

**Suggested State Legislation – Radiation Control Act
Issued by the Council of State Legislatures**

This draft act is a complete updating of the 1961 *Suggested State Legislation* act. It now covers both ionizing and nonionizing radiation. Procedural requirements for public participation in licensing of source material processing and related mill tailing management, environmental impact analysis and judicial review have been added in order to conform to the federal Uranium Mill Tailings Radiation Control Act of 1978. Authorization is provided for the negotiation of regional interstate compacts for low-level radioactive waste disposal, the acquisition of land for disposal sites and the establishing of a low-level waste disposal service. User fees are also authorized. The legislation also requires that licensees provide financial surety to guarantee closure, decommissioning, reclamation and long-term care funds to cover custodial services after licenses terminate. Finally, the draft law gives the states authority to assess and collect civil monetary penalties for violations of licensing or registration requirements.

Many parts of the act are presented in brackets, indicating options for bill drafters. There are also several comments offered on specific parts of the law. The draft legislation was submitted by the U.S. Nuclear Regulatory Commission.

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Section 1	[Short Title.]		This act may be cited as the Radiation Control Act.			
Section 2	Declaration of Policy		It is the policy of the state in furtherance of its responsibility to protect the [occupational and] public health and safety and the environment: (1) To institute and maintain a regulatory program for sources of ionizing and nonionizing radiation so as to provide for compatibility and equivalency with the standards and regulatory programs of the federal government, [a single [an integrated effective system of regulation within the state, and a system consonant insofar as			

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			<p>possible with those of other states. (2) To institute and maintain a program to permit development and use of sources of radiation for peaceful purposes consistent with the health and safety of the public. (3) To provide for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within the state except for waste generated as a result of defense or federal research and development activities and to recognize that such radioactive waste can be most safely and efficiently managed on a regional basis.</p>			
Section 3	Purpose		<p>It is the purpose of this act to provide: (1) A program of effective regulation of sources of radiation for the protection of the [occupational and] public health and safety. (2) A program to 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 radiation to the end that duplication of regulation may be minimized.</p>			

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			<p>(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct, source and special nuclear materials and radiation generating equipment.</p> <p>(4) A program to permit use of sources of radiation consistent with the health and safety of the public.</p>			
Section 4	Definitions:		<p>[Definitions.] As used in this act:</p> <p>(1) "Byproduct material" means:</p> <p>(i) 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, and</p> <p>(ii) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.</p>			
Section 4	Definitions:		<p>(2) "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses or registration certificates, but does not include criminal penalties.</p>			

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Section 4	Definitions:		(3) "Closure" or "Site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site following termination of licensed operation.			
Section 4	Definitions:		(4) "Decommissioning" means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material and to carry out any other activities to prepare the site for post operational care.			
Section 4	Definitions:		(5) "Disposal of low-level radioactive waste" means the isolation of such waste from the biosphere by emplacement in a land burial facility.			
Section 4	Definitions:		(6) "High-level radioactive waste" means: (i) Irradiated reactor fuel. (ii) Liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or			

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			equivalent, in a facility for reprocessing irradiated reactor fuel. (iii) Solids into which such liquid wastes have been converted.			
Section 4	Definitions:		(7) "General license" means a license effective under regulations promulgated by the [agency] without the filing of an application with the [agency] or the issuance of licensing documents to particular persons to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, radioactive material.			
Section 4	Definitions:		(8) "Specific license" means a license, issued to a named person upon application filed under the regulations promulgated under this act, to use, manufacture, produce, transfer, receive, acquire, or possess quantities of, or devices or equipment utilizing, radioactive material.			
Section 4	Definitions:		(9) "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or byproduct material.			
Section 4	Definitions:		(10) "Person" means any individual, corporation, partnership,			

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			firm, association, trust, estate, public or private institution, group, agency of this state other than [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, but not including federal government agencies.			
Section 4	Definitions:		(11) "Radiation" means ionizing radiation and nonionizing radiation.			
Section 4	Definitions:		(12) "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, or visible, infrared or ultraviolet light.			
Section 4	Definitions:		(13) "Nonionizing radiation" means: (i) Any electromagnetic radiation, other than ionizing electromagnetic radiation. (ii) Any sonic, ultrasonic or infrasonic wave.			
Section 4	Definitions:		(14) "Radiation generating equipment" means any manufactured product or device, or component part of such a product or device, or any machine or			

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			system which during operation can generate or emit radiation except those which emit radiation only from radioactive material.			
Section 4	Definitions:		(15) "Radioactive material" means material (solid, liquid or gas) which emits ionizing radiation spontaneously. It includes accelerator-produced, byproduct, naturally occurring, source and special nuclear materials.			
Section 4	Definitions:		(16) "Registration" means registration with the agency in accordance with rules and regulations adopted pursuant to this act.			
Section 4	Definitions:		(17) "Source material" means uranium or thorium, or any combination thereof, in any physical or chemical form; or ores which contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.			
Section 4	Definitions:		(18) "Source material mill tailings" means the tailings or wastes produced by the extraction or concentration of uranium or thorium			

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			<p>from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes.</p>			
Section 4	Definitions:		<p>(19) "Source material milling" means any processing of ore, {[including] [excluding] underground solution extraction of unmined ore}, primary the purpose of extracting or concentrating uranium or thorium then and which results in the production of source material mill tailings</p> <p><i>Comment: The SSL Committee placed part of this subsection in brackets, making the inclusion or exclusion of underground mining optional, The U.S. Nuclear Regulatory Commission advises, that in its opinion, exclusion would raise questions of compatibility with the intent of federal laws and regulation.</i></p>			
Section 4	Definitions:		<p>(20) "Sources of radiation" means, collectively, radioactive material radiation generating equipment.</p>			

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Section 4	Definitions:		(21) "Special nuclear material" means plutonium, uranium 233, and uranium enriched in the isotope 233 or in the isotope 235, but does not include source material; or any material artificially enriched by any of the foregoing, but does not include source material.			
Section 4	Definitions:		(22) "Spent nuclear fuel" means irradiated nuclear fuel that has undergone at least one year's decay since being used as a source of energy in a power reactor. Spent fuel includes the special nuclear material, byproduct material, source material and other radioactive material associated with fuel assemblies.			
Section 4	Definitions:		(23) "Transuranic waste" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than five years, in excess of 10 nanocuries per gram.			
Section 5	State Radiation Control Agency.		(a) [The department of is hereby designated as the State Radiation Control Agency, hereinafter referred to as the agency.] [There is hereby created a State Radiation Control Agency, hereinafter			

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			referred to as the agency. The agency shall be an organizational component of the state department of .] [There is hereby created an independent State Radiation Control Agency, hereinafter referred to as the agency.]			
Section 5	State Radiation Control Agency.		(b) [The head of the state department of] shall designate the director of the agency, hereinafter referred to as the director, who shall perform the functions vested in the agency under the provisions of this act. [If an independent State Radiation Control Agency is created, the governor should appoint the director.]			
Section 5	State Radiation Control Agency.		(c) In accordance with the laws of the state, the agency may employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this act.			
Section 5	State Radiation Control Agency.		(d) The agency shall for the protection of the [occupational and] public health and safety [and the environment]: (1) Develop programs for evaluation and control of hazards associated with use of sources of radiation.			

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			<p>(2) Develop programs with due regard for compatibility with federal programs for regulation of byproduct, source and special nuclear materials.</p> <p>(3) Develop programs with due regard for consistency with federal programs for regulation of radiation generating equipment.</p> <p>(4) Formulate, adopt, promulgate and repeal codes, rules and regulations, which may provide for licensing and/or registration, relating to control of sources of radiation with due regard for compatibility with the regulatory programs of the federal government.</p> <p>(5) Issue such orders or modifications thereof as may be necessary in connection with proceedings under this act. This power is intended for use in conjunction with any licensing authority. [The act or acts providing this authority should be cited.]</p> <p>(6) Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation.</p>			

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			<p>(7) Have the authority to accept and administer loans, grants or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private.</p> <p>(8) Encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation.</p> <p>(9) Collect and disseminate information relating to control of sources of radiation, including:</p> <p>(i) Maintenance of a file of all license application, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations.</p> <p>(ii) Maintenance of a file of registrants possessing sources of radiation requiring registration under the provisions of this act and any administrative or judicial action pertaining thereto.</p> <p>(iii) Maintenance of a file of all of the agency's rules and regulations relating to regulation of sources of radiation, pending or promulgated, and proceedings thereon.</p>			
Section 5	State Radiation		Comment: Subsections (e) and (f) which follow are recommended for			

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	Control Agency.		<p><i>those states in which regulatory responsibilities for radiation are assigned to two or more agencies. The state may want to assign this coordinating function to a committee representing the several agencies instead of to a single coordinator.</i></p>			
Section 5	State Radiation Control Agency.		<p>(e) The governor shall designate a Coordinator of Radiation Activities. The coordinator shall:</p> <p>(1) Consult with and review regulations and procedures of the agencies to assure consistency and to prevent unnecessary duplication, inconsistencies or gaps in regulatory requirements.</p> <p>(2) Review [before and] after the holding of any public hearing required under the provisions of this act prior to promulgation, the proposed rules and regulations of all agencies of the state relating to use and control of radiation, to assure that such rules and regulations are consistent with rules and regulations of other agencies of the state. Proposed rules and regulations shall not be effective until [] days after submission to the coordinator, unless either the governor or the coordinator waives all or part of</p>			

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			<p>such [] day period. The waiting period should run concurrently with any waiting period required by any other state law.</p> <p>(3) When the coordinator determines that proposed rules or regulations are inconsistent with rules and regulations of other agencies of the state, consult with the agencies involved in an effort to resolve such inconsistencies. Upon notification by the coordinator that such inconsistency has not been resolved, the governor may find that the proposed rules and regulations or parts thereof are inconsistent with rules or regulations of other agencies of the state and may issue an order to that effect in which event the proposed rules or regulations or parts thereof shall not become effective. The governor may, in the alternative, upon a similar determination, direct the appropriate agency or agencies to amend or repeal existing rules or regulations to achieve consistency with the proposed rules or regulations.</p>			
Section 5	State Radiation Control		(f) The several agencies of the state [and political subdivisions] shall keep the coordinator fully and			

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	Agency.		currently informed as to their activities relating to [development and] regulation of sources of radiation.			
Section 6	Advisory Committee on Radiation.		(a) The [insert appropriate official] is authorized to appoint an Advisory Committee on Radiation consisting of [] members with training and experience in the various fields in which sources of radiation are used. Members of the committee shall serve at the discretion of the [insert appropriate official] and [receive no salary for services but may be reimbursed for actual expenses incurred in connection with attendance at committee meetings or for authorized business of the committee.] [, when on business of the committee, be entitled to receive compensation at the rate of [dollars per diem] [in accordance with] and may be reimbursed for actual expenses incurred].			
Section 6	Advisory Committee on Radiation.		(b) The committee, if appointed, shall make recommendations to the [cite appropriate official] and furnish such advice as may be requested by the agency on matters relating to the regulation of sources of radiation.			

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Section 7	Licensing and Registration of Sources of Radiation.		<p>Comment: Two alternatives for licensing are presented, Alternative I.</p> <p>(a) The agency shall provide by rule or regulation for [general or specific] licensing of [byproduct, source and special nuclear materials] [radioactive material] [radioactive material not under the authority of the U.S. Nuclear Regulatory Commission,] or devices or equipment utilizing such material[s]. Such rule or regulation shall provide for amendment, suspension or revocation of licenses.</p>			
Section 7	Licensing and Registration of Sources of Radiation.		(b) The agency is authorized to require registration [or licensing] of other sources of radiation.			
Section 7	Licensing and Registration of Sources of Radiation.		(c) The agency is authorized to exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this section when the agency makes a finding that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.			

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Section 7	Licensing and Registration of Sources of Radiation.		(d) Rules and regulations promulgated under this act may provide for recognition of other state or federal licenses as the agency may deem desirable, subject to such registration requirements as the agency may prescribe.			
Section 7	Licensing and Registration of Sources of Radiation.		<p>Comment: Two alternatives for licensing are presented, Alternative II</p> <p>.</p> <p>(a) The agency shall provide by rule or regulation for [general or specific] licensing of [byproduct, source and special nuclear materials] [radioactive material] [radioactive material not under the authority of the U.S. Nuclear Regulatory Commission] or devices or equipment utilizing such material. Such rule or regulation shall provide for amendment, suspension or revocation of licenses. Such rule or regulation shall provide that:</p> <p>(1) Each application for a [specific] license shall be in writing and shall state such information as the agency by rule or regulation, may determine to be necessary to decide the technical and financial qualifications or any other</p>			

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			<p>qualifications of the applicant as the agency may deem reasonable and necessary to protect the [occupational and] public health and safety. The agency may at any time after the filing of the application, and before the expiration of the license, require further written statements and may make such inspections as the agency may deem necessary in order to determine whether the license should be modified, suspended or revoked. All applications and statements shall be signed by the applicant or licensee. The agency may require any applications or statements to be made under oath or affirmation.</p> <p>(2) Each license shall be in such form and contain such terms and conditions as the agency may by rule or regulation prescribe.</p> <p>(3) No license issued under the authority of this act and no right to possess or use sources of radiation granted by any license shall be assigned or in any manner disposed of unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of this act, and shall give its consent in writing.</p>			

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			(4) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations or orders issued in accordance with the provisions of this act.			
Section 7	Licensing and Registration of Sources of Radiation.		(b) The agency is authorized to require registration or licensing of other sources of radiation.			
Section 7	Licensing and Registration of Sources of Radiation.		(c) The agency is authorized to exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this section when the agency makes a finding that the exemption of such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.			
Section 7	Licensing and Registration of Sources of Radiation.		(d) Rules and regulations promulgated under this act may provide for recognition of other state or federal licenses as the agency shall deem desirable, subject to such registration requirements as the agency may prescribe.			
Section 8	Source Material		(a) Custody of disposal sites: (1) Any radioactive materials			

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	Processing and Related [Byproduct Material] [Mill Tailings]		<p>license issued or renewed after the effective date of this section for any activity which results in the production of [byproduct material] [source material mill tailings] shall contain such terms and conditions as the agency determines to be necessary to assure that, prior to termination of such license:</p> <p>(i) The licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the agency, which shall be equivalent, to the extent practicable, or more stringent than those of the U.S. Nuclear Regulatory Commission for sites at which ores were processed primarily for their source material content, and at which such [byproduct material is] [mill tailings are] deposited.</p> <p>(ii) Ownership of any disposal site and such [byproduct material] [mill tailings] which resulted from the licensed activity shall, subject to the provisions of this act, be transferred to the United States or the state if the state exercises the option to acquire land used for the disposal of such [byproduct material] [mill tailings]. Any license which is in effect on the effective date of this section and which is</p>			

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			<p>subsequently terminated without renewal shall comply with subsections (i) and (ii) upon termination.</p> <p>(2) The agency shall:</p> <p>(i) Require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land held in trust by the United States for any Indian tribe or owned by an Indian tribe subject to a restriction against alienation imposed by the United States or land already owned by the United States or by the state) which is used under such license for the disposal of [byproduct material] [source material mill tailings] shall be transferred to the United States, or the state unless the U.S. Nuclear Regulatory Commission determines prior to such termination that transfer of title to such land and such [material] [mill tailings] is not necessary or desirable to protect the public health, safety or welfare or to minimize danger to life or property.</p> <p>(ii) If transfer to the state of title to such [byproduct material] [mill tailing] and land is required,</p>			

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			<p>following the U.S. Nuclear Regulatory Commission's determination that the licensee has complied with applicable standards and requirements under his license, assume title to such [material] [mill tailings] and land and maintain such [material] [mill tailings] and land in such manner as will protect the public health and safety and the environment.</p> <p>(iii) The agency is authorized to undertake such monitoring, maintenance and emergency measures as are necessary to protect the public health and safety for those materials and property for which it has assumed custody pursuant to this act.</p> <p>(iv) The transfer of title to land or [byproduct materials] [source material mill tailings] to the United States or the state shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.</p> <p>(v) [Material] [Mill tailings] and land transferred to the United States or the state in accordance with this subsection shall be transferred without cost to the United States or the state other than administrative and legal costs</p>			

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			incurred by the United States or the state in carrying out such transfer.			
Section 8	Source Material Processing and Related [Byproduct Material] [Mill Tailings		(b) In licensing and regulation of [byproduct material] [source material mill tailings] or of any activity which results in the production of [byproduct material] [such tailings], the agency shall require compliance with applicable standards promulgated by the agency which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the U.S. Nuclear Regulatory Commission for the same purpose, including requirements and standards promulgated by the U.S. Environmental Protection Agency.			
Section 9	Low-level Radioactive Waste Disposal		(a) The agency is authorized to enter into negotiations for a compact with other states for the establishment and operation of a regional facility for disposal of low-level radioactive waste. Any such compact, before being put into effect, shall be ratified by the legislatures of the several states and consented to by the Congress of the United States.			

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			<p><i>Comment: To avoid the appearance of conflict of interests between regulatory and operational responsibilities, the agency designated in subsections (a), (b), (c) and (d) for custody and operational management of facilities for the disposal of radioactive waste should not be the same agency as designated in Section 5 as the radiation control agency. The licensing agency designated in subsection (d) (third reference) and in subsection (e) is the radiation control agency and the regulatory agency having jurisdiction in subsection (c) is either the radiation control agency or the U.S. Nuclear Regulatory Commission.</i></p>			
Section 9	Low-level Radioactive Waste Disposal		<p>(b) The state is authorized to accept or acquire, by gift, transfer or purchase, from another government agency or private person, suitable sites including land and appurtenances for the disposal of low-level radioactive waste. Sites received by gift or transfer are subject to approval and acceptance by the [agency on behalf of the] state.</p>			

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Section 9	Low-level Radioactive Waste Disposal		(c) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose, unless or until the regulatory agency having licensing jurisdiction over the site determines that such exclusive use is not required to protect the public health, safety, welfare, or environment. Before such site is leased for other use, the regulatory agency shall require and assure that the radioactive waste history of the site be recorded in the permanent land records of the site. All radioactive material accepted by the agency or by any agent of the agency for disposal on a radioactive waste disposal site shall become the property of the state.			
Section 9	Low-level Radioactive Waste Disposal		(d) The agency is authorized to arrange for tile availability of a service for disposal of low-level radioactive waste by contract [or agency] operation of a disposal site acquired under subsection (b) or already owned by the state. A contract operator shall be subject to the surety and long-term care funding provisions of this act and to appropriate licensing by the U.S.			

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			Nuclear Regulatory Commission or by the agency under an agreement under this act.			
Section 9	Low-level Radioactive Waste Disposal		(e) The agency shall not approve any application for a license to receive radioactive waste from other persons for disposal oil land not owned by the state or federal government.			
Section 10	[<i>Radiation User Fees.</i>]	N/A	<p>Section 10. (a) The agency shall prescribe and collect such fees as may be established by regulation for radiation protection services provided under this act. Services for which fees may be established include:</p> <ul style="list-style-type: none"> (1) Registration of radiation generating equipment, and other sources of radiation. (2) Issuance, amendment and renewal of licenses for radioactive materials. (3) Inspections of registrants or licensees. (4) Environmental surveillance activities to assess the radiological impact of activities conducted by licensees. <p>(b) In determining rates of such fees, the agency shall, as an objective, obtain sufficient funds there from to reimburse the state</p>	N/A	N/A	Authority for fees is not a requirement for becoming an agreement state. NRC does not review this authority under 274b or 274j.

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			<p>for all or a substantial portion of the direct and indirect costs of the radiation protection services specified in subsection (a). The agency shall take into account any special arrangements between the state and a registrant, licensee, another state or a federal agency whereby the cost of tile service is otherwise partially or fully recovered.</p> <p>(c) Notwithstanding the provisions of subsection (a), fees for registration of radiation generating equipment and other sources of radiation and for licenses for radioactive materials shall not be required for an agency of the state or any political subdivision thereof.</p> <p>(d) The agency may, upon application by an interested person, or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.</p> <p>(e) When a registrant or licensee fails to pay the applicable fee, the agency may suspend or revoke the</p>			

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			registration or license or may issue an appropriate order.			
Section 11	Surety Requirements		<p>(a) For licensed activities involving source material milling, source material mill tailing and disposal of low-level radioactive waste the agency shall, and for other classes of licensed activity the agency may, establish by rule or regulation standards and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the agency for the decontamination, closure, decommissioning and reclamation of sites, structures and equipment used in conjunction with such licensed activity, in case the licensee should default for any reason in performing such requirements.</p> <p>Comment: <i>Acceptable sureties would include bonds issued by fidelity or surety companies authorized it) do business in the state, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow</i></p>			

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			<p><i>accounts or such other types of arrangements, but not including any arrangements which essentially constitutes self insurance. Subsection (a) can be amended, if desired, to require the surety to also ensure payment of the longterm care funds required by subsection (c).</i></p>			
Section 11	Surety Requirements		<p>(b) All sureties required under subsection (a) which are forfeited shall be paid to the agency for deposit by the [state treasurer] in a special fund called the [radiation site closure and reclamation fund]. All monies in this fund are hereby appropriated and may be expended by the agency as necessary to complete such requirements on which licensees have defaulted. Monies in this fund shall not be used for normal operating expenses of the agency.</p> <p>Comment: <i>The state may want to consider ways of maximizing this fund by authorizing the investment of unexpended monies of the fund in a manner consistent with state policy and statutes.</i></p>			
Section 11	Surety Requirements		<p>(c) For licensed activities involving the disposal of source material mill</p>			

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			<p>tailings and disposal of low-level radioactive waste the agency shall, and for other classes of licensed activity when radioactive material which will require surveillance or care is likely to remain at the site after the licensed activities cease the agency may, establish by rule or regulation standards and procedures to ensure that the licensee, before termination of the license, will make available such funding arrangements as may be necessary to provide for long-term site surveillance and care.</p>			
Section 11	Surety Requirements		<p>(d) All funds collected from licensees under subsection (c) shall be paid to the agency for deposit by the [state treasurer] in a special fund called the [radiation long-term care fund]. All funds accrued as interest on monies deposited in this fund are hereby appropriated and may be expended by the agency for the continuing long-term surveillance, maintenance and other care of facilities from which such funds are collected as necessary for protection of the public health, safety and environment. Notwithstanding any other provisions of this subsection, if title</p>			

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			<p>to and custody of any radioactive material and its disposal site are transferred to the United States upon termination of any license for which funds have been collected for such long-term care, the collected funds and interest accrued thereon shall be transferred to the United States.</p> <p>Comment: <i>The state may want to authorize appropriations and expenditures from this fund to carry out the purposes of subsections (c) and (d) and may want to maximize this fund by authorizing the investment and unexpended appropriated interest in a manner consistent with state policy and statutes.</i></p>			
Section 11	Surety Requirements		<p>(e) The sureties or other financial arrangements and funds required by subsections (a) and (c) shall be established in amounts sufficient to ensure compliance with those standards, if any, established by the U.S. Nuclear Regulatory Commission pertaining to closure, decommissioning, reclamation and long-term site surveillance and care of such facilities and sites.</p>			

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Section 11	Surety Requirements		(f) In order to provide for the proper care and surveillance of sites subject to subsection (c) and which are not subject to Section 8 or 9, the [state] [agency on behalf of the state] may acquire by gift or transfer from another government agency or private person, any land and appurtenances necessary to fulfill the purposes of this section. Any such gift or transfer is subject to approval and acceptance by the [state] [agency].			
Section 11	Surety Requirements		(g) The agency may by contract, agreement, lease or license with any person, including another state agency, provide for the decontamination, closure, decommissioning, reclamation, surveillance or other care of a site subject to this section as needed to carry out the purposes of this section.			
Section 11	Surety Requirements		(h) In the event a person licensed by any governmental agency other than [state] [agency] desires to transfer a site to the state for the purpose of administering or providing long-term care, a lump sum deposit shall be made to the [radiation long-term care fund]. The amount of such deposit shall be			

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			determined by the agency taking into account the factors stated in subsections (c) and (e) of this section.			
Section 11	Surety Requirements		(i) [All state, local, or other government agencies, shall be exempt from the requirements of subsections (a) and (c)].			
Section 12	Inspection		The agency or its duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this act and rules and regulations issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.			
Section 13	Records		The agency is authorized to require by rule, regulation or order, the keeping of such records with respect to activities under licenses and registration certificates issued under this act as may be necessary to effectuate the purposes of this act. These records shall be made			

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			available for inspection by, or copies thereof shall be submitted to, the agency on request.			
Section 14	Federal-State Agreements		(a) The governor, on behalf of this state, is authorized to enter into agreements with the U.S. Nuclear Regulatory Commission under Section 274b of the Atomic Energy Act of 1954, as amended, providing for discontinuance of certain of the Commission's licensing and related regulatory authority with respect to byproduct, source and special nuclear materials and the assumption of regulatory authority therefore by this state.			
Section 14	Federal-State Agreements		(b) Any person who, on the effective date of an agreement under subsection (a) above, possesses a license issued by the U.S. Nuclear Regulatory Commission for radioactive materials subject to the agreement shall be deemed to possess a like license issued under this act, which shall expire either 90 days after receipt from the agency of a notice of expiration of such license, or on the date of expiration specified in the Nuclear Regulatory Commission license, whichever is earlier.			

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Section 15	Inspection Agreements and Training Programs		(a) The agency is authorized to enter into [, subject to the approval of the governor,] an agreement or agreements with the U.S. Nuclear Regulatory Commission under Section 274i of the Atomic Energy Act of 1954, as amended, other federal government agencies as authorized by law, other states or interstate agencies, whereby this state will perform on a cooperative basis with the commission, other federal government agencies, other states or interstate agencies, inspections or other functions relating to control of sources of radiation.			
Section 15	Inspection Agreements and Training Programs.		(b) The agency may institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and may make said personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act.			
Section 16	Conflicting Laws		Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state			

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			agencies other than the agency[ies] named in Section 5 relating to byproduct, source and special nuclear materials shall not be superseded by this act; provided, that such ordinances or regulations are and continue to be consistent with the provisions of this act, amendments thereto and rules and regulations thereunder.			
Section 17	Administrative Procedure and Judicial Review		(a) In any proceeding for the issuance or modification of rules or regulations relating to control of sources of radiation, the agency shall provide an opportunity for public participation through written comments or a public hearing.			
Section 17	Administrative Procedure and Judicial Review		(b) In any proceeding for the denial of an application for license or for revocation, suspension or modification of a license, the agency shall provide to the applicant or licensee an opportunity for a hearing on the record.			

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Section 17	Administrative Procedure and Judicial Review		<p>(c) In any proceeding for licensing ores processed primarily for their source material content and disposal of [byproduct material] [source material mill tailings] or for licensing disposal of low-level radioactive waste, the agency shall provide:</p> <p>(1) An opportunity, after public notice, for written comments and a public hearing, with a transcript.</p> <p>(2) An opportunity for cross examination.</p> <p>(3) A written determination of the action to be taken which is based upon findings included in the determination and upon evidence presented during the public comment period.</p>			
Section 17	Administrative Procedure and Judicial Review		<p>(d) In any proceeding for licensing ores processed primarily for their source material content and disposal of [byproduct material] [source material mill tailings] or for licensing disposal of low-level radioactive waste, the agency shall prepare, for each licensed activity which has a significant impact on the human environment, a written analysis of the impact of such licensed activity on the environment. The analysis shall be available to the public before the</p>			

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			<p>commencement of hearings held pursuant to subsection (c) and shall include:</p> <p>(1) An assessment of the radiological and nonradiological impacts to the public health.</p> <p>(2) An assessment of any impact on any waterway and groundwater.</p> <p>(3) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted.</p> <p>(4) Consideration of the long-term impacts, including decommissioning, decontamination and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after such decommissioning, decontamination and reclamation.</p>			
Section 17	Administrative Procedure and Judicial Review		(e) The agency shall prohibit any major construction with respect to any activity for which an environmental impact analysis is required by subsection (d) prior to completion of such analysis.			
Section 17	Administrative Procedure and Judicial Review		(f) Whenever the agency finds that an emergency exists requiring immediate action to protect the public health and safety, the			

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			<p>agency may, without notice or hearing, issue a regulation or order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet the emergency.</p> <p>Notwithstanding any provision of this act, such regulation or order shall be effective immediately. Any person to whom such regulation or order is directed shall comply therewith immediately, but on application to the agency shall be afforded a hearing within [] days. On the basis of such hearing, the emergency regulation or order shall be continued, modified or revoked within [30] days after such hearing.</p>			
Section 17	Administrative Procedure and Judicial Review		(g) Any final agency action or order entered in any proceeding under subsections (a), (b), (c) and (f) above shall be subject to judicial review by the [appropriate court] in the manner prescribed in [cite appropriate state act setting out procedure for appeal.]			
Section 18	Injunction Proceedings		Whenever, in the judgment of the agency, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this act, or any rule,			

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			<p>regulation or order issued thereunder, [and at the request of the agency,] the [attorney general] may make application to the [appropriate court] for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the agency that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.</p>			
Section 19	Prohibited Uses		<p>It shall be unlawful for any person to use, manufacture, produce, distribute, sell, transport, transfer, install, repair, receive, acquire, own or possess any source of radiation unless licensed by or registered with the agency in conformance with rules and regulations, if any, promulgated in accordance with the provisions of this act.</p>			
Section 20	Impounding		<p>The agency shall have the authority in the event of an emergency to impound or order the impounding of sources of radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this act or</p>			

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			any rules or regulations issued thereunder.			
Section 21	Penalties		(a) Criminal penalties. Any person who [willfully] violates any of the provisions of this act or rules, regulations or orders of the agency in effect pursuant thereto shall upon conviction thereof, be punished by [fine, imprisonment, or both].			
Section 21			(b) Civil penalties: (1) Any person who violates any licensing or registration provision of this act or any rule, regulation, or order issued thereunder, or any term, condition or limitation of any license or registration certificate issued thereunder, or commits any violation for which a license or registration certificate may be revoked under rules or regulations issued under this act may be subject to a civil penalty, to be imposed by the agency, not to exceed [insert appropriate dollar amount]. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of			

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			<p>computing the applicable civil penalty. The agency shall have the power to compromise, mitigate, or remit such penalties.</p> <p>(2) Whenever the agency proposes to subject a person to the imposition of a civil penalty under the provisions of this subsection (b), it shall notify such person in writing:</p> <p>(i) Setting forth the date, facts, and nature of each act or omission with which the person is charged.</p> <p>(ii) Specifically identifying the particular provision or provisions of the section, rule, regulation, order, license or registration certificate involved in the violation.</p> <p>(iii) Advising of each penalty which the agency proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the agency to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the agency shall by rule or regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently</p>			

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			<p>determined by the agency, if any, the penalty may be collected by civil action. Any person upon whom a civil penalty is imposed may appeal such action under [state administrative procedure act].</p> <p>(3) On the request of the agency, the [name appropriate state agency, e.g., attorney general] is authorized to institute a civil action to collect a penalty imposed pursuant to this subsection (b). The [name appropriate state agency, e.g., attorney general] shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to him for collection.</p> <p>(4) All monies collected from civil penalties shall be paid to the [state treasurer] for deposit in the general fund. Monies collected from civil penalties shall not be used for normal operating expenses of the [agency] except as appropriations are made from the general fund in the normal budgetary process.</p>			