

Facsimile Cover Sheet



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Date: 3-5-02

Total Pages Including Cover: 37

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From: ED BAILEY

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Comments:

URGENT! [] Per Your Request [] Please Comment

Other:

Bailey, Edgar (DHS-RHB)

From: Stephen Salomon [SNS@nrc.gov]
Sent: Tuesday, March 05, 2002 12:26 PM
To: Bailey, Edgar (DHS-RHB)
Cc: James Kennedy; James Lieberman
Subject: Senate Bill 2065, plus apparently others

** High Priority **

Ed,

Paul Lohaus has tasked me with getting some agency comments together for you on SB 2065 and some others that I am trying with difficulty to download. If possible, fax them to 301-415-3502.

When do you need our comments?

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CALIFORNIA LEGISLATURE--2001-02 REGULAR SESSION

ASSEMBLY BILL**No. 2214****Introduced by Assembly Member Keeley**

February 20, 2002

An act to add Section 115261 to the Health and Safety Code, and to repeal Section 11 of Chapter 1309 of the Statutes of 1990, relating to radioactive waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, as introduced, Keeley. Low-level radioactive waste disposal facility.

(1) The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the department from issuing a license to receive radioactive material for disposal unless specified requirements are satisfied, including that the land on which the radioactive wastes are to be buried is owned by the federal or state government.

Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is to serve as the state required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste pursuant to specified federal requirements and the requirements of the host state. A violation of the provisions regulating radioactive waste is a crime.

This bill would define terms and would prohibit the department from issuing a license for the disposal of low-level radioactive waste, or renewing a license, unless the department determines that the design and operation of the facility meets specified requirements. The bill would require a low-level radioactive waste disposal facility



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constructed in the state to meet specified requirements regarding the management of that waste. The bill would prohibit the proposed Ward Valley radioactive waste disposal site from serving as the state's facility for purposes of the compact and would prohibit the state from accepting ownership or other property rights to the site of that facility.

Since a violation of the bill would be a crime, the bill would impose a state-mandated local program.

(2) Existing law authorizes the State Director of Health Services, with the approval of the Director of General Services, to lease specified property to construct, operate, and close a low-level radioactive waste disposal facility.

This bill would repeal that authority.

(3) 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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The term "low-level radioactive waste" generally is
- 4 defined under federal and state law as all radioactive waste other
- 5 than spent reactor fuel, certain high concentration waste from
- 6 nuclear weapons production, and uranium mill tailings. Low-level
- 7 radioactive waste may include such materials as plutonium 239,
- 8 cesium-137, and strontium 90 and may have radioactive
- 9 concentrations greater than some high-level radioactive wastes.
- 10 (b) The state entered into the Southwestern Low-Level
- 11 Radioactive Waste Disposal Compact (Section 115255 of the
- 12 Health and Safety Code) in 1987 with the States of Arizona, North
- 13 Dakota, and South Dakota. Under this compact, the state agreed
- 14 to host a disposal facility for low-level radioactive wastes for the
- 15 first 30 years.
- 16 (c) Section (c) of Article 2 of the Southwestern Low-Level
- 17 Radioactive Waste Disposal Compact authorizes the state to



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1 establish requirements for the disposal of low-level radioactive
2 wastes.

3 (d) Article 5 of the compact requires that a disposal facility
4 shall be approved by the host state in accordance with its laws.

5 (e) In 1988, Ward Valley in San Bernardino County was
6 selected as the proposed disposal site. The design of the facility
7 involved the shallow land burial of containers of low-level
8 radioactive waste.

9 (f) There have been seven sites in the United States where
10 commercial low-level radioactive wastes have been disposed of in
11 a similar manner as proposed for Ward Valley. Radioactive
12 materials have migrated from at least six of these sites, including
13 one that has been designated as a site subject to the Comprehensive
14 Environmental Response Compensation and Liability Act of
15 1980, as amended (42 U.S.C. Sec. 9601 et seq.), which is also
16 known as the "Federal Superfund Act."

17 (g) The plan for disposal of low-level radioactive wastes at
18 Ward Valley did not achieve a consensus that it would adequately
19 protect the health and safety of the state's citizens in the most
20 ecological and economical manner.

21 SEC. 2. Section 115261 is added to the Health and Safety
22 Code, to read:

23 115261. (a) The department shall not issue a license to
24 dispose of low-level radioactive waste pursuant to this chapter, or
25 to renew a license that has been issued by the department, unless
26 the department determines that the design and operation of the
27 facility will meet both of the following requirements:

28 (1) Ensure no radioactive material will be released into the
29 environment.

30 (2) Provide continual monitoring and repackaging of materials
31 to prevent any release of material into the environment.

32 (b) Any low-level radioactive waste disposal facility
33 constructed in this state shall meet all of the following
34 requirements, in addition to those required by the department:

35 (1) Low-level radioactive waste shall be stored in containers
36 capable of storing the waste without leakage to the environment.

37 (2) Each container shall be labeled with the name of the
38 producer, shipper, date, and contents by amount, type, and
39 half-life.

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1 (3) The facility shall be designed and operated to prevent the
2 escape of low-level radioactive waste from a container.

3 (4) The facility shall include multiple, engineered barriers,
4 including, but not limited to, redundant impermeable floors, walls,
5 ceilings, and effluent collection systems, designed to contain any
6 spilled or leaked radioactive waste and prevent exposure to rain or
7 other environmental hazards.

8 (5) Each low-level radioactive waste container shall be stored
9 in a manner providing visual inspection and ready access to each
10 container.

11 (6) Any deteriorating containers shall be repackaged into new
12 containers.

13 (7) Any spilled or leaked radioactive materials and any
14 resulting contaminated materials shall be collected and placed into
15 new containers.

16 (c) (1) The proposed Ward Valley low-level radioactive waste
17 disposal site in San Bernardino County shall not serve as the state's
18 low-level radioactive waste disposal facility for purposes of
19 Article 5 of the compact.

20 (2) The state shall not accept ownership or any other property
21 rights to the site of the Ward Valley low-level radioactive waste
22 disposal facility.

23 (d) For purposes of this section, the following definitions shall
24 apply:

25 (1) "Compact" means the Southwestern Low-Level
26 Radioactive Waste Disposal Compact specified in Section 115255.

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

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

33 SEC. 3. Section 11 of Chapter 1309 of the Statutes of 1990 is
34 repealed.

35 ~~Sec. 11. The State Director of Health Services, with the~~
36 ~~approval of the Director of General Services, is authorized to lease~~
37 ~~real property to construct, operate, and close a low-level~~
38 ~~radioactive waste facility, for any period of time consistent with~~
39 ~~Section 25878 of the Health and Safety Code, and upon such terms~~
40 ~~and conditions as the State Director of Health Services deems are~~

1 ~~in the best interests of the state, in all or any part of approximately~~
2 ~~1,000 acres being in the County of San Bernardino in Sections 26,~~
3 ~~27, 34, and 35, Township 9 North, Range 19 East, San Bernardino~~
4 ~~Baseline and Meridian.~~
5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.



SENATE BILL**No. 1444****Introduced by Senator Kuehl**

February 15, 2002

An act add to Section 65850.3 to the Government Code, and to add Chapter 11 (commencing with Section 115310) to Part 9 of Division 104 of the Health and Safety Code, relating to radiation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1444, as introduced, Kuehl. Radiation: contamination.

(1) Existing law prohibits a city or county from finding that an application for a development project is complete or from approving a development project, or a building permit for a project that does not require a development permit other than a building permit, in which a regulated substance, as defined, will be present in a process in quantities greater than the applicable threshold quantity.

This bill would prohibit a city or county agency from planing, zoning, or approving, at any site where a partial or full nuclear meltdown has occurred, as defined, any residential use, or any use involving the operation of a school or child day care facility.

(2) The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the state department from issuing a license to receive radioactive material for disposal on land unless specified requirements are satisfied.

This bill would prohibit any person from selling, transferring, or leasing a site, soil, or structure with residual radioactive contamination for any subsequent land use until the contamination has been removed and transferred to a licensed radioactive waste disposal facility or specified hazardous waste disposal facility, except as specified. The bill would require any person subject to this prohibition to use thorough and

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rigorous monitoring of the site, soil, and structures involved, using best available techniques, equipment, and methodology to provide high assurance that any residual contamination will be identified and to remove any contamination at levels above background, except as specified. The bill would provide that if the department allows any residual radioactivity to remain at a site, soil, or structure, the person would be required to include a perpetual deed restriction for the property of that site, soil, or structure.

(3) The bill would declare that the provisions of the bill are severable and if any provision of the bill or its application is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

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

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

- 1 SECTION 1. Section 65850.3 is added to the Government
 2 Code, to read:
 3 65850.3. (a) For purposes of this section, the following
 4 definitions shall apply:
 5 (1) "Child day care facility" has the same meaning provided
 6 by Section 1596.750 of the Health and Safety Code.
 7 (2) "Partial or full nuclear reactor meltdown" means an event
 8 at a nuclear powerplant that results in more than 2 percent of the
 9 fuel elements experiencing any melting of fuel or cladding or
 10 fuel-cladding eutectic.
 11 (3) "School" means any public or private school used for the
 12 purpose of the education of more than 12 pupils in kindergarten or
 13 any grades 1 to 12, inclusive.
 14 (4) "Site" means a parcel of land where a partial or full nuclear
 15 reactor meltdown occurs, and all contiguous parcels of land that
 16 were ever owned or operated by the same entity that owned or
 17 operated the site of the nuclear meltdown.
 18 (b) Notwithstanding any other provision of law, no city or
 19 county agency may plan, zone, or approve, at any site where a
 20 partial or full nuclear meltdown has occurred, any residential use,
 21 or any use involving the operation of a school or child day care
 22 facility.

1 SEC. 2. Chapter 11 (commencing with Section 115310) is
2 added to Part 9 of Division 104 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 11. RADIOACTIVE CONTAMINATION PREVENTION ACT

6
7 115310. This chapter shall be known and may be cited as the
8 "Radioactive Contamination Prevention Act."

9 115311. For purposes of this chapter, the following
10 definitions shall apply:

11 (a) "Background" means the local level of radioactivity from
12 nature of like materials without enhancement by human activity,
13 plus the local levels of fallout from nuclear weapons testing and
14 the local deposition of fallout from past nuclear accidents at
15 locations elsewhere in the world, including, but not limited to, the
16 nuclear accident in Chernobyl.

17 (b) "Department" means the State Department of Health
18 Services.

19 (c) "NORM" means naturally occurring radioactive material
20 produced in oil drilling and geothermal production.

21 (d) "Radioactive waste" means any discarded radioactive
22 material with radioactivity above the background level when
23 measured with the best available technology.

24 (e) "Radioactive material" as the same meaning has defined in
25 subdivision (f) of Section 114710.

26 (f) "TENORM" means technologically enhanced naturally
27 occurring radioactive material produced in oil drilling and
28 geothermal production.

29 115303. (a) Except as provided in subdivision (b), no person
30 shall sell, transfer, or lease a site, soil, or structure with residual
31 radioactive contamination for any subsequent land use, until the
32 contamination has been removed pursuant to subdivision (c) and
33 transferred to a disposal facility specifically licensed or permitted
34 for that type of radioactive waste pursuant to Chapter 8
35 (commencing with Section 114960), or, for NORM or TENORM
36 radioactive wastes, a hazardous waste facility issued a hazardous
37 waste facilities permit pursuant to Section 25200 that expressly
38 authorizes the facility to accept NORM and TENORM radioactive
39 waste.

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1 (b) A person may sell, transfer, or lease a site, soil, or structure
2 with residual radioactive contamination if the department
3 determines that the remaining risk to a member of the public from
4 that residual radioactivity would not exceed a one in a million risk
5 of cancer or any other serious health effect. In calculating risk for
6 this subdivision, the department shall use the most restrictive
7 potential land use, based on the premise that any land use
8 restriction may eventually fail. When more than one generally
9 accepted model or technique is available, the department shall use
10 the model or technique that generally leads to the most protective
11 outcome.

12 (c) Any person subject to this section shall use thorough and
13 rigorous monitoring of the site, soil, and structures involved, using
14 best available techniques, equipment, and methodology, to
15 provide a high assurance that any residual contamination is
16 identified. The person shall remove any contamination at a level
17 above background, or, if the alternative remediation method
18 specified in subdivision (b) is chosen, above the one in a million
19 risk level, and the amount of contamination shall be removed
20 without averaging over any larger area.

21 (d) If the department allows any residual radioactivity to
22 remain at a site, soil, or structure pursuant to this section, the
23 person subject to this section shall include a perpetual deed
24 restriction for the property of that site, soil, or structure that
25 identifies, in detail, the location, nature, type, and concentration
26 and amount of radioactivity and contaminated materials, and that
27 bars, in perpetuity, the transfer offsite of that contaminated
28 material to a facility that is not specifically licensed or permitted
29 pursuant to Chapter 8 (commencing with Section 114960) or, for
30 NORM or TENORM radioactive wastes, a hazardous waste
31 facility issued a hazardous waste facilities permit pursuant to
32 Section 25200 that expressly authorizes the facility to accept
33 NORM and TENORM radioactive waste.

34 (e) With regard to any enforcement action regarding a site, soil,
35 or structure that is subject to this section, there is a rebuttable
36 presumption that the site, soil, or structure is contaminated, and the
37 person handling the material shall bear the burden of proof to
38 demonstrate, with high confidence, that the site, soil, or structure
39 is not contaminated.



1 (f) Notwithstanding any provision of law, including
2 subdivision (c) of Section 115060, the department shall not adopt
3 or grant any exemption from the requirements of this chapter.
4 SEC. 3. The provisions of this act are severable. If any
5 provision of this act or its application is held invalid, that invalidity
6 shall not affect other provisions or applications that can be given
7 effect without the invalid provision or application.



SENATE BILL**No. 1623**

Introduced by Senator Romero
(Coauthors: Senators Chesbro, Escutia, and Kuehl)
(Coauthors: Assembly Members Koretz, Longville, Lowenthal,
Strom-Martin, and Washington)

February 21, 2002

An act to amend Sections 114715, 114990, and 115060 of, to add Article 9.8 (commencing with Section 25209.10) to Chapter 6.5 of Division 20, and to add Chapter 10 (commencing with Section 115300) to Part 9 of Division 104 of, the Health and Safety Code, and to add Section 43022.5 to the Public Resources Code, relating to radiation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1623, as introduced, Romero. Radiation Safety Act of 2002.

(1) The existing hazardous waste control law prohibits any person from managing any hazardous waste, except as provided in that law, or in the regulations adopted by the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.

This bill would prohibit the disposal of radioactive waste at a hazardous waste disposal facility, but would allow the disposal of certain naturally occurring radioactive materials (NORM or TENORM waste) at a Class I or a Class II facility, as defined, if the facility's permit expressly authorizes the disposal of that waste and the facility complies with regulations that the department would be required to adopt imposing specified conditions upon the disposal of that waste.

Since the violation of these requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Existing law prohibits any person from burying, throwing away, or disposing of radioactive waste except in a manner that will result in no significant radioactive contamination of the environment.



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The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the state department from issuing a license to receive radioactive material for disposal unless specified requirements are satisfied, including that the land on which the radioactive waste are to be buried is owned by the federal or state government.

Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is to serve as the state required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste pursuant to specified federal requirements and the requirements of the host state. A violation of the provisions regulating radioactive waste is a crime.

This bill would enact the Radiation Safety Act of 2002 and would require any license issued pursuant to the Radiation Control Law by the state department pursuant to that law to also comply with the requirements of the Radiation Safety Act of 2002. The bill would prohibit any person from burying, throwing away, or disposing of radioactive waste within the state except at a disposal facility specifically licensed for that kind of radioactive waste. The bill would prohibit the state department from adopting any exemption from that requirement.

The bill would prohibit any generator or owner of radioactive waste from disposing of radioactive waste, or any materials containing byproduct, source, or special nuclear material, or transmitting to any person or entity for disposal, that material or waste, except at a specified licensed facility. The bill would prohibit any person from disposing of NORM or TENORM waste, except as specified above, or from recycling radioactive material, as specified. The bill would also prohibit any person from transferring a radioactive item containing radioactive contamination, for reuse by a person who is not licensed, or transferring or delivering any radioactive material to a person not possessing a license or permit specifically authorized to possess radioactive material.

The bill would specify the burden of proof with regard to enforcement actions under the act and would exclude, from the act, specified materials and activities, including the reuse or recycling of a radioactive item by an unlicensed federal entity, to the extent the item remains on the property, and under the control, of the federal entity.



(3) The existing California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to adopt and review regulations setting forth standards for solid waste handling. The term "solid waste" is defined, for the purpose of the act, as excluding radioactive waste regulated pursuant to the Radiation Control Law and the board has no enforcement or regulatory authority with regard to a facility that accepts low-level radioactive waste.

This bill would prohibit any person from disposing of radioactive waste, as defined, at a solid waste facility that meets the requirements of a class III waste management unit and would require the board to adopt regulations requiring testing and screening criteria, and specified notifications, with regard to radioactivity in solid waste material being submitted for disposal at a solid waste facility.

(4) The bill would declare that the provisions of the bill are severable and that if any provision of the bill or its application is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

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

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

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

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

1 SECTION 1. Article 9.8 (commencing with Section
2 25209.10) is added to Chapter 6.5 of Division 20 of the Health and
3 Safety Code, to read:

4
5 Article 9.8. Low-Level Radioactive Waste

6
7 25209.10. For purposes of the this article, the following
8 definitions shall apply:

9 (a) "Class I" and "Class II" facility means a hazardous waste
10 facility issued a hazardous waste facilities permit pursuant to
11 Section 25200 that is classified as either a Class I or Class II waste
12 management unit pursuant to Chapter 15 (commencing with



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1 Section 2510) of Division 3 of Title 23 of the California Code of
2 Regulations.

3 (b) "NORM" means naturally occurring radioactive material,
4 including radionuclides that are present in rocks, soil, minerals,
5 and ground or surface water at concentrations that occur naturally
6 and are present in the accessible environment. NORM does not
7 include low-level waste, source material, special nuclear material,
8 or byproduct material, as defined in Section 114985.

9 (d) "Radioactive waste" means any discarded radioactive
10 material with radioactivity above background level when
11 measured with the best available technology.

12 (e) "Radioactive material" includes, but is not limited to, all of
13 the following:

14 (1) Byproduct material, as defined in Sections 2014 (e) (1) and
15 2014 (e) (2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.
16 2014 and following).

17 (2) Source and special nuclear material as defined in
18 subdivisions (e) and (f) of Section 114985, respectively.

19 (3) NORM.

20 (4) TENORM.

21 (5) Wastes from the Formerly Utilized Sites Remedial Action
22 Program operated by the United States Army Corps of Engineers
23 (FUSRAP), irrespective of when and where the wastes were
24 generated.

25 (f) "TENORM" means technologically enhanced naturally
26 occurring radioactive material, including radionuclides that are
27 naturally present in rocks, soil, minerals, and ground or surface
28 water and that past or present human activities, unrelated to the
29 production of radioactive material, have incidentally concentrated
30 or exposed to the accessible environment. TENORM does not
31 include low-level waste, source material, special nuclear material,
32 or byproduct material, as defined in Section 114985.

33 25209.11. Notwithstanding any other provision of law, except
34 as permitted by Section 25209.12, radioactive waste may not be
35 disposed of at a hazardous waste disposal facility that is subject to
36 this chapter.

37 25209.12. (a) NORM and TENORM waste may be disposed
38 of at a Class I or a Class II hazardous waste disposal facility only
39 if the hazardous waste facilities permit for that facility expressly
40 authorizes the disposal of NORM or TENORM waste and the

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1 facility complies with the regulations adopted pursuant to this
2 section.

3 (b) The department, in consultation with the California
4 Integrated Waste Management Board, shall adopt regulations
5 requiring all of the following conditions for the disposal of NORM
6 or TENROM waste:

7 (1) The generator of NORM or TENORM waste shall provide
8 a notice to the waste transporter and the facility operator, which
9 shall include, but is not limited to, a notice that the waste material
10 includes NORM or TENORM waste, the radioactive levels of that
11 waste, and the origin on the waste.

12 (2) The facility shall comply with testing and screening criteria
13 to measure radioactivity in waste material being disposed of at a
14 facility.

15 (3) The facility shall provide notice to the hazardous waste
16 transporter and the public in the form of signage and written
17 notices at the facility.

18 (4) The facility shall implement procedures for hazardous
19 waste transporters and facility operators to respond to situations
20 where workers or the public are exposed to unexpected and
21 potentially dangerous levels of radiation. These procedures shall
22 include, but are not limited to, decontamination efforts, criteria
23 for, and a process of notice to, appropriate public agencies, and
24 detailed record keeping of these incidents.

25 SEC. 2. Section 114715 of the Health and Safety Code is
26 amended to read:

27 114715. (a) No person shall bury, throw away, or in any
28 manner dispose of radioactive wastes within the state except ~~in a~~
29 ~~manner and at locations as will result in no significant radioactive~~
30 ~~contamination of the environment in a disposal facility~~
31 *specifically licensed or permitted to dispose that kind of*
32 *radioactive waste pursuant to Chapter 8 (commencing with*
33 *Section 114960) or as provided in Article 9.8 (commencing with*
34 *Section 25209.10) of Chapter 6.5 of Division 20.*

35 (b) *Notwithstanding subdivision (c) of Section 115060, the*
36 *department may not adopt any exemptions from the requirements*
37 *of subdivision (a).*

38 SEC. 3. Section 114990 of the Health and Safety Code is
39 amended to read:

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1 114990. (a) The department is designated as the agency
2 responsible for the issuance of licenses *pursuant to this chapter*. In
3 carrying out its duties under this section, the department may enter
4 into an agreement with the Division of Occupational Safety and
5 Health and other state and local agencies to conduct technical
6 evaluations of license applications prior to issuance of licenses.
7 The agreements shall also include provisions for conducting
8 inspections in accordance with Section 115095.

9 (b) *Any license issued by the department pursuant to this*
10 *chapter shall also comply with the requirements of Chapter 10*
11 *(commencing with Section 115300).*

12 SEC. 4. Section 115060 of the Health and Safety Code is
13 amended to read:

14 115060. (a) The department shall provide by rule or
15 regulation for general or specific licensing of persons to receive,
16 possess, or transfer radioactive materials, or devices or equipment
17 utilizing these materials. That rule or regulation shall provide for
18 amendment, suspension, or revocation of licenses.

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

23 (c) (1) The department may exempt certain sources of ionizing
24 radiation or kinds of uses or users from the licensing or registration
25 requirements set forth in this section when the department makes
26 a finding that the exemption of these sources of ionizing radiation
27 or kinds of uses or users will not constitute a significant risk to the
28 health and safety of the public.

29 (2) *Any exemption made pursuant to this subdivision shall be*
30 *adopted as a regulation pursuant to Chapter 3.5 (commencing*
31 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
32 *Government Code.*

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

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



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

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

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

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

26 (5) All licenses, permits, and certificates issued by the
27 department pursuant to this chapter and the Radiologic
28 Technology Act (~~Section 27 Chapter 6 (commencing with Section~~
29 *114840*)) relating to the use of mammography equipment shall be
30 publicly posted pursuant to this section and regulations adopted by
31 the department.

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

37 SEC. 5. Chapter 10 (commencing with Section 115300) is
38 added to Part 9 of Division 104 of the Health and Safety Code, to
39 read:

40

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CHAPTER 10. RADIATION SAFETY ACT OF 2002

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115300. This chapter shall be known and may be cited as the Radiation Safety Act of 2002.

115301. For purposes of this chapter, the following definitions shall apply:

(a) "Background" means the local level of radioactivity from nature of like materials without enhancement by human activity, plus the local levels of fallout from nuclear weapons testing and the local deposition of fallout from past nuclear accidents located elsewhere in the world, including, but not limited to, the nuclear accident in Chernobyl.

(b) "Low-level radioactive waste," has the same meaning as defined in subdivision (m) of Section 114985, but also includes byproduct, source material, or special nuclear material as defined in subdivisions (d), (c), and (f), respectively, of Section 114985, whether produced by a licensed or unlicensed entity.

(c) "NORM" means naturally occurring radioactive material, including radionuclides that are present in rocks, soil, minerals, and ground or surface water at concentrations that occur naturally and are present in the accessible environment. NORM does not include low-level waste, source material, special nuclear material, or byproduct material, as defined in Section 114985.

(d) "Radioactive waste" means any discarded radioactive material with radioactivity above the background level when measured with the best available technology.

(e) "Radioactive material" includes, but is not limited to, all of the following:

(1) Byproduct material, as defined in Sections 2014 (e) (1) and 2014 (e) (2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014 and following).

(2) Source and special nuclear material, as defined in subdivisions (e) and (f) of Section 114985.

(3) NORM.

(4) TENORM.

(5) Wastes from the Formerly Utilized Sites Remedial Action Program operated by the United States Army Corps of Engineers (FUSRAP), irrespective of when and where the wastes were generated

1 (f) "TENORM" means technologically enhanced naturally
2 occurring radioactive material, including radionuclides that are
3 naturally present in rocks, soil, minerals, and ground or surface
4 water, and that past or present human activities, unrelated to the
5 production of radioactive material, have incidentally concentrated
6 or exposed to the accessible environment. TENORM does not
7 include low-level waste, source material, special nuclear material,
8 or byproduct material, as defined in Section 114985.

9 115302. (a) (1) No generator or owner of radioactive waste
10 may dispose of, or transmit to any person or entity for disposal,
11 radioactive waste in this state, except to a facility possessing a
12 specific license or permit issued pursuant to Chapter 8
13 (commencing with Section 114960) to dispose of that particular
14 type and amount of radioactive waste.

15 (2) No generator or owner of radioactive waste may dispose of,
16 or transmit to any person or entity for disposal, any material
17 containing byproduct, source, or special nuclear material in this
18 state, except to a facility possessing a specific license, as defined
19 in subdivision (h) of Section 114985, to dispose of byproduct,
20 source, or special nuclear material in accordance with a license
21 issued pursuant to Chapter 8 (commencing with Section 114960).

22 (3) Except as authorized pursuant to Article 9.8 (commencing
23 with Section 25209.10) of Chapter 6.5 of Division 20, no person
24 may dispose of NORM or TENORM waste.

25 (b) No person may recycle radioactive material, or material
26 containing radioactive contamination in the state, so that the
27 radioactivity is transferred or delivered to a person who is not
28 licensed pursuant to Chapter 8 (commencing with Section
29 114960).

30 (c) No person may transfer a radioactive item, or item
31 containing radioactive contamination, to a person for reuse who is
32 not licensed pursuant to Chapter 8 (commencing with Section
33 114960).

34 (d) No person may transfer or deliver radioactive material to a
35 person not possessing a license or permit specifically authorizing
36 possession of that radioactive material pursuant to Chapter 8
37 (commencing with Section 114960, or as provided in Article 9.8
38 (commencing with Section 25209.10) of Chapter 6.5 of Division
39 20 with regard to NORM and TENORM waste.

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1 (e) With regard to any enforcement action taken to enforce this
2 chapter, IS a rebuttable presumption that the material that is the
3 subject of the enforcement action is contaminated and the person
4 handling the material shall bear the burden of proof in that
5 enforcement action to demonstrate, with high confidence, that the
6 material is not contaminated.

7 115303. This chapter does not apply to any of the following
8 materials or activities:

9 (a) Short-lived radioactive materials of the type that are
10 commonly used in medicine, biotechnology, and academia, that
11 are at the end of their storage-to-decay period, and that are
12 managed by an approved storage-to-decay program, including an
13 onsite facility or a centralized facility.

14 (b) Liquid and gaseous radioactive effluents and releases to
15 sanitary sewers, of the types, amounts, and concentrations
16 specified in the regulations adopted by the Nuclear Regulatory
17 Commission or the department.

18 (c) Scintillation liquids from research and animal tissues
19 containing the amounts of tritium and carbon-14 specified in
20 Section 20.2005 of Title 10 of the Code of Federal Regulations, as
21 that section read on January 1, 2003.

22 (d) The technetium-99 associated with molybdenum-99
23 radioisotope generators of the type used in medicine.

24 (e) Radioactive materials intentionally inserted into products
25 for their radioactive purpose and that are specifically exempted by
26 the Nuclear Regulatory Commission from Part 30 (commencing
27 with Section 30.1) and Part 40 (commencing with Section 40.1)
28 of Title 10 of the Code of Federal Regulations, as those regulations
29 read on the date of enactment of the Energy Policy Act of 1992
30 (P.L. 102-486).

31 (f) The reuse or recycling of a radioactively contaminated item
32 by a person licensed to possess that item, pursuant to Chapter 8
33 (commencing with Section 114960), to the extent that the item
34 remains on the licensed site and is subject to regulatory control of
35 its onsite use, but does include the transfer of that item for
36 recycling or reuse by, or to, a person who does not possess a license
37 to possess that item, or to any other person.

38 (g) The reuse or recycling of a radioactive item by an
39 unlicensed federal entity, to the extent the item remains on the
40 property of the federal entity and under its control.



1 SEC. 6. Section 43022.5 is added to the Public Resources
2 Code, to read:

3 43022.5. (a) For purposes of this section, "radioactive
4 waste" has the same meaning as defined in Section 115301 of the
5 Health and Safety Code.

6 (b) Notwithstanding any other provision of law, no person may
7 dispose of radioactive waste at a solid waste facility that meets the
8 requirements of a class III waste management unit pursuant to
9 Chapter 15 (commencing with Section 2510) of Division 3 of Title
10 23 of the California Code of Regulations.

11 (c) The board shall adopt regulations requiring both of the
12 following:

13 (1) Testing and screening criteria, that shall be used to measure
14 radioactivity in solid waste material being submitted for disposal
15 of at a solid waste facility.

16 (2) The provision of notice to solid waste haulers and the public
17 in the form of signage and written notices at the solid waste facility.

18 SEC. 7. The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 SEC. 8. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.



SENATE BILL**No. 2065****Introduced by Senator Kuehl**

February 22, 2002

An act to repeal and add Section 115000 of the Health and Safety Code, relating to radioactive waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 2065, as introduced, Kuehl. Radioactive waste.

(1) Existing law, the Radiation Control Law, designates the State Department of Health Services as the agency responsible for the regulation of radiation control in the state, and imposes various duties on the department in connection with that designation, including developing programs for evaluating the health and safety hazards associated with using sources of ionizing radiation, licensing and regulating byproduct, source, and special nuclear materials, and adopting regulations relating to the control of sources of ionizing radiation. Existing law also requires the department to collect and disseminate information relating to the control of sources of ionizing radiation, as specified. A violation of the Radiation Control Law is a crime.

This bill would require the department to establish reporting procedures through a public hearing process for specified radioactive waste and would require generators of radioactive waste to annually report specified information to the department, thereby imposing a state-mandated local program by creating a new crime. The bill would require the department to prepare an annual set of tables summarizing data collected from generators of radioactive waste.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



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Statutory provisions establish procedures for making that reimbursement.

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

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

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

- 1 SECTION 1. Section 115000 of the Health and Safety Code
2 is repealed.
3 ~~115000. The department shall, for the protection of public~~
4 ~~health and safety do all of the following:~~
5 ~~(a) Develop programs for evaluation of hazards associated with~~
6 ~~use of sources of ionizing radiation.~~
7 ~~(b) Develop programs, with due regard for compatibility with~~
8 ~~federal programs, for licensing and regulation of byproduct,~~
9 ~~source, and special nuclear materials, and other radioactive~~
10 ~~materials.~~
11 ~~(c) Except as provided in Section 18930, adopt regulations~~
12 ~~relating to control of other sources of ionizing radiation.~~
13 ~~(d) Issue any regulations that may be necessary in connection~~
14 ~~with proceedings under Article 4 (commencing with Section~~
15 ~~115060).~~
16 ~~(e) Collect and disseminate information relating to control of~~
17 ~~sources of ionizing radiation, including all of the following:~~
18 ~~(1) Maintenance of a file of all license applications, issuances,~~
19 ~~denials, amendments, transfers, renewals, modifications,~~
20 ~~suspensions, and revocations.~~
21 ~~(2) Maintenance of a file of all regulations relating to~~
22 ~~regulation of sources of ionizing radiation, pending or adopted,~~
23 ~~and proceedings thereon.~~
24 ~~(3) Disseminate information regarding the evaluation of~~
25 ~~hazards associated with the use of sources of ionizing radiation.~~
26 ~~Nothing in this chapter shall be construed as precluding the~~
27 ~~Division of Occupational Safety and Health from adopting and~~
28 ~~enforcing regulations relating to matters within its jurisdiction~~
29 ~~consistent with, in furtherance of, and designed to implement this~~
30 ~~chapter and the regulations adopted thereunder.~~



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- 1 SEC. 2. Section 115000 is added to the Health and Safety
2 Code, to read:
- 3 115000. (a) For the purposes of this section, the following
4 terms have the following meanings:
- 5 (1) "Generator" means any person that generates any
6 radioactive waste for disposal in the state.
- 7 (2) "Generator category" includes, but is not limited to, any of
8 the following:
- 9 (A) Nuclear powerplants.
10 (B) Reactor vendors or designers.
11 (C) Military.
12 (D) Medicine.
13 (E) Academia.
14 (F) Biotechnology.
15 (G) (i) Aerospace.
16 (ii) The department shall separate research reactor wastes from
17 educational institutions from other academic wastes when
18 categorizing the source of that waste.
- 19 (3) Except as provided in paragraph (4), "radioactive waste"
20 means any of the following:
- 21 (A) "Low-level radioactive waste" as defined in Article 2 of
22 the Southwestern Low-Level Radioactive Waste Disposal
23 Compact, as set forth in Section 115255.
- 24 (B) Contaminated materials, including, but not limited, soil,
25 building construction materials, metals, and other solid
26 radioactive wastes from any source that contains residual levels of
27 radioactivity, above background radiation, that are released to the
28 public, transmitted for recycling, or are disposed of in any facility
29 in the state, unless the facility is a licensed low-level radioactive
30 waste facility, except as provided in subparagraph (D), or a
31 hazardous waste disposal facility that is authorized to accept
32 naturally occurring radioactive material (NORM).
- 33 (C) Naturally occurring or accelerator produced radioactive
34 materials.
- 35 (D) Low-level radioactive waste that is greater than class C
36 waste and is disposed of in any licensed low-level radioactive
37 waste facility.
- 38 (4) "Radioactive waste" does not include consumer items
39 specifically exempted by the Nuclear Regulatory Commission
40 pursuant to Part 30 (commencing with Section 30.1) of, or Part 40

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- 1 (commencing with Section 40.1) of, Title 10 of the Code of
2 Federal Regulations.
- 3 (b) The department shall, for the protection of public health and
4 safety, do all of the following:
- 5 (1) Develop programs for evaluating hazards associated with
6 using sources of ionizing radiation.
- 7 (2) Develop programs, with due regard for compatibility with
8 federal programs, for licensing and regulation of byproduct,
9 source, and special nuclear materials, and other radioactive
10 materials.
- 11 (3) Adopt regulations relating to control of other sources of
12 ionizing radiation.
- 13 (4) Adopt regulations to ensure the implementation of Article
14 4 (commencing with Section 115060).
- 15 (5) Collect and disseminate information relating to control of
16 sources of ionizing radiation, including all of the following:
- 17 (A) Maintain a file of all license applications, issuances,
18 denials, amendments, transfers, renewals, modifications,
19 suspensions, and revocations.
- 20 (B) Maintain a file of all regulations relating to regulation of
21 sources of ionizing radiation, pending or adopted, and proceedings
22 thereon.
- 23 (C) Disseminate information regarding the evaluation of
24 hazards associated with the use of sources of ionizing radiation.
- 25 (D) Maintain a file of manifests from all radioactive waste
26 generators that are sent to disposal facilities and the Southwestern
27 Low-Level Radioactive Waste Disposal Compact, as set forth in
28 Article 17 (commencing with Section 115250).
- 29 (E) (i) Maintain a file of all radioactive waste generated,
30 stored for decay, stored for transfer, transferred, treated, released
31 directly to the environment, or disposed of by, or on behalf of, a
32 generator in the state. This file shall also include information on
33 all radioactive waste generated outside the state that is transported
34 into the state.
- 35 (ii) The file described in this paragraph shall specify the
36 category of generator, class, quantity by activity, and volume of
37 low-level radioactive waste, including the peak and average
38 quantities in storage, along with the location, and the chemical and
39 physical characteristics of that waste, including its half-lives,
40 properties, or constituents, and radionuclides present at, or above,

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1 the minimum labeling requirements, with their respective
2 concentrations and amounts of radioactivity. The file shall specify
3 how the generator measured the identified waste and, if the
4 identified wastes have not been measured directly, the process and
5 assumptions relied upon by the generator to estimate the quantities
6 of the identified waste. The file shall be updated annually, at
7 minimum, to ensure an accurate and timely depiction of
8 radioactive waste in the state.

9 (F) Maintain a file on each generator's storage capacity, as well
10 as the nature of the radioactive wastes stored, including specific
11 radionuclides, and their activity, volume, total activity, and
12 volume stored-for-decay and stored for later transfer, including the
13 periods of time for both types of storage.

14 (6) Develop software that will standardize reporting of the
15 information described in paragraph (5) in an electronic format that
16 is readily accessible to the public.

17 (7) Establish reporting procedures through a public hearing
18 process, and require generators of radioactive waste to use those
19 reporting procedures to annually report the information specified
20 in subparagraphs (D) to (F), inclusive, of paragraph (5) to the
21 department.

22 (8) (A) Prepare an annual set of tables summarizing data
23 collected from the activities and maintenance of files specified in
24 subparagraphs (D) to (F), inclusive of paragraph (5). These annual
25 data tables shall contain information that summarizes and
26 categorizes, by category of generator and location of generator, the
27 nature, characteristics, and quantities by activity and volume of
28 low-level radioactive waste generated in the state during each
29 calendar year. The department shall identify, by generator
30 category, specific radionuclides, and their amounts the quantities,
31 in volume and activity, managed in storage-to-decay programs,
32 and the quantities transferred to others or sent for disposal at
33 disposal facilities. The tables should also include the amount of
34 low level radioactive waste, as measured by activity and volume,
35 and as generated by each generator category broken down into the
36 following half-life categories, except as provided in subparagraph

37 (B):

38 (i) Less than 100-days.

39 (ii) 100-days to one year.

40 (iii) Greater than one year, but less than five years.

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1 (iv) Greater than five years, but less than 13 years.

2 (v) Greater than 13 years.

3 (B) When radioactive wastes are reported by half-life
4 breakdown, as specified in clauses (i) to (v), inclusive, of
5 subparagraph (A), and more than one radionuclide is present in the
6 particular waste container or item, the half-life shall be reported
7 based on the longest-lived radionuclide in the mixture, with the
8 exception of the trace technetium-99 daughter product associated
9 with depleted molybdenum-99 radioisotope generators of the type
10 typically used in medicine and research.

11 (C) The department shall note, in the annual data tables, any
12 generator that does not directly measure its waste and any
13 generator for which data are lacking.

14 (c) The department shall include, in the data summary
15 compiled pursuant to paragraph (8) of subdivision (b) data, to the
16 extent available, for radioactive wastes that are specified in
17 subparagraphs (B) to (D), inclusive, of paragraph (2) of
18 subdivision (a). This data shall be presented separately from the
19 data for radioactive wastes specified in subparagraph (A) of
20 paragraph (2) of subdivision (a).

21 (d) The information specified in this section is not proprietary
22 information relating to the control of services of ionizing
23 radiation.

24 (e) Nothing in this chapter shall be construed as precluding the
25 Division of Occupational Safety and Health from adopting and
26 enforcing regulations relating to matters within its jurisdiction that
27 are consistent with, and in furtherance of, the purposes of this
28 section.

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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From: "Bailey, Edgar (DHS-RHB)" <EBailey@dhs.ca.gov>
To: "Stephen Salomon" <SNS@nrc.gov>
Date: 3/5/02 3:34PM
Subject: RE: Senate Bill 2065, plus apparently others

The first hearing is set for the morning of March 19, 2002. It is on SB 1623 the Romero bill. Thanks in advance for all your help.

-----Original Message-----

From: Stephen Salomon [mailto: SNS@nrc.gov]
Sent: Tuesday, March 05, 2002 12:26 PM
To: Bailey, Edgar (DHS-RHB)
Cc: James Kennedy; James Lieberman
Subject: Senate Bill 2065, plus apparently others

**** High Priority ****

Ed,

Paul Lohaus has tasked me with getting some agency comments together for you on SB 2065 and some others that I am trying with difficulty to download. If possible, fax them to 301-415-3502.

When do you need our comments?

Steve Salomon
State and Tribal Programs
301-415-2368
SNS@NRC.GOV

CC: James Kennedy <JEK1@nrc.gov>, James Lieberman <JXL@nrc.gov>

From: "Bailey, Edgar (DHS-RHB)" <EBailey@dhs.ca.gov>
To: "Lohaus, Paul H." <phl@nrc.gov>
Date: 2/28/02 4:30PM
Subject: California Bills Regarding Radioactive Materials/Waste

Attached are four bills that have been introduced in the California legislature in recent weeks. I would appreciate any NRC input on these bills and the effect of their passage on the California-NRC Agreement. I understand that these have already been provided to Jim Kennedy by some of the industry people here in California. Thanks for any help you can provide.

CC: "Anderson, Victor" <VAnderso@dhs.ca.gov>, "Corrigan, Dan" <DCorriga@dhs.ca.gov>, "Greger, Robert" <RGreger@dhs.ca.gov>, "Nunes, Maggie" <MNunes@dhs.ca.gov>, "Wesley, David" <DWesley@dhs.ca.gov>