons
26 possessing sources of ionizing radiation that are subject to
27 registration in accordance with subdivisions (b) and (e) of Section
28 115060, and regulations adopted pursuant ~~those thereto~~. The
29 revenues derived from the fees shall be used, together with other
30 funds made available therefor, for the purpose of carrying out any
31 inspections of the sources of ionizing radiation required by this
32 chapter or regulations adopted pursuant thereto. The fees shall,
33 together with any other funds made available the department, be
34 sufficient to cover the costs of administering this chapter, and shall
35 be set in amounts intended to cover the costs of administering this
36 chapter for each priority source of ionizing radiation. Revenues
37 generated by the fees shall not offset any general funds
38 appropriated for the support of the radiologic programs authorized
39 pursuant to this chapter, and the Radiologic Technology Act
40 (Section 27), and Chapter 7.6 (commencing with Section 114960).

1 ~~Persons who pay fees shall not be required to pay, directly or~~
2 ~~indirectly, for the share of the costs of administering this chapter~~
3 ~~of persons for whom fees are waived. The department shall take~~
4 ~~into consideration any contract payment from the Health Care~~
5 ~~Financing Administration for performance of inspections for~~
6 ~~Medicare certification and shall reduce this fee accordingly to~~
7 ~~those sections.~~

8 *(2) The department may expend the revenues derived from the*
9 *fees, together with other funds made available, for the purpose of*
10 *carrying out the inspections of the sources of ionizing radiation*
11 *required by this chapter or the regulations adopted pursuant to*
12 *this chapter.*

13 *(3) The department shall set the fees so that together with any*
14 *other funds made available to the department, the amount is*
15 *sufficient to cover the costs of administering this chapter. The fees*
16 *shall be set in amounts intended to cover the costs of administering*
17 *this chapter for each priority source of ionizing radiation.*

18 *(4) The revenues generated by the fees shall not offset any*
19 *general funds appropriated for the support of the radiologic*
20 *programs authorized pursuant to this chapter and the Radiologic*
21 *Technology Act (Section 27).*

22 *(5) A person that pays fees shall not be required to pay, directly*
23 *or indirectly, for the share of the costs of administering this chapter*
24 *for those persons for whom fees are waived.*

25 *(6) When setting fees, the department shall take into*
26 *consideration any contract payment from the Health Care*
27 *Financing Administration for performance of inspections for*
28 *Medicare certification and shall reduce this fee accordingly.*

29 *(b) A local agency participating in a negotiated agreement*
30 *pursuant to Section 114990 shall be fully reimbursed for direct*
31 *and indirect costs based upon activities governed by Section*
32 *115085. With respect to these agreements, any salaries, benefits,*
33 *and other indirect costs shall not exceed comparable costs of the*
34 *department. Any changes in the frequency of inspections or the*
35 *level of reimbursement to local agencies made by this section or*
36 *Section 115085 during the 1985-86 Regular Session shall not*
37 *affect ongoing contracts.*

38 *(c) The fees paid by persons possessing sources of ionizing*
39 *radiation shall be adjusted annually pursuant to Section 100425.*

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

6 (e) The department shall establish fees for followup inspections
7 related to the failure to correct violations of this chapter or
8 regulations adopted pursuant to this chapter. The fees established
9 by the department may be charged for each inspection visit.

10 SEC. 8. Section 115145 of the Health and Safety Code is
11 amended to read:

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

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

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

25 SEC. 9. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.