

SB 208

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
 Byron D. Sher, Chairman
 2003-2004 Regular Session

BILL NO: SB 208
 AUTHOR: Kuehl
 AMENDED: As Introduced
 FISCAL: Yes HEARING DATE: April 7, 2003
 URGENCY: No CONSULTANT: Kip Lipper

SUBJECT : RADIATION: SANTA SUSANNA FIELD LABORATORY

SUMMARY :

Existing law :

- 1) Under the federal Atomic Energy Act of 1954 and the Low-level Radioactive Waste Policy Act (42 U.S.C.A. Section 2014-2114), generally vests the Nuclear Regulatory Commission (NRC) with the authority to regulate radioactive materials and wastes, and provides that the NRC may delegate authority over low-level radioactive materials and wastes (LLRW) (essentially all radioactive wastes other than spent nuclear fuel rods and the like) to "agreement states" such as California.
- 2) Under Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code requires the Department of Toxic Substance Control (DTSC) to establish standards and regulations for the management of hazardous wastes to protect against the hazards to public health, domestic livestock, wildlife and the environment.
- 3) Under Chapter 8 (Commencing with Section 114960) of the Health and Safety Code, requires the Department of Health Services (DHS) to regulate the handling and use of ionizing radiation (essentially all radioactive wastes other than high-level wastes which are regulated by the NRC) for the protection of public health and safety.
- 4) Under the California Integrated Waste Management Act (Division 30 commencing with Section 40000) of the Public Resources Code, provides that the Integrated Waste

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Management Board shall establish standards for the certification of local solid waste enforcement agencies (LEAS) and that the board shall have no jurisdiction over facilities that accept both hazardous wastes and radioactive waste and that such facilities shall be regulated by DTSC and DHS pursuant to the statutes referenced above.

This bill :

- 1) Requires the owner of any parcel of land at the Santa Susanna Field Laboratory in Ventura County to do the following if the Department of Health Services (DHS) determines that a partial or full reactor meltdown has occurred on the site:
 - a) To use thorough and rigorous monitoring of the site using best available monitoring technology, equipment, and methods to provide a high assurance that any residual contamination is identified.
 - b) To ensure that the monitoring is consistent with measures provided in the US EPA's September 2001 Scoping Document for Development of Workplan for a Soil Radiation Survey of Santa Susanna Field Laboratory Area IV.
 - c) To ensure that the monitoring measures at the site consist of at least eighty percent of the subsurface soil samples identified in that document.
- 2) Prohibits an owner of a parcel of land referenced above from selling, transferring, or leasing the site unless the site cleanup meets the radiation dose cleanup standards provided in Section 15 of the "Guidance for Cleanup of Radioactivity on Closing Military Bases for Unrestricted Public Use of

Property" issued by the Radiological Health Branch of the department on April 5, 1994.

3) Requires any person removing material from a site described under (a) above to dispose of it only at a facility specifically licensed to accept that type of waste by DHS, the NRC, DOE or pursuant to a multi-state compact adopted pursuant to the LLRW Policy Act.

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4) Defines terms used in the bill such as "background," "naturally occurring radioactive material," "radioactive waste," "radioactive material," and "TENORM," and provides that the provisions of the bill are severable.

COMMENTS :

1) Purpose of Bill . According to the author's office, this measure is intended to ensure that the Santa Susanna Field Laboratory (the site of a nuclear reactor meltdown in the 1950's) is properly monitored for residual radioactive materials, that it not be sold or redeveloped without being properly cleaned up, and that any materials containing low-level radioactive wastes are properly disposed at a facility expressly licensed to accept those wastes.

2) Recent History of Radioactive Waste Contamination at Santa Susana Laboratory Described . The general subject of subject of radioactive waste cleanup and disposal, as well as the specific concerns about cleanup and reuse at the Santa Susana Laboratory have become of a matter of increasing legislative interest and concern in recent years.

The lab, located on 2,800 acres in the hills near the Cities of Chatsworth and Simi Valley, is owned by the Boeing Company and was the site for various nuclear defense-related activities in the 1950's. It apparently suffered a meltdown of a nuclear reactor on the site during that time. The site is now in the process of being cleaned up; the cleanup, and the subsequent disposition of the land, has been the subject of controversy since it began.

More broadly, the proper disposal of LLRW has been the subject of recent controversy when DHS proposed deregulating the disposal of such wastes, thereby allowing them to be sent to solid waste landfills and used for other purposes.

A Sacramento Superior Court judge's ruling in 2001 challenging the state's easing of rules for dumping of low-level nuclear waste in landfills resulted in a temporary halt to shipments of radioactive material from the lab (see Comment 4). It

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was subsequently revealed that materials from the site had been dumped at the Bradley Landfill in Sun Valley for much of the past decade, leading to an outcry from regulators, environmental groups, and elected officials.

3) Governor's Actions In 2002 on LLRW Summarized . While vetoing most measures which reached his desk on the subject of LLRW, the Governor issued an executive order which did all of the following:

Imposed a moratorium on the disposal of all decommissioned materials with emissions above background levels in public landfills (Class III) and unclassified waste management facilities and directed the State Water Resources Control Board (SWRCB) to begin implementation of the moratorium within the next 30 days.

Directed the DHS to develop regulations for decommissioning licensed facilities utilizing the California Environmental Quality Act (CEQA) process and as part of that process, to include an assessment of the public health and environmental risk factors regarding

disposal of decommissioned material and to make recommendations at the conclusion of this review.

Stated that if further restrictions are recommended by DHS based on sound scientific evidence, that the Governor would "act on those recommendations.

Stated that the moratorium on disposal of decommissioned materials above background levels in public landfills will be in place until the Department completes its assessment and the regulations take effect, at which time a new Executive Order or legislation may be considered.

1)Recent Actions By DHS on LLRW in Response to Governor's Executive Orders Described . Last month, several new actions regarding the development of regulations for low-level radioactive materials were announced by DHS. The actions were taken in response to the executive order issued by the Governor September 30, 2002, and to the court order last year requiring the California Department of Health Services

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(CDHS) to comply with the California Environmental Quality Act (CEQA) in establishing regulations for the termination of radioactive material licenses

DHS announced that it was entering into an inter-agency agreement with the California Environmental Protection Agency (Cal-EPA) to consult with it on how to fulfill the legal and procedural requirements for completing the CEQA process. (It should be noted that the Resources Agency and the Governor's Office of Planning and Research, and not CAL-EPA, are the lead agencies in state government for CEQA compliance.)

DHS also announced the creation of an advisory panel that will provide it with expertise on environmental policy issues related to the CEQA process. The advisory panel members will include legal counsel from Cal-EPA and the Resources Agency, and environmental experts from Caltrans and DTSC.

2)SWRCB's Report Shows "Unusually High" Levels of Radioactivity at Solid Waste Landfills . Last month, the SWRCB announced the preliminary results of testing it had done at fifty or so local solid waste disposal sites in the state to determine radioactivity levels. The report found that twenty-two of the landfills had "unusually high levels" of radiation. It was unclear from these results (which sampled only about 10% of the state's landfills) how extensive radioactive contamination was in these facilities and how well it had been contained due to liners and other containment systems at the facilities. Groundwater monitoring adjacent to six of the landfills (all of which were unlined) showed elevated levels of radioactive materials in the groundwater.

3)Opponents Argue Bill Unfairly Singles Out Boeing Site and "Changes Rules in the Middle of the Game" . Opponents to this measure, principally the Boeing Company and business groups, state that the bill unfairly singles out the Santa Susanna Field Laboratory site as the sole entity that must comply with its provisions. The opponents state that the owner of the site has complied with all applicable state and federal laws and that the bill would change the rules in the middle of the game by setting new cleanup standards that do

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not provide any additional protection to the community or the environment.

4)Technical Amendments Needed: Bill Needs Cleaning Up and Needs to Be reconciled with SB 13 (Romero) . This measure could withstand several technical amendments simply to state more clearly the author's intent. First, and as a general matter, instead of enacting generic definitions and operative provisions, the bill could be recast so that it

simply states that its requirements apply to the subject site. Second, the bill references several apparently concentric monitoring requirements that could be simplified and unified. Third, the bill references two administrative documents; those references could be clarified and tightened up.

SOURCE : Senator Kuehl _

SUPPORT : Americans for a Safe Future, Committee to Bridge the Gap, Rocketdyne Cleanup Coalition, Sierra Club California, Southern California Federation of Scientists, Susana Knolls Homeowners Association, Inc. _

OPPOSITION : California Chamber of Commerce, California Council for Environmental and Economic Balance, California Manufacturers and Technology Association, Southern California Edison, The Boeing Company _

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