



Dr. Mark Horton  
Director

State of California—Health and Human Services Agency  
Department of Public Health



ARNOLD SCHWARZENEGGER  
Governor

July 23, 2007

Janet R. Schlueter, Director  
Division of Materials Safety and State Agreements  
Office of Federal and State Materials  
and Environmental Management Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

AGREEMENT STATE AUTHORITY TO FINGERPRINT (RCPD-07-004)

Dear Ms. Schlueter:

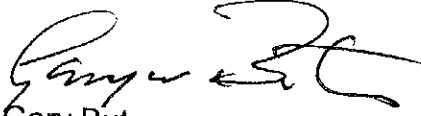
The California Department of Public Health, Radiologic Health Branch (CDPH/RHB) in consultation with the CDPH, Office of Legal Services and the California Attorney General's Office, reviewed the subject document and related information, and finds that the State of California cannot implement Section 652 of the Energy Policy Act of 2005 (amended Section 149 of the Atomic Energy Act) at this time.

We understand that consideration has been given to both: 1) having Agreement States require certain of their radioactive materials licensees submit fingerprints and criminal history record information (CHRI) requests to State authorities (i.e., the California Attorney General's Office) for processing, and 2) having Agreement States require certain of their radioactive materials licensees submit fingerprints and CHRI requests through the U.S. Nuclear Regulatory Commission (NRC) to the U.S. Federal Bureau of Investigation (FBI) for processing. Neither option appears to be supported by law at this time.

It is the opinion of the California Attorney General's Office that Option 1 would require enactment of a statute in California authorizing the collection and processing of fingerprints and CHRI requests through the California Attorney General's Office specifically for the purposes of this effort if the intent is to obtain CHRI from the FBI, rather than simply obtain State CHRI. CDPH is not currently pursuing such a statutory change at this time. Option 2 is viable only if the NRC (rather than the State of California) orders (or otherwise requires) the submission of the fingerprints and CHRI requests through their agency to the FBI, since the federal statute in question specifically names NRC (and not the Agreement States) as the responsible agency for this effort.

Please contact me, at 916-440-7942 or [Gary.Butner@cdph.ca.gov](mailto:Gary.Butner@cdph.ca.gov), if you would like to discuss this issue further.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Butner". The signature is stylized and cursive.

Gary Butner  
Acting Chief  
Radiologic Health Branch  
California Department of Public Health