

Introduced by Senator RomeroFebruary 13, 2003

An act 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 introduced, 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 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 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 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 violations of those requirements, the bill would impose a state-mandated local program by creating new crimes.

The bill would require the Department of Toxic Substances Control to adopt regulations establishing standards for the decontamination and remediation of sites contaminated by nuclear waste, as defined.

(3) 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.

(4) 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. Chapter 6.68 commencing with Section 25271)
2 is added to Division 20 of the Health and Safety Code to read:
3



CHAPTER 6.68. RADIOACTIVE MATERIALS MANAGEMENT ACT

Article 1. Findings and Definitions

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

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

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

(a) "Department" means the Department of Toxic Substances Control

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

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

(d) "Person" includes any association of persons, copartnership, or corporation.

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

(f) "Radioactive material" means any material or combination of materials that spontaneously emits ionizing radiation.

(g) "Radioactive waste" means any radioactive material that is discarded as nonusable.

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

(i) "Radiological monitoring" means the measurement of the amounts and kinds of radioactive materials in the environment.

1 25271.6. This chapter does not apply to any radioactive
2 material or source of ionizing radiation that is regulated pursuant
3 to Chapter 8 (commencing with Section 114960) of Part 9 of
4 Division 104.

5
6 Article 2. Control of Radioactive Contamination of the
7 Environment
8

9 25272. (a) A person may not bury, throw away, or in any
10 manner dispose of, radioactive wastes within the state except in a
11 manner and at locations that will result in no significant
12 radioactive contamination of the environment.

13 (b) The department may, by written order, prohibit the disposal
14 of radioactive wastes by any person when, upon investigation, the
15 department determines that the disposal violates subdivision (a)

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

20 25272.1. (a) A person to whom an order has been issued
21 pursuant to subdivision (b) or (c) of Section 25272 may appeal the
22 order of the department to any court of competent jurisdiction.

23 (b) The department may commence an action in a court of
24 competent jurisdiction to enjoin the storage, packaging,
25 transporting, loading, or disposal of radioactive wastes in violation
26 of any written order issued by the department pursuant to
27 subdivision (b) or (c) of Section 25273. The court may, if it appears
28 necessary, enjoin any person from using radioactive material who
29 thereby produces radioactive waste that the court finds is being
30 disposed of in violation of this article.

31 25272.2. (a) The department shall maintain surveillance
32 over the storage, packaging, transporting, and loading of
33 radioactive material within this state regardless of the material's
34 ultimate destination.

35 (b) In carrying out its duties under this section, the department
36 may enter into an agreement with the Division of Occupational
37 Safety and Health and other state and local agencies to conduct any
38 appropriate inspection and enforcement activities. Any agreement
39 with state and local agencies shall not duplicate work to be done
40 pursuant to agreement with the Division of Occupational Safety

1 and Health, and any work done by the Division of Occupational
2 Safety and Health shall not duplicate work agreed to be done by
3 other state and local agencies.

4 (c) This section does not apply to any licensee of the Nuclear
5 Regulatory Commission or any facility of the Department of
6 Energy or the Department of Defense.

7 25272.3. (a) No person may operate a nuclear reactor,
8 nuclear fuel reprocessing plant, or other installation, as defined by
9 the department, that could, as a result of routine operations,
10 accident, or negligence, significantly contaminate the
11 environment with radioactive material, without first instituting
12 and maintaining an adequate program of radiological monitoring.
13 The proposed program shall be submitted to the department for
14 review and acceptance as to its adequacy.

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

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

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

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

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

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

33 25272.5. (a) The department shall monitor radioactive
34 materials in the environment, including radioactive materials in
35 media such as air, milk, food, and water in locations and with a
36 frequency as the department may deem necessary to determine
37 radiation exposure to the people of the state from radioactive
38 materials.



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

4 25272.6. The department shall review any regulation relating
5 to radioactive materials cargo, including, but not limited to,
6 packing, marking, loading, handling, and transportation, and
7 make the regulation compatible with the federal regulations
8 adopted pursuant to the federal Department of Transportation
9 Docket No. HM-164, Notice No. 80-1, within 60 days of the date
10 the federal regulations become effective.

11 25272.7. The department, utilizing available funds and in
12 cooperation with the Department of Fish and Game and the Joint
13 Committee on Fisheries and Aquaculture, shall do all of the
14 following:

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

19 (b) Purchase and test samples of seafood taken in the vicinity
20 of the Farallon Islands radioactive waste dump site to determine
21 whether the seafood contains radioactivity beyond natural and
22 artificial background levels.

23 (c) Make annual reports to the Legislature on the
24 implementation of this section, including any recommendations
25 for legislation it deems necessary to protect the health of
26 Californians.

27 (d) Request the State Department of Health Services to take
28 emergency action pursuant to the general authority contained in
29 the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing
30 with Section 109875) of Division 104) to prohibit the commercial
31 sale of seafood for human consumption if, in the judgment of the
32 State Director of Health Services, samples analyzed pursuant to
33 subdivision (b), are found to contain radioactivity that poses a
34 threat to human health.

35 25272.8. (a) The Legislature finds and declares that the
36 dumping of radioactive waste, including the scuttling of
37 radioactive nuclear submarines, into the Pacific Ocean, could
38 adversely affect the California coastal zone.

39 (b) The California Coastal Commission, in cooperation when
40 appropriate with the department, the Department of Justice, the

1 Department of Fish and Game, and the Joint Committee on
2 Fisheries and Aquaculture, shall use any means available to the
3 commission, pursuant to law, to prevent any dumping of
4 radioactive waste in the Pacific Ocean by any public or private
5 entity, unless the commission finds that the dumping would be
6 consistent with the goals and policies of Division 20 (commencing
7 with Section 30000) of the Public Resources Code.

8
9 Article 3. Transportation of Radioactive Materials

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11 25273. (a) The department, with the assistance of the Office
12 of Emergency Services, the State Energy Resources Conservation
13 and Development Commission, and the Department of the
14 California Highway Patrol, shall extend the nuclear threat
15 emergency response plan to include radioactive materials in transit
16 and provide training for law enforcement officers in dealing with
17 those threats.

18 (b) The department, in cooperation with the Department of the
19 California Highway Patrol, shall adopt reasonable regulations
20 that, in the judgment of the department, promote the safe
21 transportation of radioactive materials, in accordance with Section
22 25272.6 and Chapter 3.5 (commencing with Section 11340) of
23 Part 1 of Division 3 of Title 2 of the Government Code. The
24 regulations shall do all of the following:

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

30 (2) Prescribe the packing, marking, loading, and handling of
31 radioactive materials, and the precautions necessary to determine
32 whether the material when offered is in proper condition to
33 transport, excluding the equipment and operation of the carrier
34 vehicle.

35 (3) Be reviewed and amended, as required, pursuant to Section
36 25272.6.

37 (c) The department shall adopt and amend the regulations
38 required by subdivision (b) in a manner compatible with those
39 established by the federal agency or agencies required or permitted
40 by federal law to establish the regulations.

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

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

(a) Any authorized representative of the department.

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

(c) The Public Utilities Commission.

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

(e) The Department of the California Highway Patrol.

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

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

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

Article 4. Radioactive Materials Licensing and Inspection

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

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

1 (b) “Department” means the Department of Toxic Substances
2 Control.

3 (c) “Decontamination,” means the reduction of the level of
4 contamination from radioactive material to the level that the
5 department determines is reasonably necessary to eliminate the
6 hazard to public health that is caused by the contamination of any
7 object, building, structure, or premises

8 (d) “Director” means the Director of Toxic Substances
9 Control.

10 (e) “Federal research and development activity” means any
11 activity of the Secretary of Energy conducted at any research
12 facility owned or operated by the United States Department of
13 Energy.

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

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

24 (h) “Low-level radioactive waste” means radioactive waste
25 not classified as high-level radioactive waste, transuranic waste,
26 spent nuclear fuel, or the byproduct material, as defined in Section
27 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.
28 2014(e)(2)). For purposes of this subdivision, the following
29 definitions shall apply:

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

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

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



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

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

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

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

(k) “Secretary” means the Secretary of the Environmental Protection Agency.

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

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

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

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

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the department declares by regulation to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be special nuclear material.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25274.4. (a) The department is designated as the agency responsible for the issuance of licenses. In carrying out its duties under this section, the department may enter into an agreement with the Division of Occupational Safety and Health and other state and local agencies to conduct technical evaluations of license applications prior to issuance of licenses. The agreements shall

1 also include provisions for conducting inspections pursuant to
2 Section 25274.10.

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

6 25274.5. (a) The department shall provide by regulation for
7 general or specific licensing of persons to receive, possess, or
8 transfer radioactive materials, or devices or equipment utilizing
9 these materials. The regulations shall provide for amendment,
10 suspension, or revocation of licenses.

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

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

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

25 25274.6. (a) Notwithstanding Section 6103 of the
26 Government Code, the department shall adopt regulations
27 establishing a schedule of the fees that shall be paid by all of the
28 following persons:

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

35 (2) A person generally licensed for the use of a device or
36 equipment utilizing radioactive materials that is designed and
37 manufactured for the purpose of detecting, measuring, gauging, or
38 controlling thickness, density, level, interface location, radiation,
39 leakage, or qualitative or quantitative chemical composition, or
40 for producing light or an ionized atmosphere, if the device or



1 equipment is manufactured pursuant to a specific license
2 authorizing distribution to general licensees.

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

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

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

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

26 25274.7. In addition to the annual adjustment of the fees
27 authorized by this chapter pursuant to subdivision (e) of Section
28 25274.6, the director may adopt emergency regulations in
29 accordance with Chapter 3.5 (commencing with Section 11340) of
30 Part 1 of Division 3 of Title 2 of the Government Code, to establish
31 and adjust these fees, and for purposes of that chapter, including
32 Section 11349.6 of the Government Code, an adoption of these
33 regulations is an emergency and shall be considered by the Office
34 of Administrative Law as necessary for the immediate
35 preservation of the public peace, health and safety, and general
36 welfare.

37 25274.8. The frequency of inspections of radioactive
38 materials shall be based on priorities established by the United
39 States Nuclear Regulatory Commission.

1 25274.9. (a) Notwithstanding Section 6103 of the
2 Government Code, the department shall adopt regulations that
3 rank the order of priority for inspection, as determined by the
4 degree of potentially damaging exposure of persons by ionizing
5 radiation and the requirements of subdivision (d), and a schedule
6 of fees, based upon that priority ranking, that shall be paid by
7 persons possessing sources of ionizing radiation that are subject to
8 registration in accordance with subdivision (b) of Section
9 25274.5, and the regulations adopted pursuant to those provisions.
10 The department may expend the revenues derived from the fees,
11 together with other funds made available therefor, for the purpose
12 of carrying out any inspections of the sources of ionizing radiation
13 required by this chapter or regulations adopted pursuant to this
14 chapter. The department shall set the fees, together with any other
15 funds made available to the department, in the amount sufficient
16 to cover the costs of administering this chapter, and shall set the fee
17 in amounts intended to cover the costs of administering this
18 chapter for each priority source of ionizing radiation. The
19 revenues generated by the fees shall not offset any general funds
20 appropriated for the support of the radiologic programs authorized
21 pursuant to this chapter. Any person who pays fees shall not be
22 required to pay, directly or indirectly, for the share of the costs of
23 administering this chapter for those persons for whom fees are
24 waived.

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

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

37 (d) The average inspection frequency for ionizing radiation
38 machines shall be once every three years for high-priority sources
39 of ionizing radiation and once every four and one-half years for
40 medium priority sources.

1 25274.10. (a) Any officer, employee, or agent of the
2 department or of any state or local agency with which an
3 agreement has been made pursuant to Section 25274.4 may enter
4 at all reasonable times upon any private or public property within
5 the jurisdiction of the agency for the purpose of determining
6 whether or not there is compliance with or violation of this chapter,
7 building standards published in the State Building Standards Code
8 relating to buildings in which there are sources of ionizing
9 radiation, or of the regulations adopted pursuant to this chapter,
10 and the owner, occupant, or person in charge of the property shall
11 permit that entry and inspection.

12 (b) An officer, employee, or agent specified in subdivision (a)
13 may enter into areas under the jurisdiction of the federal
14 government only with the concurrence of the federal government
15 or its duly designated representative.

16 25274.11. (a) The department, on behalf of this state, may
17 enter into an agreement or agreements with the federal
18 government, other states, or interstate agencies, whereby this state
19 will perform on a cooperative basis with the federal government,
20 other states, or interstate agencies, inspections or other functions
21 relating to control of sources of ionizing radiation.

22 (b) The department and any other appropriate state agency may
23 institute training programs for the purpose of qualifying personnel
24 to carry out this chapter, and may make those personnel available
25 for participation in any program or programs of the federal
26 government, other states, or interstate agencies in furtherance of
27 the purposes of this chapter.

28 (c) Any ordinances, resolutions or regulations, now or
29 hereafter in effect, of the governing body of a city or county
30 relating to radioactive materials or other sources of radiation shall
31 not be superseded by this chapter, if the ordinances or regulations
32 are and continue to be consistent with this chapter, amendments
33 thereto, and the regulations adopted pursuant to this chapter.

34 (d) A city or county may not require the payment of a fee in
35 connection with the activities governed by Section 25274.6 when
36 a fee is required by the regulations adopted pursuant to that section,
37 and a city or county may not require the payment of a fee in
38 connection with the activities governed by Section 25274.9 when
39 a fee is required by the regulations adopted pursuant to that section.

1 25274.12. In determining whether to grant, deny, amend,
2 revoke, suspend, or restrict a certification, registration, or license,
3 the department may consider those aspects of a person's
4 background that, in its judgment, bear materially on that person's
5 ability to fulfill her or his obligations, including, but not limited
6 to, technical competency and her or his current or prior record in
7 areas involving ionizing radiation.

8 25274.13. The department shall require a licensee or an
9 applicant for a license pursuant to Section 25274.5 to receive,
10 possess, or transfer radioactive materials, or devices or equipment
11 utilizing radioactive materials, to provide a financial surety to
12 ensure performance of its obligations under this chapter. The
13 department shall establish, by regulation, the amount and type of
14 financial surety that is required to be provided to provide for
15 maximum protection of the public health and safety and the
16 environment. The financial surety shall be in the form of surety
17 bonds, deposits of government securities, escrow accounts, lines
18 of credit, trust funds, credit insurance, or any other equivalent
19 financial surety arrangement acceptable to the department. The
20 department shall adopt the regulations in accordance with, but not
21 limited to, all of the following criteria:

22 (a) Consideration of the need for, and scope of, any
23 decontamination, decommissioning, reclamation, or disposal
24 activities required to protect the public health and safety and the
25 environment.

26 (b) Estimates of the costs of the required decontamination,
27 decommissioning, reclamation, or disposal.

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

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

37 25274.14. (a) The department shall deposit all money
38 received from a financial surety provided pursuant to Section
39 27274.13 in the Financial Surety Account, which is hereby created
40 in the Radioactive Materials Control Fund.

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

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

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

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

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

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

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

Article 5. Low-Level Radioactive Waste

25275. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Generate" means to produce or cause the production of, or to engage in an activity which otherwise results in the creation or increase in the volume of, low-level radioactive waste.

(2) (A) "Generator" means any person who, by his or her actions, or by the actions of his or her agent, employee, or independent contractor, generates low-level radioactive waste in the state.

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

(3) "Person" means an individual, partnership, corporation, or other legal entity, including any state, interstate, federal, or municipal governmental entity.

(4) "Waste" means material that is not in use and is no longer useful.

(5) "Generator category" includes, but is not limited to, any of the following:

(A) Nuclear powerplants.

(B) Reactor vendors or designers.

(C) Government.

(D) Medicine.

(E) Academia.

(F) Aerospace.

(G) Military.

(H) Research.

(I) Industrial gauges.

(J) Manufacturing.

(6) “Low-level radioactive waste” or “LLRW” has the same meaning as defined in Article 2 of the Southwestern Low-Level Radioactive Waste Disposal Compact, as set forth in Section 25276.1.

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

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

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

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

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

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

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

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



manner other than by solidification or sorption of liquids, the file shall include a description of the treatment process.

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

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

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

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

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

(g) The department may make the information described in subdivisions (c) and (d) available upon request to any Member of

1 the Legislature. No Member of the Legislature may disclose the
2 identity or location of any site where LLRW is stored or used to
3 any member of the general public.

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

14 25275.1. In addition to the requirements imposed by Section
15 25274.1, the department shall develop an overall plan, in
16 consultation with other state, regional, and federal agencies, for
17 the management, treatment, and disposal of low-level radioactive
18 waste generated within California. The plan shall contain, at a
19 minimum, all of the following elements:

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

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

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

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

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

35 (A) Proximity to population.

36 (B) Geologic stability.

37 (C) Proximity to ground or surface water.

38 (D) Availability of transportation.

39 (E) General public health and economic considerations. This
40 element of the plan shall be completed and submitted to the

appropriate committees of each house of the Legislature on or before December 31, 1982.

(b) A classification scheme for the separation of low-level waste that will facilitate the management, treatment, storage, and ultimate disposal of the waste. This classification scheme shall consider the matters as possible de minimus radiation levels for specific radionuclides, the quantity and specific activity of the material, its persistence, toxicity, chemical form, reactivity, and the principal radionuclides present. The classification scheme shall also include the specifications necessary to determine which classes of waste may or may not be accepted for storage in an interim storage facility established pursuant to Section 25275.10, that may or may not be held by the licensee for decay to specified residual radioactivity levels and that require long-term isolation from the environment, as the case may be, for the protection of the public health and safety. The department may require as a condition of licensure the submission of information necessary to determine the total amount of waste produced in each class of the classification scheme. The department may, by regulation, adopt the classification scheme establishing which wastes may or may not be accepted at an interim storage facility or at a treatment or disposal facility. This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

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

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

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

(3) The presence of active earthquake faults.

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

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

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

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

(d) A plan of action to minimize the environmental, occupational, and public health impact of low-level radioactive waste and to protect the public health and safety by encouraging a reduction in the amount and toxicity of waste produced. This activity shall include conducting or having studies conducted that evaluate the technical and economic feasibility of (1) reducing the volume, reactivity, and chemical and radioactive hazard of the waste, (2) cleaning contaminated, nonactivated metals and other materials to permit their recycle and reuse, and (3) substituting nonradioactive or short-lived radioactive materials for those radionuclides that require long-term isolation from the environment. The results of these studies, along with the departmental recommendations for their implementation, shall be reported by the department to the appropriate committees of the Legislature on or before December 31, 1983.

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

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

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

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

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

(b) On or before March 28, 1984, the department shall adopt emergency regulations for the licensing of those persons engaged in the disposal of low-level radioactive waste and for

1 implementing this section and Sections 25275.4, 25275.5, and
2 25275.6.

3 The emergency regulations shall be consistent with the federal
4 regulations found in Sections 301 through 311, inclusive, of Part
5 20 of Title 10 and in Part 61 of Title 10 of the Code of Federal
6 Regulations (Federal Register, Vol. 47, No. 28, page 57446,
7 December 27, 1982) and shall be adopted solely for the purposes
8 of clarifying and rendering specific, for application in California,
9 these federal regulations and implementing this section and
10 Sections 25275.4, 25275.5, and 25275.6.

11 (c) The emergency regulations specified in subdivision (b)
12 shall be adopted by the department in accordance with Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code, and for the purposes of that chapter,
15 including Section 11349.6 of the Government Code, the adoption
16 of these regulations is an emergency and shall be considered by the
17 Office of Administrative Law as necessary for the immediate
18 preservation of the public peace, health and safety, and general
19 welfare. Notwithstanding Chapter 3.5 (commencing with Section
20 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
21 any emergency regulations adopted by the department pursuant to
22 this subdivision shall not be repealed by the Office of
23 Administrative Law and shall remain in effect until revised or
24 repealed by the department.

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

28 25275.3. The department shall, by regulation, establish and
29 collect a fee for the issuance or renewal of a license to dispose of
30 low-level radioactive waste pursuant to this article. The fees
31 collected shall be sufficient to cover the state's cost in reviewing
32 the application, issuing or renewing the license, and inspecting and
33 conducting oversight of the licensee.

34 25275.4. The department may limit the number of licenses
35 issued pursuant to Sections 25274.4, 25275.2, and 25275.5
36 authorizing the receipt of radioactive material from other persons
37 for disposal on land.

38 25275.5. (a) All applicants filing a statement of capabilities
39 and notice of intention to file an application for a license to receive
40 radioactive materials from other persons for disposal on land shall

1 file the statement and notice within three months after the
2 department adopts the emergency regulations specified in
3 subdivision (b) of Section 25275.2. Within 45 days after the
4 termination of that three-month filing period, the department shall
5 evaluate the statements of capabilities and notices of intent. The
6 director shall determine, within that 45-day period, whether the
7 department has received one or more statements and notices that
8 are likely to result in the filing of an application for a license
9 satisfying the requirements of Section 25275.2.

10 (b) If the director determines, within the 45-day period
11 specified in subdivision (a), that the department has received one
12 or more statements of capabilities and notices of intent which are
13 likely to result in the filing of an application for a license, the
14 department shall, within the 45-day period, select one of the
15 applicants who filed the statement of capabilities and notice of
16 intent to file a license application as a license designee.

17 (c) The department shall adopt emergency regulations
18 establishing procedures for the review and evaluation of the
19 statements of capabilities and notices of intent, as specified in
20 subdivision (a), and for the selection of a license designee, as
21 specified in subdivision (b). These emergency regulations shall be
22 adopted by the department in accordance with subdivision (c) of
23 Section 25275.2 and shall include procedures for soliciting,
24 evaluating, ranking, and designating license designees and for
25 selecting alternative license designees based upon the ranking.

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

30 (e) The department may, by emergency regulations adopted in
31 accordance with subdivision (c) of Section 25275.2, establish and
32 collect a fee for filing a statement of capabilities and notice of
33 intent.

34 (f) The department may require that a person selected as a
35 license designee pursuant to this section post a bond of up to one
36 million dollars (\$1,000,000) to guarantee that the person will carry
37 out the activities connected with completing the license
38 application and obtaining the license. The department shall, by
39 emergency regulation adopted in accordance with subdivision (c)



1 of Section 25275.2 establish standards for the forfeiture of the
2 bond.

3 25275.6. (a) If, within 45 days after the termination of the
4 three-month filing period specified in subdivision (a) of Section
5 25275.5, the director determines that the department has not
6 received a statement of capabilities and a notice of intent to file an
7 application for a license to receive radioactive materials from
8 other persons for disposal on land that is likely to result in the filing
9 of an application that satisfies the requirements of Section
10 25275.2, the director shall notify the secretary.

11 (b) Within one year after receiving the notification specified in
12 subdivision (a), the secretary shall file with the department an
13 application for a license to receive radioactive materials from
14 other persons for disposal on land at a site within a region
15 identified pursuant to subdivision (e) of Section 25275.1, and that
16 is owned, operated, or both, by the state.

17 (c) (1) Upon the request of the Environmental Protection
18 Agency, the Director of Finance may provide a loan from the
19 General Fund to the Environmental Protection Agency for the
20 purposes of implementing this section. The Environmental
21 Protection Agency shall repay any loans made pursuant to this
22 section pursuant to the terms and conditions prescribed by the
23 Department of Finance, including interest at the rate set by the
24 Pooled Money Investment Board pursuant to Section 16314 of the
25 Government Code.

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

32 (d) If a radioactive materials disposal site that is owned,
33 operated, or both, by the state is established pursuant to this
34 section, the secretary shall establish a schedule of fees to be
35 charged each person who disposes of radioactive materials at the
36 site. The schedule of fees shall be set at an amount sufficient to
37 reimburse the state for any costs incurred in developing,
38 constructing, and operating the site.

39 25275.7. The department may require that all schedules of
40 fees charged for the disposal of radioactive material by a person

1 owning or operating a site licensed pursuant to Section 25275.2.
2 are to be submitted to the department prior to their
3 implementation. The department may determine, following a
4 public hearing and based upon written findings, if the fees to be
5 charged are reasonable and may require the owner or operator to
6 modify the fee schedule if so determined by the department.

7 25275.8. (a) The license designee shall file periodic financial
8 reports with the department as directed by the department. These
9 reports shall provide detailed information on past and projected
10 expenditures for development and operation of the low-level
11 radioactive waste disposal site according to programmatic
12 function, including, but not limited to, all of the following:

- 13 (1) Program management.
- 14 (2) Candidate sites selection.
- 15 (3) Site characterization.
- 16 (4) Environmental.
- 17 (5) Public and agency involvement.
- 18 (6) Licensing and permitting.
- 19 (7) Site development.
- 20 (8) Land acquisition.
- 21 (9) Financing.
- 22 (10) Operations.

23 (b) The license designee shall file reports with the department,
24 as directed by the department, that identify, quantify, and explain
25 major causes of actual and projected cost overruns and cost
26 underruns with regard to the cost projections provided in the
27 statement of capabilities and notice of intent.

28 (c) The Legislature finds and declares that the purpose of this
29 section is to identify minimum financial reporting requirements
30 for the costs of developing and operating the state's low-level
31 radioactive waste disposal facility. This section does not limit the
32 authority of the department to require the license designee to
33 furnish any additional information that the department determines
34 to be necessary to fulfill its duties under this chapter, including
35 Section 25275.7.

36 25275.9. (a) The department may, pursuant to subdivision
37 (d), establish and operate, or contract for the establishment and
38 contract for operation, of one or more low-level radioactive waste
39 interim storage facilities for the exclusive use of persons located

1 in California who are licensed by the department or the United
2 States Nuclear Regulatory Commission.

3 (b) In addition to the fees authorized to be levied pursuant to
4 Section 25274.6, the department may set and collect fees by
5 regulation, to be paid by generators in California of low-level
6 radioactive waste in an amount sufficient to support the
7 development and operation of the facilities including the
8 surveillance and repair of damaged packages, maintenance of the
9 facilities, decontamination, decommissioning, and postclosure
10 maintenance of these facilities, recordkeeping systems, and other
11 activities as the department finds necessary to ensure the safe
12 operation of such a facility. The department shall not set any fee
13 in an amount that exceeds the amount reasonably necessary to
14 implement this section. The department may also require the
15 operators or the users of the facilities to post bonds or possess
16 adequate insurance as may be reasonably necessary to protect the
17 state against such liabilities as storage and ultimate disposal costs
18 for abandoned waste and against claims arising out of accidents or
19 failures of the storage facility.

20 (c) A user of any facility operated pursuant to this section shall
21 meet state and federal orders, requirements, or regulations for
22 handling and management of low-level radioactive waste
23 including those prescribed pursuant to subdivision (b) of Section
24 25275.1.

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

28 (1) The department has fulfilled the requirements of
29 subdivisions (a) and (b) of Section 25275.8, and has submitted its
30 findings to the Legislature.

31 (2) The establishment of the interim storage facility is
32 consistent with the elements of the low-level radioactive waste
33 disposal plan specified in subdivisions (a) and (b) of Section
34 25275.1.

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

37 (e) In addition to any other grounds authorizing the
38 department, or any person with whom it contracts, to cease the
39 operation of a low-level radioactive waste interim storage facility,
40 the facility shall cease accepting low-level radioactive waste for

1 interim storage (1) no later than five years after the date it
2 commences operating or (2) if the director determines that an
3 alternate disposal site is available to California licensees in the
4 western region of the United States, whichever event occurs first.

5 (f) Within seven years of commencing operation of any interim
6 storage facility all wastes stored at the facility shall be transferred
7 to a permanent land burial disposal site or permanently disposed
8 of by some other treatment or means of disposal and the facility
9 shall be closed and thereafter, to the extent necessary, as
10 determined by the department, decontaminated and
11 decommissioned.

12 (g) The authority granted by this section shall remain operative
13 for a period of eight years from the date of the establishment of a
14 low-level radioactive waste interim storage facility pursuant to
15 this section. The director shall report the date the facility is
16 established to the appropriate committees of each house of the
17 Legislature and the Legislative Counsel Bureau.

18 25275.10. The Governor shall negotiate and enter into
19 interstate agreements, interstate compacts, or agreements with
20 compacts, for the purpose of establishing access to, or maintaining
21 access to, land disposal facilities for low-level radioactive waste
22 generated in California. The terms of the agreement or compact
23 may include, but are not limited to, a provision that the other
24 parties to the agreement or compact will have reciprocal access to
25 California permanent disposal facilities, when operational.

26 The Governor shall report to the Legislature on the status of
27 these negotiations within four months after September 28, 1983,
28 and every four months thereafter, until an agreement or compact
29 is entered into or the negotiations are terminated. Any agreement
30 or compact that proposes membership for California in a compact
31 made pursuant to the Low-Level Radioactive Waste Policy Act (42
32 U.S.C. Secs. 2021b to 2021d, incl.) or any interstate agreement or
33 agreement with a compact that includes a provision that the other
34 parties to the agreement will have reciprocal access to California
35 permanent disposal facilities, when operational, shall be submitted
36 to the Legislature for ratification by statute.

37 25275.11. The director shall appoint, in consultation with the
38 Chairperson of the Senate Committee on Rules and the Speaker of
39 the Assembly, an advisory committee to advise the department
40 regarding methods for minimizing the environmental impact of

1 low-level wastes, criteria for siting low-level waste treatment and
2 burial facilities, alternatives to land burial of low-level waste, and
3 waste classification schemes.

4 The committee shall include representatives from the field of
5 medicine, and from research, industrial, environmental, and
6 public health organizations, who have demonstrated expertise and
7 experience with radioactive materials, waste management, the
8 health effects of exposure to low-level waste, or the environmental
9 impact associated with the storage of low-level waste. The director
10 shall appoint to the advisory committee the director of
11 environmental health of the county where a low-level waste
12 disposal facility is sited.

13 25275.12. In implementing this chapter, the department,
14 consistent with other requirements imposed by this chapter to
15 protect public health and safety, shall promote the reduction of
16 low-level radioactive waste generated, both in volume and
17 radioactivity, by encouraging waste reduction practices,
18 including, but not limited to, all of the following:

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

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

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

26
27 Article 6. Southwestern Low-Level Radioactive Waste
28 Disposal Compact
29

30 25276. The Legislature of the State of California hereby
31 enacts and ratifies the agreement set forth in Section 25276.1 and
32 designated as the “Southwestern Low-Level Radioactive Waste
33 Disposal Compact,” entered into pursuant to the Low-Level
34 Radioactive Waste Policy Act, as amended by the Low-Level
35 Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C.
36 Sec. 2021b to 2021j, incl.). This compact became effective in
37 accordance with Article 7 of the compact as set forth in former
38 Section 115255, as that section read on January 1, 2003.

39 25276.1. The provisions of the Southwestern Low-Level
40 Radioactive Waste Disposal Compact are as follows:

Article 1. Compact Policy and Formation

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

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

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

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

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

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

Article 2. Definitions

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

(A) "Commission" means the Southwestern Low-Level Radioactive Waste Commission established in Article 3 of this compact.

(B) "Compact region" or "region" means the combined geographical area within the boundaries of the party states.

(C) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental

1 Protection Agency under applicable laws, or by a party state if that
2 state hosts a disposal facility.

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

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

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

11 (G) “Host state” means a party state in which a regional
12 disposal facility is located or being developed. The State of
13 California is the host state under this compact for the first 30 years
14 from the date the California regional disposal facility commences
15 operations.

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

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

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

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

26 (3) The waste is not any waste for which the federal
27 government is responsible pursuant to subdivision (b) of Section
28 3 of the Low-Level Radioactive Waste Policy Amendments Act of
29 1985 (42 U.S.C. Sec. 2021c(b)).

30 (4) The waste is not an alpha emitting transuranic nuclide with
31 a half-life greater than five years and with a concentration greater
32 than 100 nanocuries per gram, or Plutonium-241 with a
33 concentration greater than 3,500 nanocuries per gram, or
34 Curium-242 with a concentration greater than 20,000 nanocuries
35 per gram.

36 (J) “Management” means collection, consolidation, storage,
37 packaging, or treatment.

38 (K) “Major generator state” means a party state that generates
39 10 percent of the total amount of low-level radioactive waste

1 produced within the compact region and disposed of at the regional
2 disposal facility.

3 If no party state other than California generates at least 10
4 percent of the total amount, “major generator state” means the
5 party state which is second to California in the amount of waste
6 produced within the compact region and disposed of at the regional
7 disposal facility.

8 (L) “Operator” means a person who operates a regional
9 disposal facility.

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

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

14 (O) “Postclosure period” means that period of time after
15 completion of closure of a disposal facility during which the
16 licensee shall observe, monitor, and carry out necessary
17 maintenance and repairs at the disposal facility to assure that the
18 disposal facility will remain stable and will not need ongoing
19 active maintenance. This period ends with the beginning of the
20 institutional control period.

21 (P) “Regional disposal facility” means a nonfederal low-level
22 radioactive waste disposal facility established and operated under
23 this compact.

24 (Q) “Site closure and stabilization” means the activities of the
25 disposal facility operator taken at the end of the disposal facility’s
26 operating life to assure the continued protection of the public from
27 any residual radioactivity or other potential hazards present at the
28 disposal facility.

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

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

33

34 Article 3. The Commission

35

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

38 (1) The commission shall consist of one voting member from
39 each party state to be appointed by the Governor, confirmed by the
40 Senate of that party state, and to serve at the pleasure of the



1 Governor of each party state, and one voting member from the host
2 county. The appointing authority of each party state shall notify the
3 commission in writing of the identity of the member and of any
4 alternates. An alternate may act in the member's absence.

5 (2) The host state shall also appoint that number of additional
6 voting members of the commission that is necessary for the host
7 state's members to compose at least 51 percent of the membership
8 on the commission. The host state's additional members shall be
9 appointed by the host state Governor and confirmed by the host
10 state Senate.

11 If there is more than one host state, only the state in which is
12 located the regional disposal facility actively accepting low-level
13 radioactive waste pursuant to this compact may appoint these
14 additional members.

15 (3) If the host county has not been selected at the time the
16 commission is appointed, the Governor of the host state shall
17 appoint an interim local government member, who shall be an
18 elected representative of a local government. After a host county
19 is selected, the interim local government member shall resign and
20 the Governor shall appoint the host county member pursuant to
21 paragraph (4).

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

25 (5) In recommending and appointing the host county member
26 pursuant to paragraph (4), the board of supervisors and the
27 Governor shall give first consideration to recommending and
28 appointing the member of the board of supervisors in whose
29 district the regional disposal facility is located or being developed.
30 If the board of supervisors of the host county does not provide a
31 list to the Governor of at least seven candidates from which to
32 choose, the Governor shall appoint a resident of the host county as
33 the host county member.

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

37 (B) The commission is a legal entity separate and distinct from
38 the party states and shall be so liable for its actions. Members of
39 the commission shall not be personally liable for actions taken in

1 their official capacity. The liabilities of the commission shall not
2 be deemed liabilities of the party states.

3 (C) The commission shall conduct its business affairs pursuant
4 to the laws of the host state and disputes arising out of commission
5 action shall be governed by the laws of the host state. The
6 commission shall be located in the capital city of the host state in
7 which the regional disposal facility is located.

8 (D) The commission's records shall be subject to the host
9 state's public records law, and the meetings of the commission
10 shall be open and public in accordance with the host state's open
11 meeting law.

12 (E) The commission members are public officials of the
13 appointing state and shall be subject to the conflict of interest laws,
14 as well as any other law, of the appointing state. The commission
15 members shall be compensated according to the appointing state's
16 law.

17 (F) Each commission member is entitled to one vote. A
18 majority of the commission constitutes a quorum. Unless
19 otherwise provided in this compact, a majority of the total number
20 of votes on the commission is necessary for the commission to take
21 any action.

22 (G) The commission has all of the following duties and
23 authority:

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

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

30 (3) The commission shall establish a compact surcharge to be
31 imposed upon party state generators. The surcharge shall be based
32 upon the cubic feet of low-level radioactive waste and the
33 radioactivity of the low-level radioactive waste and shall be
34 collected by the operator of the disposal facility.

35 The host state shall set, and the commission shall impose, the
36 surcharge after congressional approval of the compact. The
37 amount of the surcharge shall be sufficient to establish and
38 maintain at a reasonable level funds for all of the following
39 purposes:

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

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

(c) A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

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

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

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

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

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

However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of Section 2021e of Title 42 of the United States Code, any payments paid from the special escrow account for which the Secretary of Energy

1 is trustee pursuant to subparagraph (A) of paragraph (2) of
2 subsection (d) of Section 2021 (e) of Title 42 of the United States
3 Code.

4 (9) The commission shall submit communications to the
5 governors and to the presiding officers of the legislatures of the
6 party states regarding the activities of the commission, including
7 an annual report to be submitted on or before January 15 of each
8 year. The commission shall include in the annual report a review
9 of, and recommendations for, low-level radioactive waste disposal
10 methods which are alternative technologies to the shallow land
11 burial of low-level radioactive waste.

12 (10) The commission shall assemble and make available to the
13 party states, and to the public, information concerning low-level
14 radioactive waste management needs, technologies, and
15 problems.

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

19 (12) The commission shall keep a current inventory of all
20 regional disposal facilities, including information on the size,
21 capacity, location, specific low-level radioactive wastes capable of
22 being managed, and the projected useful life of each regional
23 disposal facility.

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

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

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

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

38 (17) The commission shall be managed by an appropriate staff,
39 including an executive director. Notwithstanding any other



1 provision of law, the commission may hire or retain, or both, legal
2 counsel.

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

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

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

12 (b) The commission and the host state assess the affected
13 regional disposal facilities' capability to handle imported
14 low-level radioactive wastes and any relevant environmental or
15 economic factors, as defined by the host state's appropriate
16 regulatory authorities.

17 (20) The commission may, upon petition, allow an individual
18 generator, a group of generators, or the host state of the compact,
19 to export low-level radioactive wastes to a low-level radioactive
20 waste disposal facility located outside the region. The commission
21 may approve the petition only by a two-thirds vote of the
22 commission. The permission to export low-level radioactive
23 wastes shall be effective for that period of time and for the amount
24 of low-level radioactive waste, and subject to any other term or
25 condition, which may be determined by the commission.

26 (21) The commission may approve, only by a two-thirds vote
27 of the commission, the exportation outside the region of material,
28 which otherwise meets the criteria of low-level radioactive waste,
29 if the sole purpose of the exportation is to process the material for
30 recycling.

31 (22) The commission shall, not later than 10 years before the
32 closure of the initial or subsequent regional disposal facility,
33 prepare a plan for the establishment of the next regional disposal
34 facility.

35



Article 4. Rights, Responsibilities, and Obligations of Party
States

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

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

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

If the State of California does not extend this obligation, the party state, other than the State of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a) Periodic inspections of packaging and shipping practices.

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

(c) Appropriate enforcement actions with respect to violations.

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

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

1 facility and prohibit future shipments to the regional disposal
2 facility.

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

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

11 (6) Each party state may rely on the good faith performance of
12 the other party states to perform those acts which are required by
13 this compact to provide regional disposal facilities, including the
14 use of the regional disposal facilities in a manner consistent with
15 this compact.

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

20 (8) Each party state shall agree that only low-level radioactive
21 waste generated within the jurisdiction of the party states shall be
22 disposed of in the regional disposal facility, except as provided in
23 paragraph (19) of subdivision (G) of Article 3.

24 (9) Each party state shall agree that if there is any injury to
25 persons on property resulting from the operation of a regional
26 disposal facility, the damages resulting from the injury may be
27 paid from the third-party liability fund pursuant to subparagraph
28 (b) of paragraph (3) of subdivision (G) of Article 3, only to the
29 extent that the damages exceed the limits of liability insurance
30 carried by the operator. No party state, by joining this compact,
31 assumes any liability resulting from the siting, operation,
32 maintenance, long-term care, or other activity relating to a
33 regional facility, and no party state shall be liable for any harm or
34 damage resulting from a regional facility not located within the
35 state.

36

37 Article 5. Approval of Regional Facilities

38

39 A regional disposal facility shall be approved by the host state
40 in accordance with its laws. This compact does not confer any



1 authority on the commission regarding the siting, design,
2 development, licensure, or other regulation, or the operation,
3 closure, decommissioning, or long-term care of, any regional
4 disposal facility within a party state.

5
6 Article 6. Prohibited Acts and Penalties
7

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

12 (B) No person shall dispose of or manage any low-level
13 radioactive waste within the region unless the low-level
14 radioactive waste was generated within the region, except as
15 provided in paragraphs (19), (20), and (21) of subdivision (G) of
16 Article 3.

17 (C) Violations of this section shall be reported to the
18 appropriate law enforcement agency within the party state's
19 jurisdiction.

20 (D) Violations of this section may result in prohibiting the
21 violator from disposing of low-level radioactive waste in the
22 regional disposal facility, as determined by the commission or the
23 host state.

24
25 Article 7. Eligibility, Entry into Effect, Congressional
26 Consent, Withdrawal, Exclusion
27

28 (A) The States of Arizona, North Dakota, South Dakota, and
29 California are eligible to become parties to this compact. Any
30 other state may be made eligible by a majority vote of the
31 commission and ratification by the legislatures of all of the party
32 states by statute, and upon compliance with those terms and
33 conditions for eligibility which the host state may establish. The
34 host state may establish all terms and conditions for the entry of
35 any state, other than the states named in this subparagraph, as a
36 member of this compact.

37 (B) Upon compliance with the other provisions of this
38 compact, an eligible state may become a party state by legislative
39 enactment of this compact or by executive order of the governor
40 of the state adopting this compact. A state becoming a party state

1 by executive order shall cease to be a party state upon adjournment
2 of the first general session of its legislature convened after the
3 executive order is issued, unless before the adjournment the
4 legislature enacts this compact.

5 (C) A party state, other than the host state, may withdraw from
6 the compact by repealing the enactment of this compact, but this
7 withdrawal shall not become effective until two years after the
8 effective date of the repealing legislation. If a party state which is
9 a major generator of low-level radioactive waste voluntarily
10 withdraws from the compact pursuant to this subdivision, that state
11 shall make arrangements for the disposal of the other party states'
12 low-level radioactive waste for a time period equal the period of
13 time it was a member of this compact.

14 If the host state withdraws from the compact, the withdrawal
15 shall not become effective until five years after the effective date
16 of the repealing legislation.

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

21 (E) This compact shall take effect upon the enactment by
22 statute by the legislatures of the State of California and at least one
23 other eligible state and upon the consent of Congress and shall
24 remain in effect until otherwise provided by federal law. This
25 compact is subject to review by Congress and the withdrawal of
26 the consent of Congress every five years after its effective date,
27 pursuant to federal law.

28 Article 8. Construction and Severability

30
31 (A) The provisions of this compact shall be broadly construed
32 to carry out the purposes of the compact, but the sovereign powers
33 of a party state shall not be infringed unnecessarily.

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

36 (C) If any provision of this compact or the application thereof
37 to any person or circumstances is held invalid, that invalidity shall
38 not affect other provisions or applications of the compact that can
39 be given effect without the invalid provision or application, and to
40 this end the provisions of this compact are severable.

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

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

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

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

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

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

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

25276.2. Notwithstanding Section 25276.1., authority for on-highway routing and enforcement relating to low-level radioactive waste shall, pursuant to other provisions of law, remain with the Department of the California Highway Patrol for low-level radioactive waste generated from, and shipments into, California.

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

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

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

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

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

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

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

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

(2) The proposed Ward Valley low-level radioactive disposal site in San Bernardino County may not serve as the state's low-level radioactive disposal facility for purposes of Article 5 of the compact.

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

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

(1) "Commission" means the United States Nuclear Regulatory Commission.

(2) "Compact" means the Southwestern Low-Level Radioactive Waste Disposal Compact described in Section 25276.1.

(3) "Department" means the Department of Toxic Substances Control.

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

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

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

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

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

25276.7. The department shall adopt regulations specifying the modes of transportation which are most protective of public health and the environment that shall be used by generators to transport low-level radioactive waste within the state.

Article 7. Federal-State Agreements

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

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

25277.2. The Legislature of the State of California hereby ratifies and approves that certain agreement designated as the

1 “Agreement between the United States Atomic Energy
2 Commission and the State of California for Discontinuance of
3 Certain Commission Regulatory Authority and Responsibility
4 within the State Pursuant to Section 274 of the Atomic Energy Act
5 of 1954, as Amended,” that was approved by the Chairman of the
6 Atomic Energy Commission on the ninth day of March 1962,
7 under authority of Section 274 of the Atomic Energy Act of 1954,
8 as amended (Public Law 86-373), and by the Governor of
9 California on the 12th day of March 1962, under authority of and
10 in conformity with former Section 115120 as that section read on
11 January 1, 2003, and the provisions of this agreement became
12 effective in accordance with Article IX of the agreement set forth
13 in former Section 115235, as that section read on January 1, 2003.
14 25277.3. The provisions of the agreement are as follows:

15
16 Article 1
17

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

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

27
28 Article II
29

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

- 33 A. The construction and operation of any production or
34 utilization facility;
35 B. The export from or import into the United States of
36 byproduct, source, or special nuclear material, or of any
37 production or utilization facility;
38 C. The disposal into the ocean or sea of byproduct, source, or
39 special nuclear waste materials as defined in regulations or orders
40 of the Commission;

1 D. The disposal of other byproduct, source, or special nuclear
2 material as the Commission from time to time determines by
3 regulation or order should, because of the hazards or potential
4 hazards thereof, not be so disposed of without a license from the
5 Commission.

6
7 Article III

8
9 Notwithstanding this Agreement, the Commission may from
10 time to time by rule, regulation, or order, require that the
11 manufacturer, processor, or producer of any equipment, device,
12 commodity, or other product containing source, byproduct, or
13 special nuclear material shall not transfer possession or control of
14 the product except pursuant to a license or an exemption from
15 licensing issued by the Commission.

16
17 Article IV

18
19 This Agreement shall not affect the authority of the Commission
20 under Subsection 161 b. or i. of the Act to issue rules, regulations,
21 or orders to protect the common defense and security, to protect
22 restricted data or to guard against the loss or diversion of special
23 nuclear material.

24
25 Article V

26
27 The State will use its best efforts to maintain continuing
28 compatibility between its program and the program of the
29 Commission for the regulation of like materials. To this end the
30 State will use its best efforts to keep the Commission informed of
31 proposed changes in its regulations, and licensing, inspection, and
32 enforcement policies and criteria, and of proposed requirements
33 for the design and distribution of products containing source,
34 byproduct, or special nuclear material, and to obtain the comments
35 and assistance of the Commission thereon.

36
37 Article VI

38
39 The Commission will use its best efforts to keep the State
40 informed of proposed changes in its regulations, and licensing,

1 inspection, and enforcement policies and criteria and to obtain the
2 comments and assistance of the State thereon.

3
4 Article VII

5
6 The Commission and the State agree that it is desirable to
7 provide for reciprocal recognition of licenses for the materials
8 listed in Article I licensed by the other party or by any agreement
9 State. Accordingly, the Commission and the State agree to use
10 their best efforts to develop appropriate rules, regulations, and
11 procedures by which such reciprocity will be accorded.

12
13 Article VIII

14
15 The Commission, upon its own initiative after reasonable notice
16 and opportunity for hearing to the State, or upon request of the
17 Governor of the State, may terminate or suspend this Agreement
18 and reassert the licensing and regulatory authority vested in it
19 under the Act if the Commission finds that such termination or
20 suspension is required to protect the public health and safety.

21
22 Article IX

23
24 This Agreement, upon ratification by law of the State, shall
25 become effective on the ninety-first day after the adjournment of
26 the First Extraordinary Session of the 1962 California Legislature
27 or on September 1, 1962, whichever is later, and shall remain in
28 effect unless, and until such time as it is terminated pursuant to
29 Article VIII.

30
31 Article 8. Radionuclide Air Contaminants

32
33 25277.4. (a) For purposes of this article, the following terms
34 have the following meaning:

35 (1) "Federal act" means the Clean Air Act (42 U.S.C. Sec.
36 7401 et seq.) as amended by the Clean Air Act Amendments of
37 1990 (P.L. 101-549), and as the Clean Air Act may be further
38 amended.

39 (2) "Person" means, notwithstanding subdivision (i) of
40 Section 25274, any individual, corporation, partnership, limited



liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, and any other state or political subdivision or agency thereof, any legal successor, representative, agent, or agency of the foregoing, including, but not limited to, the United States Nuclear Regulatory Commission, the Department of Energy, or any successor thereto, and other federal agencies.

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

25277.5. The department may establish a program to enable the state to receive federal approval to implement and enforce emission standards for radionuclides pursuant to Section 112 of the federal act (42 U.S.C. Sec. 7412). The department may regulate federal facilities pursuant to this article only in accordance with the Clean Air Act, as specified in Section 7418 of Title 42 of the United States Code.

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

25277.8. (a) Except as provided in subdivision (b), the regulations found in Subpart H (commencing with Section 61.90) of, and in Subpart I (commencing with Section 61.100) of, Part 61 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendixes B, D, and E of Part 61 (commencing with Section 61.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendix A of Part 60 (commencing with Section 60.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations shall be deemed to be the regulations of the department for purposes of the regulation of radionuclide air emissions. Except for Sections 61.93 and 61.103 of Title 40 of the Code of Federal Regulations, any reference to the

1 Environmental Protection Agency, or any division thereof, in
2 those regulations shall be deemed to be a reference to the
3 department. The department may amend those regulations in
4 whole or in part pursuant to subdivision (b) or (c).

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

9 (2) The department shall publish a notice in the California
10 Regulatory Notice Register indicating that the amendment has
11 been adopted by the Environmental Protection Agency as a final
12 rule. The notice shall include the citation to the Federal Register
13 or the Code of Federal Regulations related to the amendment. The
14 notice shall also include the department's determination regarding
15 whether the amendment is more stringent, equivalent to, or less
16 stringent than, current state law or regulation.

17 (3) If the department determines that the amended federal
18 regulation would be equivalent to, or more stringent than, state law
19 or regulation, the amended federal regulation shall be deemed to
20 be a regulation of the department on the date that is 90 days from
21 the effective date of the amendment of the federal regulation or the
22 publication of the notice required by paragraph (2), whichever
23 date is later.

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

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

36 37 Article 9. Recordkeeping and Enforcement

38
39 25278. (a) The department shall require each person who
40 acquires, possesses or uses a source of ionizing radiation to

1 maintain records relating to its receipt, storage, transfer or
2 disposal, and other records as the department may require, subject
3 to those exemptions that may be provided by regulation.

4 (b) The department shall require each person who possesses or
5 uses a source of ionizing radiation to maintain appropriate records
6 showing the radiation exposure of all individuals for whom
7 personnel monitoring is required by regulations of the department.
8 Copies of these records and those required to be kept in accordance
9 with subdivision (a) shall be submitted to the department upon
10 request.

11 (c) The department shall adopt reasonable regulations,
12 compatible with those of the United States Atomic Energy
13 Commission, pertaining to reports of exposure of personnel. The
14 regulations shall require that reports of excessive exposure be
15 made to the individual exposed and to the department, and shall
16 provide for periodic and terminal reports to individuals for whom
17 personnel monitoring is required.

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

20 25278.1. Whenever, in the judgment of the department, any
21 person has engaged in or is about to engage in any act or practice
22 that constitutes or will constitute a violation of this chapter or any
23 regulation or order issued pursuant to this chapter, and at the
24 request of the department, the Attorney General may apply to the
25 superior court for an order enjoining the act or practice, or for an
26 order directing compliance. Upon a showing by the department
27 that the person has engaged in or is about to engage in the act or
28 practice, the court may grant a permanent or temporary injunction,
29 restraining order, or other order.

30 25278.2. (a) A person may not use, manufacture, produce,
31 knowingly transport, transfer, receive, acquire, own, or possess,
32 any low-level radioactive waste unless the person is licensed by
33 with the department in accordance with this chapter and
34 regulations adopted pursuant to this chapter.

35 (b) A person may not manufacture, produce, transfer, acquire,
36 use, or possess any low-level radioactive waste or construct a
37 facility for those purposes, for which a permit or license is required
38 under the provisions of the Atomic Energy Act of 1954 (Public
39 Law 85-256) and that is subject to this chapter, unless the person
40 first obtains a license pursuant to this chapter.

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

2 25278.3. In the event of an emergency, the department may
3 impound or order the impounding of a source of ionizing radiation
4 in the possession of any person who is not equipped to observe or
5 fails to observe this chapter or any regulation issued pursuant to
6 this chapter.

7 25278.4. (a) The city attorney of the city or the district
8 attorney of the county in which any violation of this chapter occur,
9 occurred, or will occur, or the Attorney General, at the request of
10 the department, may institute, on behalf of the people of California
11 any civil action necessary to carry out this chapter including, but
12 not restricted to, the enforcement of liens, the obtaining of
13 injunctions, or the imposition of civil penalties.

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

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

22 25278.5. (a) Any person who violates this chapter or any
23 regulation adopted or order issued pursuant to this chapter is guilty
24 of a misdemeanor and shall, upon conviction, be punished by a fine
25 not to exceed one thousand dollars (\$1,000) or by imprisonment
26 in the county jail for a period not to exceed 180 days, or by both
27 the fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

(1) If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also

1 impose, upon a person convicted of violating subdivision (d), a
2 fine of not more than one hundred thousand dollars (\$100,000) for
3 each day of violation, except as provided by paragraph (2).

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

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

14 25278.6. (a) In any proceeding under this chapter for
15 granting or amending any license, or for determining compliance
16 with, or granting exceptions from, regulations adopted in
17 accordance with this chapter, the department shall afford an
18 opportunity for a hearing on the record upon the request of any
19 person whose interest may be affected by the proceeding, and shall
20 admit that person as a party to the proceeding.

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

24 25278.7. Whenever the department finds that an emergency
25 exists requiring immediate action to protect the public health and
26 safety, the department may, without notice or hearing, issue a
27 regulation or order reciting the existence of the emergency and
28 requiring that action be taken as is deemed necessary to meet the
29 emergency. Notwithstanding any provision of this chapter, the
30 regulation or order shall be effective immediately. Any person to
31 whom the regulation or order is directed shall comply therewith
32 immediately, but on application to the department shall be
33 afforded a hearing within 15 days. On the basis of the hearing, the
34 emergency regulation or order shall be continued, modified, or
35 revoked within 30 days after the hearing.

36 25278.8. Any final order entered in any proceeding under
37 Sections 25278.6 and 25278.7 shall be subject to judicial review
38 in the manner prescribed in Chapter 5 (commencing with Section
39 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

40

Article 10. Transfer of Authority

25278.9. The Department of Toxic Substances Control succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health Services specified in Article 1 (commencing with Section 114705) of, and Article 3 (commencing with Section 114815) of, Chapter 5 of Part 9 of Division 104, as those provisions read on January 1, 2003, and all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health Services specified in Chapter 8 (commencing with Section 114965) of Part 9 of Title 104, as those provisions read on January 1, 2003, with respect to the any radioactive material or source of ionizing radiation not subject to Chapter 8 (commencing with Section 114965) of Part 9 of Title 104, as added by the act adding this chapter.

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

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

25278.12. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, 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 for the performance of the functions transferred to the department by Section 25278.

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

6
7 CHAPTER 6.69. REMEDIATION OF NUCLEAR WASTE

8
9 Article 1. Definitions

10
11 25279. For purposes of this article the following definitions
12 shall apply:

13 (a) “Decontamination,” as used in this chapter, means the
14 reduction of the level of contamination from nuclear waste to the
15 level that the department determines is reasonably necessary to
16 eliminate the hazard to public health that is caused by the
17 contamination of any object, building, structure, or premises.

18 (b) “Nuclear waste” means any of the following:

19 (1) Low-level radioactive waste, high-level radioactive waste,
20 transuranic waste, spent nuclear fuel, and byproduct material.

21 (2) Any discarded radioactive material with radioactivity
22 above the background level when measured with the best available
23 technology.

24 25279.1. For purposes of this chapter, the definitions specified
25 in Section 25274 shall apply to this chapter.

26
27 Article 2. Remediation and Decontamination Standards

28
29 25279.2. The department shall adopt regulations establishing
30 standards for the decontamination and remediation of sites
31 contaminated by nuclear waste. The department shall set forth
32 remediation and decontamination standards for unrestricted land
33 uses and a restricted, nonresidential use of land. In determining the
34 remediation and decontamination standards, the department shall
35 consider all of the following:

36 (a) The nuclear waste’s adverse effects on human health and
37 safety, biota, and its potential for causing environmental damage
38 to natural resources, including, but not limited to, beneficial uses
39 of the water of the state, including sources of drinking water.

(b) Risk assessments that have been prepared for nuclear waste by federal or state agencies pursuant to environmental or public health laws, evaluations of nuclear waste that have been prepared by epidemiological studies and occupational health programs, and risk assessments or other evaluations of nuclear waste that have been prepared by governmental agencies or responsible parties as part of a project to remediate a contaminated property.

(c) Cleanup levels that have been established for nuclear waste at sites that have been, or are being, investigated or remediated under any other remediation program administered by a federal or local agency.

(d) Remediation and decontamination standards for nuclear waste that have been published by other agencies in the state, in other states, and by federal agencies.

Article 3. Decontamination Procedures

25279.3. (a) If the department determines that any object, building, structure, or premises is contaminated by nuclear waste and constitutes a hazard to the public health, it shall order the person who has control of the object, building, structure, or premises to cease to use or occupy and to exercise due caution to prevent others from using or occupying the object, building, structure, or premises, except to the extent necessary to accomplish the decontamination, or to the extent necessary to accomplish the disposal of the object, building, or structure as nuclear waste. The normal use or occupancy of the object, building, structure, or premises may not be resumed until decontamination has been accomplished and a release obtained from the department.

(b) The department shall prescribe, in any order issued pursuant to subdivision (a), the level to which the contamination is required to be reduced in order to eliminate the hazard to the public health.

(c) If the person who has control of the object, building, structure, or premises subject to an order issued pursuant to subdivision (a) fails to comply with the department's order to decontaminate, the department may impound or seize the object, building, structure, or premises. The department, after impounding or seizure of an object, building, structure, or

1 premises, may decontaminate the object, building, structure, or
2 premises.

3 (d) If the department determines that the object, building,
4 structure, or premises subject to an order issued pursuant to
5 subdivision (a) does not warrant decontamination because of its
6 low value, the department shall notify in writing the person who
7 had control of the object, building, structure, or premises. The
8 person so notified may decontaminate the object, building,
9 structure, or premises, but if the person fails to do so within 15 days
10 after the notice, the department may cause the object, building,
11 structure, or premises to be disposed of as nuclear waste.

12 25279.4. (a) If the department causes an object, building,
13 structure or premises to be decontaminated, the department shall,
14 upon the completion of the decontamination, return the
15 impounded article or seized building, structure, or premises to the
16 person who had control of the article, building, structure, or
17 premises prior to the impounding or seizure. The person who has
18 control of the object, building, structure, or premises and was
19 responsible for its contamination shall pay the department for the
20 reasonable and necessary costs incurred by the department in
21 seizing and decontaminating or in seizing and disposing of the
22 object, building, structure, or premises.

23 (b) If the contamination of the object, building, structure, or
24 premises results from the negligence of another person, the
25 department may require that person to pay all reasonable and
26 necessary costs incurred by the department in seizing and
27 decontaminating or disposing of the object, building, structure, or
28 premises and may maintain any action necessary to recover those
29 costs.

30 25279.5. (a) (1) A lien in favor of the people of California
31 shall be imposed upon any object, building, structure, or premises
32 for the reasonable amount of expenses and costs incurred by the
33 department in carrying out Section 25279.3 or 25279.4, if the
34 owner of the property or of any interest therein is the person
35 responsible for the contamination, and to the extent of the interest
36 of that person. The department shall post a notice of lien or notice
37 of intent to impose a lien upon any object, building, structure, or
38 premises impounded or seized by the department and the
39 department shall file a notice of lien or notice of intent to impose



1 a lien with the county recorder of the county in which the object,
2 building, structure, or premises are located.

3 (2) The lien specified in paragraph (1) shall not become
4 effective until the notice of lien, particularly identifying the
5 property, the interest subject to the lien and the name of the owner
6 of record of the property, and the amount of the lien, is recorded
7 in the office of the county recorder in the county where the
8 property is located. Upon recordation, the lien shall have the same
9 force, effect, and priority as if it had been a judgment lien imposed
10 upon real property that was not exempt from execution, except the
11 lien shall attach only to the property described in the notice and
12 impounded or seized by the department, and shall continue for 10
13 years from the time of the recording of the notice unless sooner
14 released or otherwise discharged.

15 (b) The department may at any time release all or any portion
16 of the property subject to a lien imposed pursuant to subdivision
17 (a) from the lien or subordinate the lien to other liens and
18 encumbrances if the department determines that the amount owed
19 is sufficiently secured by a lien on other property or that the release
20 or subordination of the lien will not jeopardize the collection of the
21 amount owed. A certificate by the department to the effect that any
22 property has been released from the lien or that the lien has been
23 subordinated to other liens and encumbrances shall be conclusive
24 evidence that the property has been released or that the lien has
25 been subordinated as provided in the certificate.

26 SEC. 3. Chapter 5 (commencing with Section 114705) of Part
27 9 of Division 104 of the Health and Safety Code is repealed.

28 SEC. 4. Chapter 5 (commencing with Section 114705) is
29 added to Part 9 of Division 104 of the Health and Safety Code, to
30 read:

31
32 CHAPTER 5. RADIATION MONITORING DEVICES FOR NUCLEAR
33 POWERPLANTS
34

35 114705. As used in this chapter the following terms have the
36 meanings described in this section.

37 (a) "Department" means the State Department of Health
38 Services.

39 (b) "Environment" means all places outside the control of the
40 person responsible for the radioactive materials.

1 (c) “Person” includes any association of persons,
2 copartnership or corporation.

3 (d) “Radiation,” or “ionizing radiation,” means gamma rays
4 and X-rays; alpha and beta particles, high-speed electrons,
5 neutrons, protons, and other nuclear particles; but not sound or
6 radio waves, or visible, infrared, or ultraviolet light.

7 (e) “Radioactive material” means any material or combination
8 of materials that spontaneously emits ionizing radiation.

9 (f) “Radiological monitoring” means the measurement of the
10 amounts and kinds of radioactive materials in the environment.

11 114785. Each privately owned and publicly owned public
12 utility operating a nuclear powerplant with a generating capacity
13 of 50 megawatts or more shall establish a system of offsite
14 radiation monitoring devices as specified by the Nuclear
15 Regulatory Commission pursuant to Regulatory Guide 1.97 or
16 related standards. The utility shall consult with the department and
17 the appropriate county emergency services agency regarding the
18 type, number, and locations of the radiation monitoring devices.
19 The consultation with the department and the appropriate county
20 emergency services agency shall be completed prior to submitting
21 a plan to the Nuclear Regulatory Commission regarding the
22 radiation monitoring devices.

23 114790. The information transmitted to the radiation
24 monitoring displays in the technical support center or emergency
25 operating facility of a nuclear powerplant shall be simultaneously
26 transmitted to the Office of Emergency Services State Warning
27 Center.

28 114795. The Public Utilities Commission shall allow the
29 funds expended by privately owned utilities in compliance with
30 this article to be included for ratemaking purposes. A publicly
31 owned utility shall include the funds expended complying with
32 this chapter in its rates.

33 114800. A plant operator may not be required to spend more
34 than one million dollars (\$1,000,000) in capital outlay for a
35 nuclear powerplant site in complying with this chapter.

36 114805. This chapter does not require powerplant
37 modifications or the conduct of operations that may be in conflict
38 with conditions of the license to operate issued by the Nuclear
39 Regulatory Commission or with other activities authorized by the

1 Nuclear Regulatory Commission, or that may be in conflict with
2 the regulations of the Environmental Protection Agency.

3 114810. Failure to comply with this article shall not constitute
4 the basis for an action in a court of law or in an administrative
5 proceeding to enjoin or prevent the operation or startup of a
6 nuclear facility.

7 SEC. 5. Chapter 8 (commencing with Section 114960) of Part
8 9 of Division 104 of the Health and Safety Code is repealed.

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

12
13 CHAPTER 8. NUCLEAR MEDICINE AND RADIOLOGICAL
14 MATERIALS LICENSING ACT
15

16 114960. This chapter shall be known, and may be cited, as the
17 Nuclear Medicine and Radiological Materials Licensing Act.

18 114961. (a) For purposes of this section the following
19 definitions shall apply:

20 (1) “Health care facility” means a medical or dental office,
21 clinic, hospital, surgery center, laboratory, research laboratory,
22 those facilities required to be licensed pursuant to Division 2
23 (commencing with Section 1200), chronic dialysis clinics, as
24 regulated pursuant to Division 2 (commencing with Section
25 1200), and education and research facilities, veterinary offices,
26 veterinary clinics, and veterinary hospitals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

114980. The Nuclear Medicine and Radiological Materials Control Fund is hereby created as a special fund in the State Treasury. All moneys, including fees, penalties, interest earned, and fines collected under Sections 107100, 107160, 115065, and 115080, and the regulations adopted pursuant to those sections, shall be deposited in the Nuclear Medicine and Radiological Materials Control Fund to cover the costs related to the enforcement of this chapter, including, but not limited to, implementation of Article 6 (commencing with Section 107150) of Chapter 4 of Part 1, and the Radiologic Technology Act, as defined in subdivision (f) of Section 27, and shall be available for expenditure by the department only upon appropriation by the Legislature. In addition to any moneys collected by, or on behalf of, the department for deposit in the Nuclear Medicine and Radiological Materials Control Fund, all interest earned by the Nuclear Medicine and Radiological Materials Control Fund shall be deposited in the Nuclear Medicine and Radiological Materials Control Fund.

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

- (a) "Secretary" means the Secretary of the Resources Agency.
- (b) "Ionizing radiation" means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, visible, infrared, or ultraviolet light, or low-level radioactive waste.
- (c) "Person" means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, the United States Department of Energy, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, under prime contract to the United States Department of Energy, or any successor thereto.

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

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

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

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

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

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

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

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

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

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

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

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

1 (l) “Federal research and development activity” means any
2 activity of the Secretary of Energy conducted at any research
3 facility owned or operated by the United States Department of
4 Energy.

5 (m) “Low-level radioactive waste” means radioactive waste
6 not classified as high-level radioactive waste, transuranic waste,
7 spent nuclear fuel, or the byproduct material defined in Section
8 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.
9 2014(e)(2)). For purposes of this subdivision, the following
10 definitions shall apply:

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

13 (A) The highly radioactive material resulting from the
14 reprocessing of spent nuclear fuel, including liquid waste
15 produced directly in reprocessing and any solid material derived
16 from this liquid waste that contains fission products in sufficient
17 concentrations.

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

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

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

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

29 (o) “Mammography” means the procedure for creating a
30 mammogram.

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

35 (q) “Mammogram certification” means a certification, issued
36 by the department after registration, that the equipment dedicated
37 to or used for mammography meets the standards prescribed
38 pursuant to this chapter.

39



Article 3. Control Agency

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

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

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

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

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

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

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

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

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

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

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

Article 4. Licensing and Regulation of Sources of Ionizing
Radiation

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

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

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

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

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

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

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

(3) That quality assurance tests, as determined by the department, are performed on all mammography equipment located in a mobile van or unit after each relocation of the mobile van or unit to a different location for the purpose of providing mammography. This equipment shall be recalibrated if images are

1 not of diagnostic quality as determined by the department. A
2 written record of the location of mobile vans or units with dates
3 and times shall be maintained and available for inspection by the
4 department.

5 (4) On or after July 15, 1993, all mammography equipment
6 shall be registered with and certified by the department. If this
7 mammography equipment is certified by a private accreditation
8 organization, the department shall take into consideration
9 evidence of this private certification when deciding to issue a
10 mammogram certification.

11 (5) All licenses, permits, and certificates issued by the
12 department pursuant to this chapter and the Radiologic
13 Technology Act, as defined in subdivision (f) of Section 27,
14 relating to the use of mammography equipment shall be publicly
15 posted pursuant to this section and regulations adopted by the
16 department.

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

22 115065. (a) Notwithstanding Section 6103 of the
23 Government Code, the department shall provide by regulation a
24 schedule of the fees that shall be paid by the following persons:

25 (1) Persons possessing radioactive materials under licenses
26 issued by the department or under other state or federal licenses for
27 the use of these radioactive materials, when these persons use these
28 radioactive materials in the state in accordance with the
29 regulations adopted pursuant to subdivision (d) of Section 115060.

30 (2) Persons generally licensed for the use of devices and
31 equipment utilizing radioactive materials that are designed and
32 manufactured for the purpose of detecting, measuring, gauging, or
33 controlling thickness, density, level, interface location, radiation,
34 leakage, or qualitative or quantitative chemical composition, or
35 for producing light or an ionized atmosphere, if the devices are
36 manufactured pursuant to a specific license authorizing
37 distribution to general licensees.

38 (b) The revenues derived from the fees shall be used, together
39 with other funds made available therefor, for the purpose of the



1 issuance of licenses or the inspection and regulation of the
2 licensees.

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

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

16 (e) The fees for licenses for radioactive materials and of
17 devices and equipment utilizing those materials shall be adjusted
18 annually pursuant to Section 100425.

19 115070. The frequency of inspections of radioactive
20 materials shall be based on priorities established by the United
21 States Nuclear Regulatory Commission.

22 115075. In addition to the annual adjustment of the fees
23 authorized by this chapter pursuant to Section 100425, on or
24 before January 1, 1991, the director may adopt emergency
25 regulations 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, to establish and adjust these fees, and for purposes of that
28 chapter, including Section 11349.6 of the Government Code, an
29 adoption of these regulations is an emergency and shall be
30 considered by the Office of Administrative Law as necessary for
31 the immediate preservation of the public peace, health and safety,
32 and general welfare.

33 115080. (a) Notwithstanding Section 6103 of the
34 Government Code, the department shall provide by regulation a
35 ranking of priority for inspection, as determined by the degree of
36 potentially damaging exposure of persons by ionizing radiation
37 and the requirements of Section 115085, and a schedule of fees,
38 based upon that priority ranking, that shall be paid by persons
39 possessing sources of ionizing radiation that are subject to

1 registration in accordance with subdivisions (b) and (e) of Section
2 115060, and regulations adopted pursuant thereto.

3 (b) The revenues derived from the fees imposed pursuant to
4 subdivision (a) shall be used, together with other funds made
5 available therefor, for the purpose of carrying out any inspections
6 of the sources of ionizing radiation required by this chapter or
7 regulations adopted pursuant to this chapter.

8 (c) The department shall set the fees imposed pursuant to
9 subdivision (a), together with any other funds made available to
10 the department, in an amount sufficient to cover the costs of
11 administering this chapter, and an amount intended to cover the
12 costs of administering this chapter for each priority source of
13 ionizing radiation. Revenues generated by the fees shall not offset
14 any general funds appropriated for the support of the radiologic
15 programs authorized pursuant to this chapter, and the Radiologic
16 Technology Act, as defined in subdivision (f) of Section 27, and
17 Chapter 7.6 (commencing with Section 114960).

18 (d) The department shall not require any person who pay the
19 fees imposed pursuant to this section to pay, directly or indirectly,
20 for the share of the costs of administering this chapter of those
21 persons for whom fees are waived. The department shall take into
22 consideration any contract payment from the Health Care
23 Financing Administration for performance of inspections for
24 Medicare certification and shall reduce this fee accordingly.

25 115081. (a) A local agency participating in a negotiated
26 agreement pursuant to Section 114990 shall be fully reimbursed
27 for direct and indirect costs based upon activities governed by
28 Section 115085.

29 (b) With respect to these agreements, any salaries, benefits, and
30 other indirect costs shall not exceed comparable costs of the
31 department. Any changes in the frequency of inspections or the
32 level of reimbursement to local agencies made by this section or
33 Section 115085 during the 1985–86 Regular Session shall not
34 affect ongoing contracts.

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

37 (d) The department shall establish two different registration
38 fees for mammography equipment pursuant to this section based
39 upon whether the equipment is accredited by an independent

1 accrediting agency recognized under the federal Mammography
2 Quality Standards Act (42 U.S.C. Sec. 263b).

3 115085. The average inspection frequency for ionizing
4 radiation machines shall be once each year for mammography
5 X-ray units, once every three years for high-priority sources of
6 ionizing radiation, and once every four and one-quarter years for
7 medium-priority sources. Sources of ionizing radiation used in
8 dentistry shall be screened for defects by mail or other offsite
9 methodology not less frequently than once every five years, with
10 physical inspection of the 50 percent, determined by the
11 department to be most in need of inspection, to average at least
12 once every six years.

13 115090. In making the determination of whether to grant,
14 deny, amend, revoke, suspend, or restrict a certification,
15 registration, or license, the department may consider those aspects
16 of a person's background that, in its judgment, bear materially on
17 that person's ability to fulfill her or his obligations, including but
18 not limited to technical competency and her or his current or prior
19 record in areas involving ionizing radiation.

20 115091. The department shall require a licensee or an
21 applicant for a license pursuant to Section 115060 to receive,
22 possess, or transfer radioactive materials, or devices or equipment
23 utilizing radioactive materials, to provide a financial surety to
24 ensure performance of its obligations under this chapter. The
25 department shall establish, by regulation, the amount and type of
26 financial surety that is required to be provided in order to provide
27 for maximum protection of the public health and safety and the
28 environment. The financial surety shall be in the form of surety
29 bonds, deposits of government securities, escrow accounts, lines
30 of credit, trust funds, credit insurance, or any other equivalent
31 financial surety arrangement acceptable to the department. The
32 department shall adopt the regulations in accordance with, but not
33 limited to, the following criteria:

34 (a) Consideration of the need for, and scope of, any
35 decontamination, decommissioning, reclamation, or disposal
36 activities required to protect the public health and safety and the
37 environment.

38 (b) Estimates of the costs of the required decontamination,
39 decommissioning, reclamation, or disposal.

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

3 (d) Consideration of the appropriateness of specific
4 requirements imposed in the financial assurance regulations
5 adopted by the Nuclear Regulatory Commission, including, but
6 not limited to, the minimum levels of financial assurance required
7 to be provided by different categories of facilities, and the
8 categories of facilities which are exempted from the requirement
9 to provide a financial surety.

10 115092. (a) The department shall deposit all money received
11 from a financial surety provided pursuant to Section 115091 in the
12 Financial Surety Account, which is hereby created in the Nuclear
13 Medicine and Radiological Materials Control Fund.

14 (b) Notwithstanding Section 13340 of the Government Code,
15 the money in the Financial Surety Account is hereby continuously
16 appropriated to the department for expenditure only for the
17 decontamination, decommissioning, reclamation, and disposal of
18 radioactive materials, and for long-term maintenance and
19 surveillance for the protection of the public health and safety and
20 the environment, in accordance with subdivision (e), with regard
21 to the facility or operations of the licensee who provided the
22 financial surety.

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

25 (d) The department shall, by regulation, establish a procedure
26 whereby a licensee may be refunded the amount of the financial
27 surety provided by the licensee in excess of any amounts expended
28 by the department and any amounts that are required to be retained
29 to cover the costs of long-term maintenance and surveillance
30 pursuant to subdivision (b), with regard to that licensee's facility
31 or operations. The regulations shall specify that the refund may be
32 received only after the department has determined that the licensee
33 has fully satisfied all of its obligations under its license, and all
34 other obligations which the regulations require to be satisfied
35 before the licensee may receive a refund.

36 (e) If the department finds that a radioactive materials licensee
37 is unable to, or is unwilling to, conduct any decontamination,
38 decommissioning, reclamation, disposal, or long-term
39 maintenance and surveillance that may be necessary, the
40 department shall issue an order directing any action and corrective



1 measures it finds necessary to protect the public health and safety
2 and the environment. The department may undertake, or contract
3 for the undertaking of, any actions or corrective measures which
4 the licensee fails to satisfactorily complete, and may expend the
5 amount of the financial surety provided by the licensee to pay the
6 costs of those actions and corrective measures.

7 115093. (a) The department shall require, as a condition of
8 issuing a license to receive, possess, or transfer radioactive
9 materials, or devices or equipment utilizing radioactive materials,
10 that the licensee take corrective action with regard to all
11 contamination that results from the handling, use, storage, or
12 transportation of radioactive materials at the licensee's facility
13 regardless of when the contamination commenced at the facility.

14 (b) Any corrective action required pursuant to this section shall
15 require that corrective action be taken beyond the facility
16 boundary if necessary to protect human health and safety or the
17 environment, unless the licensee demonstrates to the satisfaction
18 of the department that, despite the licensee's best efforts, the
19 licensee is unable to obtain the necessary permission to undertake
20 the corrective action.

21 (c) When corrective action cannot be completed prior to
22 issuance of the license, the license shall contain schedules of
23 compliance for corrective action and assurances of financial
24 responsibility for completing the corrective action.

25
26 Article 5. Inspection
27

28 115095. Any officer, employee, or agent of the department or
29 of any state or local agency with which an agreement has been
30 made pursuant to Section 114990 shall have the power to enter at
31 all reasonable times upon any private or public property within the
32 jurisdiction of the agency for the purpose of determining whether
33 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. Entry into areas under the
39 jurisdiction of the federal government shall be effected only with

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

3 115100. (a) The person responsible for registering
4 mammographic X-ray equipment shall be responsible for assuring
5 that the mammographic X-ray equipment under his or her
6 jurisdiction has been inspected and that mammography quality
7 assurance tests are performed by a medical physicist, health
8 physicist, or other individual with qualifications similar to those
9 approved by the department and prescribed in the May 1990
10 version of the “Rules of Good Practice for Supervision and
11 Operation of Mammographic X-Ray Equipment,” as approved by
12 the Radiologic Technology Certification Committee.

13 (b) If the department adopts regulations on or after January 1,
14 1993, that provide similar or stronger protection of a patient’s
15 health and safety than the “Rules of Good Practice for Supervision
16 and Operation of Mammographic X-Ray Equipment,” as
17 determined by the department, then those rules shall no longer
18 apply to this section.

19
20 Article 6. Records
21

22 115105. The department shall require each person who
23 acquires, possesses or uses a source of ionizing radiation to
24 maintain records relating to its receipt, storage, transfer or
25 disposal, and other records as the department may require, subject
26 to exemptions as maybe provided by regulations.

27 115110. (a) The department shall require each person who
28 possesses or uses a source of ionizing radiation to maintain
29 appropriate records showing the radiation exposure of all
30 individuals for whom personnel monitoring is required by
31 regulations of the department. Copies of these records and those
32 required to be kept in accordance with Section 115105 shall be
33 submitted to the department upon request.

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

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

4 115115. The person responsible for registering
5 mammographic X-ray equipment or a certified supervisor, as
6 defined in subdivision (i) of Section 114850, shall establish and
7 maintain a Mammography Quality Assurance Program that
8 includes all of the following:

9 (a) A Mammography Quality Assurance Manual for the
10 identification of mammography quality assurance tests
11 performed, test frequency, test equipment used, maintenance and
12 calibration of test equipment, and the qualifications of individuals
13 who perform the tests in order to ensure compliance with the May
14 1990 version of “Rules of Good Practice for Supervision and
15 Operation of Mammographic X-Ray Equipment” or the
16 regulations of the department.

17 (b) A “Mammography X-Ray Equipment and Facility
18 Accreditation Certificate” issued by the department that shall be
19 posted on each X-ray machine specifically dedicated for the
20 purpose of mammography.

21
22 Article 7. Federal-State Agreements
23

24 115120. The Governor, on behalf of this state, may enter into
25 agreements with the federal government providing for
26 discontinuance of certain of the federal government’s
27 responsibilities with respect to sources of ionizing radiation and
28 the assumption thereof by this state. The agreements shall become
29 effective only when ratified by law.

30 115125. Any person who, on the effective date of an
31 agreement under former Section 115120, as that section read on
32 January 1, 2003, possesses a license issued by the federal
33 government shall be deemed to possess the same pursuant to a
34 license issued under this chapter. The license shall expire either 90
35 days after receipt from the department of a notice of expiration of
36 the license, or on the date of expiration specified in the federal
37 license, whichever is the earlier.

1 Article 8. Inspection Agreements and Training Programs

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3 115130. The department, on behalf of this state, may enter
4 into an agreement or agreements with the federal government,
5 other states, or interstate agencies, whereby this state will perform
6 on a cooperative basis with the federal government, other states,
7 or interstate agencies, inspections or other functions relating to
8 control of sources of ionizing radiation.

9 115135. The department and any other appropriate state
10 agency may institute training programs for the purpose of
11 qualifying personnel to carry out this chapter, and may make those
12 personnel available for participation in any program or programs
13 of the federal government, other states, or interstate agencies in
14 furtherance of the purposes of this chapter.

15 115140. An ordinance, resolution, or regulation, in effect on
16 or before January 1, 2004, or in effect after that date, of the
17 governing body of a city or county relating to radioactive materials
18 or other sources of radiation shall not be superseded by this
19 chapter, if the ordinance, resolution, or regulation is, and continues
20 to be, consistent with this chapter, any amendments to this chapter,
21 and the regulations adopted pursuant to this chapter. A city or
22 county may not require the payment of a fee in connection with the
23 activities governed by Section 115065 when a fee is required by
24 the regulations adopted pursuant to that section, and a city or
25 county may not require the payment of a fee in connection with the
26 activities governed by Section 115080 when a fee is required by
27 the regulations adopted pursuant to that section.

28
29 Article 10. Administrative Procedure

30
31 115145. (a) In any proceeding under this chapter for granting
32 or amending any license, or for determining compliance with, or
33 granting exceptions from, regulations adopted in accordance with
34 this chapter, the department shall afford an opportunity for a
35 hearing on the record upon the request of any person whose
36 interest may be affected by the proceeding, and shall admit that
37 person as a party to the proceeding.

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

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

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

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

Article 11. Injunction Proceedings

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

Article 12. Uses

115165. It shall be unlawful for any person to use, manufacture, produce, knowingly transport, transfer, receive, acquire, own, or possess, any source of ionizing radiation subject to this chapter unless licensed by or registered with the department

1 in accordance with this chapter and the regulation issued pursuant
2 to this chapter.

3 115170. (a) It is unlawful for any person to manufacture,
4 construct, produce, transfer, acquire, use, or possess any of the
5 materials or facilities for which a permit or license is required
6 under the provisions of the Atomic Energy Act of 1954 (Public
7 Law 85-256) and that is subject to this chapter unless he or she shall
8 have first obtained a permit or license.

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

11 Article 13. Impounding of Materials

13 115175. The department shall have the authority in the event
14 of an emergency to impound or order the impounding of sources
15 of ionizing radiation in the possession of any person who is not
16 equipped to observe or fails to observe this chapter or any
17 regulations adopted pursuant to this chapter.

18 115210. (a) The city attorney of the city or the district
19 attorney of the county in which a violation of this chapter occurs,
20 occurred, or will occur, or the Attorney General, at the request of
21 the department, may institute on behalf of the people of California
22 any civil action necessary to carry out this chapter, including, but
23 not limited to, obtaining an injunction or the imposition of a civil
24 penalty.

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

29 (c) If a civil penalty is awarded and the action is brought by the
30 Attorney General, the penalty shall be deposited in the General
31 Fund.

33 Article 14. Penalties

35 115215. (a) Any person who violates this chapter, any
36 regulation adopted pursuant to this chapter, or any orders issued
37 pursuant to this chapter, is guilty of a misdemeanor and shall, upon
38 conviction, be punished by a fine not to exceed one thousand
39 dollars (\$1,000) or by imprisonment in the county jail for a period
40 not to exceed 180 days, or by both the fine and imprisonment.

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

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

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

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

(1) If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months,

1 except as otherwise provided in paragraph (2). The court may also
2 impose, upon a person convicted of violating this subdivision, a
3 fine of not more than one hundred thousand dollars (\$100,000) for
4 each day of violation, except as provided by paragraph (2).

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

11 (d) Notwithstanding any other provision of this chapter,
12 radioactive materials used in medical treatment or result from
13 medical treatment, that are disposed, stored, handled, or
14 transported in a manner authorized pursuant to this chapter, are
15 exempt from subdivisions (b) and (c).

16 (e) Notwithstanding subdivision (a), any person who violates
17 any provision of this chapter relating to mammography or the
18 regulations adopted pursuant to this chapter relating to
19 mammography guilty of a misdemeanor and shall, upon
20 conviction thereof, be punished by a fine not to exceed five
21 thousand dollars (\$5,000), per day of offense, or by imprisonment
22 in the county jail not to exceed 180 days, or both the fine and
23 imprisonment.

24 115220. (a) Any person who intentionally or through gross
25 negligence violates this chapter, or any regulation adopted
26 pursuant to this chapter or who fails or refuses to comply with a
27 cease and desist order or other order of the department issued
28 pursuant to this chapter, and that action causes a substantial danger
29 to the health of others, shall be liable to the department for a civil
30 penalty not to exceed five thousand dollars (\$5,000) per day, per
31 offense.

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

34 Article 15. Effective Date of Licensing Provisions

35
36
37 115225. Subdivision (a) of Section 115060 and other
38 provisions of this chapter relating to licensing and the enforcement
39 thereof shall become effective only upon execution of an

1 agreement pursuant to Section 115120. Section 115080 shall
2 become operative on July 1, 1962.

3
4 Article 16. Agreement Between the United States Atomic
5 Energy Commission and the State of California
6

7 115230. The Legislature of the State of California hereby
8 ratifies and approves that certain agreement designated as the
9 “Agreement between the United States Atomic Energy
10 Commission and the State of California for Discontinuance of
11 Certain Commission Regulatory Authority and Responsibility
12 within the State Pursuant to Section 274 of the Atomic Energy Act
13 of 1954, as Amended,” that was approved by the Chairman of the
14 Atomic Energy Commission on the ninth day of March 1962,
15 under authority of Section 274 of the Atomic Energy Act of 1954,
16 as amended (Public Law 86-373), and by the Governor of
17 California on the 12th day of March 1962, under authority of and
18 in conformity with Section 115120; and the provisions of this
19 agreement shall become effective in accordance with Article IX of
20 the agreement set forth in former Section 115235, as that section
21 read on January 1, 2003.

22 115235. The provisions of the agreement are as follows:

23
24 Article I
25

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

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

35
36 Article II
37

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

1 A. The construction and operation of any production or
2 utilization facility;

3 B. The export from or import into the United States of
4 byproduct, source, or special nuclear material, or of any
5 production or utilization facility;

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

9 D. The disposal of other byproduct, source, or special nuclear
10 material as the Commission from time to time determines by
11 regulation or order should, because of the hazards or potential
12 hazards thereof, not be so disposed of without a license from the
13 Commission.

14 Article III

15
16
17 Notwithstanding this Agreement, the Commission may from
18 time to time by rule, regulation, or order, require that the
19 manufacturer, processor, or producer of any equipment, device,
20 commodity, or other product containing source, byproduct, or
21 special nuclear material shall not transfer possession or control of
22 the product except pursuant to a license or an exemption from
23 licensing issued by the Commission.

24 Article IV

25
26
27 This Agreement shall not affect the authority of the Commission
28 under Subsection 161 b or i of the Act to issue rules, regulations,
29 or orders to protect the common defense and security, to protect
30 restricted data or to guard against the loss or diversion of special
31 nuclear material.

32 Article V

33
34
35 The State will use its best efforts to maintain continuing
36 compatibility between its program and the program of the
37 Commission for the regulation of like materials. To this end the
38 State will use its best efforts to keep the Commission informed of
39 proposed changes in its regulations, and licensing, inspection, and
40 enforcement policies and criteria, and of proposed requirements

1 for the design and distribution of products containing source,
2 byproduct, or special nuclear material, and to obtain the comments
3 and assistance of the Commission thereon.

4
5 Article VI

6
7 The Commission will use its best efforts to keep the State
8 informed of proposed changes in its regulations, and licensing,
9 inspection, and enforcement policies and criteria and to obtain the
10 comments and assistance of the State thereon.

11
12 Article VII

13
14 The Commission and the State agree that it is desirable to
15 provide for reciprocal recognition of licenses for the materials
16 listed in Article I licensed by the other party or by any agreement
17 State. Accordingly, the Commission and the State agree to use
18 their best efforts to develop appropriate rules, regulations, and
19 procedures by which such reciprocity will be accorded.

20
21 Article VIII

22
23 The Commission, upon its own initiative after reasonable notice
24 and opportunity for hearing to the State, or upon request of the
25 Governor of the State, may terminate or suspend this Agreement
26 and reassert the licensing and regulatory authority vested in it
27 under the Act if the Commission finds that such termination or
28 suspension is required to protect the public health and safety.

29
30 Article IX

31
32 This Agreement, upon ratification by law of the State, shall
33 become effective on the ninety-first day after the adjournment of
34 the First Extraordinary Session of the 1962 California Legislature
35 or on September 1, 1962, whichever is later, and shall remain in
36 effect unless, and until such time as it is terminated pursuant to
37 Article VIII.

38 SEC. 7. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

