Title 22: HEALTH AND WELFARE

Chapter 160: RADIATION PROTECTION ACT

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§671. DECLARATION OF POLICY

It is the policy of this State in furtherance of its responsibility to protect the public health, safety and the environment: [1983, c. 345, §§13, 14 (NEW).]

1. **Compatible regulatory program.** 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; an integrated effective system of regulation within the State and a system consonant insofar as possible with those of other states;

[1983, c. 345, §§13, 14 (NEW) .]

2. **Safe use of sources.** To institute and maintain a program to permit development and utilization of sources of radiation for peaceful purposes consistent with the health and safety of the public; and

[1983, c. 345, §§13, 14 (NEW) .]

3. **State authority.** Nothing in this Act may be construed to limit the authority of the State to regulate radioactive materials, or the facilities in which they are used or stored, to the fullest extent consistent with federal law.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§672. PURPOSE

It is the purpose of this Act to effectuate the policies set forth in section 671 by providing for: [1983, c. 345, §§13, 14 (NEW).]

1. **Public health and safety.** A program of effective regulation of sources of radiation for the protection of the public health and safety;

[1983, c. 345, §§13, 14 (NEW) .]

2. **Orderly regulatory program.** 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 so that duplication of regulation may be minimized;

[1983, c. 345, §§13, 14 (NEW) .]

3. **Assumption of responsibilities.** A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to by-product, source and special nuclear materials and radiation-generating equipment; and

[1983, c. 345, §§13, 14 (NEW) .]

4. **Use of sources.** A program to permit utilization of sources of radiation consistent with the health and safety of the public.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§673. DEFINITIONS

As used in this Act, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 345, §§13, 14 (NEW).]

1. **By-product material.** "By-product material" means:

A. 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 [1983, c. 345, §§13, 14 (NEW).]

B. The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content. [1983, c. 345, §§13, 14 (NEW).]

[1983, c. 345, §§13, 14 (NEW) .]

2. **Civil penalty.** "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.

[1983, c. 345, §§13, 14 (NEW) .]

3. **Closure or site closure.** "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.

[1983, c. 345, §§13, 14 (NEW) .]

3-A. **Facility.** A "facility" means a production or utilization facility situated in this State that holds an operating permit or license issued by the United States Nuclear Regulatory Commission. It also means a power reactor licensee situated in the State, whether decommissioned or not, with a possession-only license issued by the United States Nuclear Regulatory Commission for special nuclear material, by-product material and source material. It also includes spent fuel or high-level waste storage facilities.

[1997, c. 686, §9 (AMD) .]

4. **Decommissioning.** "Decommissioning" means the series of activities undertaken beginning at the time of closing of a nuclear power plant or other facility licensed by the United States Nuclear Regulatory Commission or the department to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the plant is accomplished safely in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare a nuclear power plant or other facility for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the nuclear power plant or facility.

[1987, c. 493, §1 (AMD) .]

5. **Disposal of low-level radioactive waste.** "Disposal of low-level radioactive waste" means the isolation of low-level waste from the biosphere inhabited by people and their food chains.

[1983, c. 345, §§13, 14 (NEW) .]

6. **High-level radioactive waste.** "High-level radioactive waste" means the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from that liquid waste that contains fission products in sufficient concentrations; and other highly radioactive material that the United States Nuclear Regulatory Commission, consistent with existing law, determines by rule to require permanent isolation.

[1983, c. 345, §§13, 14 (NEW) .]

7. **License.** "License" means a license, issued to a named person upon application filed pursuant to the regulations promulgated pursuant to this Act, to use, manufacture, produce, transfer, receive, acquire or possess quantities of, or devices or equipment utilizing, radioactive material.

[1983, c. 345, §§13, 14 (NEW) .]

8. **Low-level radioactive waste.** "Low-level radioactive waste" means radioactive material that:

A. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section 11e(2); and [1987, c. 493, §2 (NEW).]

B. The United States Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph A, classifies as low-level radioactive waste. [1987, c. 493, §2 (NEW).]

[1987, c. 493, §2 (RPR) .]

8-A. **Person.** "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency of this State, political subdivision of this State, any other state or political subdivision or agency of a state or political subdivision and any legal successor, representative, agent or agency of the state or political subdivision or agency, but not including Federal Government agencies.

[1987, c. 493, §3 (NEW) .]

9. **Radiation.** "Radiation" means ionizing radiation and nonionizing radiation.

A. "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. [1983, c. 345, §§13, 14 (NEW).]

B. "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, and any sonic, ultrasonic or infrasonic wave. [1983, c. 345, §§13, 14 (NEW).]

[1983, c. 345, §§13, 14 (NEW) .]

10. **Radiation generating equipment.** "Radiation generating equipment" means any manufactured product or device, or component part of such a product or device, or any machine or system which during operation can generate or emit radiation, except those which emit radiation, only from radioactive material.

[1983, c. 345, §§13, 14 (NEW) .]

11. **Radioactive material.** "Radioactive material" means any material which emits ionizing radiation spontaneously. It includes accelerator-produced, by-product, naturally occurring, source and special nuclear materials.

[1983, c. 345, §§13, 14 (NEW) .]

12. **Registration.** "Registration" means registration with the department in accordance with rules adopted pursuant to this Act.

[1983, c. 345, §§13, 14 (NEW) .]

13. **Source material.** "Source material" means:

A. Uranium or thorium, or any combination thereof, in any physical or chemical form; or [1983, c. 345, §§13, 14 (NEW).]

B. Ores which contain by weight 1/20th of 1%, 0.05%, or more of uranium, thorium or any combination thereof. Source material does not include special nuclear material. [1983, c. 345, §§13, 14 (NEW).]

[1983, c. 345, §§13, 14 (NEW) .]

14. **Source material mill tailings.** "Source material mill tailings" means the tailings or wastes produced by the extraction or concentration of uranium or thorium 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 those solution extraction processes.

[1983, c. 345, §§13, 14 (NEW) .]

15. **Source material milling.** "Source material milling" means any processing of ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material mill tailings.

[1983, c. 345, §§13, 14 (NEW) .]

16. **Sources of radiation.** "Sources of radiation" means, collectively, radioactive material and radiation generating equipment.

[1983, c. 345, §§13, 14 (NEW) .]

17. **Special nuclear material.** "Special nuclear material" means:

A. Plutonium, uranium 233 and uranium enriched in the isotope 233 or in the isotope 235, but does not include source material; or [1983, c. 345, §§13, 14 (NEW).]

B. Any material artificially enriched by any of the material listed in paragraph A, but does not include source material. [1983, c. 345, §§13, 14 (NEW).]

[1983, c. 345, §§13, 14 (NEW) .]

18. **Spent nuclear fuel.** "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

[1983, c. 345, §§13, 14 (NEW) .]

19. **Transuranic waste.** "Transuranic waste" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than 5 years, in excess of 10 nanocuries per gram.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 493, §§1-3 (AMD). 1987, c. 519, §2 (AMD). 1997, c. 686, §9 (AMD).

§674. STATE RADIATION CONTROL AGENCY

1. **Designated.** The Department of Health and Human Services, in this chapter referred to as the "department," is designated as the State Radiation Control Agency.

[1983, c. 345, §§13, 14 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

2. **Commissioner.** The Commissioner of Health and Human Services shall be referred to as the "commissioner," who shall perform the functions vested in the department pursuant to this Act.

[1983, c. 345, §§13, 14 (NEW); 2003, c. 689, Pt. B, §7 (REV) .]

3. **Employees.** In accordance with the laws of this State, the department may employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this Act.

[1983, c. 345, §§13, 14 (NEW) .]

4. **Authority.** The department, for the protection of the public health and safety:

A. Shall develop programs for the evaluation and control of hazards associated with use of sources of radiation; [1987, c. 493, §4 (AMD).]

B. Shall develop programs with due regard for compatibility with federal programs for regulation of by-product, source and special nuclear materials; [1987, c. 493, §4 (AMD).]

C. Shall develop programs with due regard for consistency with federal programs for regulation of radiation generating equipment; [1987, c. 493, §4 (AMD).]

D. Shall formulate, adopt, promulgate and repeal codes and rules, which may provide for licensing or registration, relating to control of sources of radiation with due regard for compatibility with the regulatory programs of the Federal Government.

Promulgate such rules in addition to the rule specified in this paragraph as are appropriate to carry out the purposes of this Act, including, but not limited to, rules concerning acquisition, ownership, possession and use of radioactive materials or devices or equipment utilizing radioactive material; [1987, c. 493, §4 (AMD).]

E. Shall issue such orders or modifications thereof as may be necessary in connection with proceedings under section 677; [1987, c. 493, §4 (AMD).]

F. Shall advise, consult and cooperate with other agencies of the State, Federal Government, other states and interstate agencies, political subdivisions and other organizations concerned with control of sources of radiation; [1987, c. 493, §4 (AMD).]

G. May 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; [1983, c. 345, §§13, 14 (NEW).]

H. Shall encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation; [1987, c. 769, Pt. A, §67 (RPR).]

I. Shall collect and disseminate information relating to control of sources of radiation, including:

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

(2) Maintenance of a file of registrants possessing sources of radiation requiring registration under this Act and any administrative or judicial action pertaining to this Act; and

(3) Maintenance of a file of all of the department's rules relating to regulation of sources of radiation, pending or promulgated, and any connected proceedings; [1987, c. 769, Pt. A, §67 (RPR).]

J. May investigate and sample sites where radioactive substances or devices are stored or handled to identify uncontrolled radioactive substance sites; [1987, c. 769, Pt. A, §68 (RPR).]

K. May take whatever action is deemed necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by radioactive material or radiation-generating equipment to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards and implementing remedies to remove, store, treat, dispose of or otherwise handle radioactive material, including soil and water contaminated by the material; [1987, c. 769, Pt. A, §68 (RPR).]

L. Shall establish and maintain a continuous radiation monitoring system to record the radioactive levels of gaseous and liquid discharges from any commercial nuclear power facility operating in the State; [1991, c. 496, §2 (AMD).]

M. Shall establish and maintain an off-site monitoring network to provide continuous monitoring of gamma radiation levels within the vicinity of any commercial nuclear power facility operating in the State. Portable off-site monitoring devices must be made available to members of the public to establish a network of volunteer monitors who shall report to the department their findings. For this purpose, the department shall make Geiger Rate meters available to 50 volunteer monitors. In addition to the placement of Geiger Rate meters, the department shall procure 20 Gamma Scintillation Detection Devices and place 16 of them in homes of members of the public who volunteer to participate in the program. The 4 additional devices must be maintained by the department in reserve. The volunteers with Gamma Scintillation Detection Devices must also be provided with 2-way radios so they can report their findings in the case of emergency. All volunteers shall assist the department in its continuous monitoring network. All off-site monitoring devices must be geographically distributed throughout the surveillance area to provide the most effective monitoring network. The department shall adopt rules to provide for the selecting of the volunteers, the appropriate and accurate use of the meters and devices and the method and frequency of reporting to the department and other procedures necessary to implement the program; and [1991, c. 496, §2 (AMD).]

N. Shall provide 24-hour-per-day coverage of existing radiation monitors through the use of a dialer-server computer system and the use of pagers. [1991, c. 496, §3 (NEW).]

[1991, c. 496, §§2, 3 (AMD) .]

5. Coordination. The commissioner shall serve as the coordinator of radiation activities among the Maine Emergency Management Agency, Department of Public Safety, Department of Health and Human Services and Department of Environmental Protection. The commissioner shall:

A. Consult with and review regulations and procedures of the agencies and federal law to assure consistency and to prevent unnecessary duplication, inconsistencies or gaps in regulatory requirements; and [1987, c. 769, Pt. A, §70 (RPR).]

B. Review, prior to adoption, the proposed rules of all agencies of the State relating to use of control of radiation, to assure that these rules are consistent with Title 5, chapter 375, and rules of other agencies of the State. The review must be completed within 15 days. [2007, c. 2, §7 (COR).]

If the commissioner determines that proposed rules are inconsistent with rules of other agencies of the State or federal law, the commissioner shall consult with the agencies involved in an effort to resolve these inconsistencies. In the event no inconsistency is reported within 15 days, the proposed rules are presumed consistent for the purposes of this subsection. Upon notification by the commissioner that the inconsistency has not been resolved, the Governor may find that the proposed rules or parts of rules are inconsistent with rules of other agencies of the State or the Federal Government and may issue an order to that effect, in which event the proposed rules or parts of rules do not become effective. The Governor may direct, in the alternative, upon a similar determination, the appropriate agency or agencies to amend or repeal existing rules to achieve consistency with the proposed rules.

[2007, c. 2, §7 (COR) .]

6. **Information.** The several agencies of the State shall keep the commissioner fully and currently informed as to their activities relating to regulation of sources of radiation.

[1983, c. 345, §§13, 14 (NEW) .]

7. **Report.** The commissioner shall report prior to January 31, 1984, to the joint standing committee of the Legislature having jurisdiction over natural resources on the need for regulation of nonionizing radiation.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 370, §3 (AMD). 1987, c. 493, §4 (AMD). 1987, c. 519, §§3-5 (AMD). 1987, c. 769, §§A67-A70 (AMD). 1991, c. 496, §§2,3 (AMD). 2003, c. 689, §§B6,7 (REV). RR 2007, c. 2, §7 (COR). 2007, c. 539, Pt. KK, §9 (AMD).

§675. ADVISORY COMMITTEE ON RADIATION

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1985, c. 295, §33 (AMD). 1987, c. 786, §13 (RP).

§675-A. ADVISORY COMMITTEE ON RADIATION

1. **Appointment.** The Governor shall appoint an Advisory Committee on Radiation consisting of 7 members. One member must be a physician and one member must be a dentist, both of whom must be regularly involved in the medical use of radiation; one member must represent the general public and the remaining 4 members must have training and experience in the various fields in which sources of radiation are used. Members of the committee serve 5-year staggered terms and are not compensated for their services, but may be reimbursed for actual expenses to attend committee meetings or for authorized business of the committee.

[1993, c. 664, §7 (NEW) .]

2. **Duties.** The committee shall make recommendations to the commissioner and furnish advice that is requested by the department on matters relating to the regulation of sources of radiation including enforcement actions, regulation revision and the establishment of fees. The committee may also make recommendations and reports to the joint standing committees of the Legislature.

[1993, c. 664, §7 (NEW) .]

SECTION HISTORY
1993, c. 664, §7 (NEW).

§676. COORDINATION AND LIAISON WITH FEDERAL AGENCIES

The following agencies shall serve as liaison with federal agencies and coordinate administration of the issues indicated. [1983, c. 345, §§13, 14 (NEW).]

1. **Health and safety.** The Department of Health and Human Services shall coordinate monitoring of radiation and health and safety in medical and industrial use of radiation, and shall serve as liaison with the United States Food and Drug Administration and the United States Nuclear Regulatory Commission, except as specified in subsection 4.

[1983, c. 345, §§13, 14 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

2. **Emergency procedures.** The Maine Emergency Management Agency shall coordinate off-site emergency procedures for nuclear facilities, and shall serve as liaison with the federal agencies with jurisdiction over defense activities and emergency response management.

[1987, c. 370, §4 (AMD) .]

3. **Transportation.** The Department of Public Safety shall coordinate transportation of radioactive materials.

[1983, c. 345, §§13, 14 (NEW) .]

4. **Radioactive waste.** The Department of Health and Human Services shall coordinate management of and shall serve as point of contact with the United States Nuclear Regulatory Commission for high-level and low-level radioactive wastes, in consultation with the Department of Environmental Protection and the State Nuclear Safety Inspector in fulfillment of the State Nuclear Safety Inspector's duties pursuant to section 666.

[2007, c. 539, Pt. KK, §10 (AMD) .]

5. **Geology.** The Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Agriculture, Conservation and Forestry shall provide technical assistance for waste management.

[2013, c. 405, Pt. C, §13 (AMD) .]

6. **Energy.** The Governor's Energy Office shall serve as liaison with the United States Department of Energy.

[2011, c. 655, Pt. MM, §13 (AMD); 2011, c. 655, Pt. MM, §26 (AFF) .]

7. **Environment.** The Department of Environmental Protection shall serve as liaison with the United States Environmental Protection Agency.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 370, §4 (AMD). 1987, c. 519, §6 (AMD). 1989, c. 501, §DD31 (AMD). 1993, c. 664, §8 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §26 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 254, §B9 (AMD). 2007, c. 539, Pt. KK, §10 (AMD). 2011, c. 655, Pt. KK, §17 (AMD). 2011, c. 655, Pt. KK, §34 (AFF). 2011, c. 655, Pt. MM, §13 (AMD). 2011, c. 655, Pt. MM, §26 (AFF). 2013, c. 405, Pt. C, §13 (AMD).

§677. LICENSING AND REGISTRATION OF SOURCES OF RADIATION

1. **Radioactive material, devices or equipment.** The department shall provide by rule for licensing of radioactive material or devices or equipment utilizing those materials except where prohibited by federal law. That rule shall provide for amendment, suspension or revocation of licenses.

[1987, c. 493, §5 (AMD) .]

2. **Other sources.** The department may require registration or licensing of other sources of radiation.

[1983, c. 345, §§ 13 and 14 (NEW) .]

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

[1983, c. 345, §§ 13 and 14 (NEW) .]

4. **Recognition of other licenses.** Rules promulgated pursuant to this Act may provide for recognition of other state or federal licenses as the department may deem desirable, subject to such registration requirements as the department may prescribe.

[1983, c. 345, §§ 13 and 14 (NEW) .]

5. **Federal license or permit required.** No person may manufacture, construct, produce, transfer, acquire or possess any special nuclear material, source material, by-product material, production facility or utilization facility, or act as an operator of a production or utilization facility wholly within this State, unless he has first obtained a license or permit for the activity in which he proposes to engage from the United States Nuclear Regulatory Commission if, pursuant to federal law, the commission requires a license or permit to be obtained by persons proposing to engage in activities of the same type over which it has jurisdiction.

[1983, c. 345, §§ 13 and 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 493, §5 (AMD).

§678. SOURCE MATERIAL PROCESSING AND RELATED MATERIAL

State regulation of source material processing shall be subject to the primary jurisdiction of the Department of Environmental Protection, as specified in Title 38. [1983, c. 345, §§ 13 and 14 (NEW).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§679. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

State regulation of low-level radioactive waste disposal is subject to the primary jurisdiction of the Department of Health and Human Services, as specified in section 676, except that disposal of low-level radioactive waste in the State is also subject to regulation by the Department of Environmental Protection. [1993, c. 664, §9 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1993, c. 664, §9 (AMD). 2003, c. 689, §B6 (REV).

§679-A. LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

1. **Designated.** The department is designated as the agency to fulfill the state regulatory and enforcement requirements for the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The department shall also execute the administrative requirements of the compact as defined in subsection 2, paragraph B.

[1993, c. 664, §10 (NEW) .]

2. **Duties of the department.** The department shall:

A. Develop rules to fulfill the State's responsibilities and requirements for the compact pursuant to the contract requirements set forth in Article IV, Section 4.05, subsections (1) to (4), (6) and (8) of the compact; and [2011, c. 691, Pt. C, §5 (AMD).]

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact and to compensate the state commission member. [2011, c. 691, Pt. C, §5 (AMD).]

C. [2011, c. 691, Pt. C, §5 (RP).]

[2011, c. 691, Pt. C, §5 (AMD) .]

3. **Employees.** To fulfill the requirements of this section, the department may employ staff subject to the Civil Service Law.

[1993, c. 664, §10 (NEW) .]

SECTION HISTORY
1993, c. 664, §10 (NEW). 2011, c. 691, Pt. C, §5 (AMD).

§679-B. RADIOACTIVE WASTE FUND

1. **Establishment.** There is established the Radioactive Waste Fund to be used to carry out the purposes of this chapter. Money allocated from this fund must be administered by the commissioner in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to ensure safe and effective low-level radioactive waste management and to monitor and evaluate plans for storage and disposal of high-level radioactive waste.

[1993, c. 664, §10 (NEW) .]

2. **Service fee; ceiling.** Except for waste that is exempt in accordance with subsection 4, the department shall assess annually by September 1st each low-level radioactive waste generator a service fee on all low-level radioactive waste generated in this State that is shipped to a low-level radioactive waste disposal facility, stored awaiting disposal at such a facility or stored for any other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of $100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section can not be reassessed for the purposes of this section. The radiation control program within the Division of Health Engineering shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section.

[2005, c. 254, Pt. B, §10 (AMD) .]

3. **Compact fee assessment; ceiling.** In addition to the service fee assessed under subsection 2, the commissioner shall annually by September 1st, beginning in 1994, assess any amount necessary to fulfill the payment requirements to the Texas Low-Level Radioactive Waste Disposal Compact Commission pursuant to section 679-A, subsection 2, paragraph B less any balance carried forward under subsection 6. The commissioner shall assess each generator such a fee using the same method for computing individual assessments as set out in subsection 2. Each generator must pay the fee within 30 days, except that any generator may choose to make quarterly payments instead.

[1993, c. 664, §10 (NEW) .]

4. **Fee exemptions.** The following types of low-level radioactive waste are exempt from the fees established in subsections 2 and 3:

A. Waste that is authorized by the United States Nuclear Regulatory Commission for disposal without regard to its radioactivity; [1993, c. 664, §10 (NEW).]

B. Waste that is authorized by the United States Nuclear Regulatory Commission to be stored at the site of generation for decay and ultimate disposal without regard to its radioactivity; and [1993, c. 664, §10 (NEW).]

C. Radioactive waste or other material that is returned to the vendor, including, but not limited to, sealed sources. [1993, c. 664, §10 (NEW).]

[1993, c. 664, §10 (NEW) .]

5. **Allocation from fund.** Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature to the department for administrative and regulatory activities as described in this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 679-A, subsection 2.

[2007, c. 619, §2 (AMD) .]

6. **Balance carried forward.** Any unexpended balance in the Radioactive Waste Fund may not lapse, but must be carried forward in the same amount for the next fiscal year and must be available for the purposes authorized by this chapter.

[1993, c. 664, §10 (NEW) .]

7. **Financial reports.**

[2007, c. 619, §3 (RP) .]

8. **Transfer of funds.** Notwithstanding Title 5, section 1585, funds allocated under this section must be transferred as necessary to accomplish the purposes of this section and Title 38, chapter 14-A from the department to other agencies, including the Department of Environmental Protection, the Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Agriculture, Conservation and Forestry and the Maine Land Use Planning Commission.

[2013, c. 405, Pt. C, §14 (AMD) .]

SECTION HISTORY
1993, c. 664, §10 (NEW). 1995, c. 333, §§1,2 (AMD). 1995, c. 502, §E32 (AMD). 1999, c. 556, §27 (AMD). 2005, c. 254, §B10 (AMD). 2007, c. 619, §§2, 3 (AMD). 2011, c. 655, Pt. KK, §18 (AMD). 2011, c. 655, Pt. KK, §34 (AFF). 2011, c. 682, §38 (REV). 2013, c. 405, Pt. C, §14 (AMD).

§680. RADIATION USER FEES

1. **Facilities.** The registration fee for a facility for:

A. Fiscal year 1997-98 is $100,000; and [1997, c. 686, §10 (NEW).]

B. Fiscal year 1998-99 is $25,000. [1997, c. 686, §10 (NEW).]

[1997, c. 686, §10 (RPR) .]

2. **Radiation protection services.** The department 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, but are not limited to:

A. Registration of radiation generating equipment and other sources of radiation; [1983, c. 345, §§13, 14 (NEW).]

B. Issuance, amendment and renewal of licenses for radioactive materials; [1983, c. 345, §§13, 14 (NEW).]

C. Inspections of registrants or licensees; [1987, c. 882, §4 (AMD).]

D. Environmental surveillance activities to assess the radiological impact of activities conducted by licensees; and [1987, c. 882, §4 (AMD).]

E. Off-site monitoring network activities of licensed nuclear power production facilities conducted pursuant to section 674, subsection 4, paragraph M. [1987, c. 882, §5 (NEW).]

[1987, c. 882, §§4, 5 (AMD) .]

3. **Fees.** In determining rates of these fees, the department shall, as an objective, obtain sufficient funds therefrom to reimburse the State for the direct and indirect costs of the radiation protection services specified in subsection 2. The department shall take into account any special arrangements between the State and a registrant, licensee, another state or a federal agency whereby the cost of the service is otherwise partially or fully recovered.

[1983, c. 345, §§13, 14 (NEW) .]

4. **Report.**

[2007, c. 619, §4 (RP) .]

5. **Exemptions.** The department 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 subsection may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

[1991, c. 824, Pt. B, §6 (AMD) .]

6. **Penalties.** When a registrant or licensee fails to pay the applicable fee, the department may take action in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

[1983, c. 345, §§13, 14 (NEW) .]

7. **Permanent fund.** All fees shall be paid to the Treasurer of State to be maintained in a permanent fund and used to carry out the purposes of this chapter and chapter 159-A.

[1987, c. 519, §7 (RPR) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1985, c. 40, §1 (AMD). 1987, c. 519, §7 (AMD). 1987, c. 882, §§3-5 (AMD). 1991, c. 496, §4 (AMD). 1991, c. 824, §B6 (AMD). 1993, c. 664, §11 (AMD). 1997, c. 395, §F2 (AMD). 1997, c. 686, §10 (AMD). 2007, c. 619, §4 (AMD).

§681. SURETY REQUIREMENTS

Licensees shall pay to the department for deposit by the Treasurer of State, into a fund called the Radiation Materials Recovery Fund, adequate funds to permit the department to complete the requirements established by the department for the decontamination, decommissioning, closure and reclamation of sites, structures and equipment used in conjunction with the licensed activity. In lieu of the deposit of funds, the licensee may provide an adequate surety. The condition of the surety shall be to account for the completion of the requirements according to standards established by the department by rule. All sureties forfeited shall be paid to the department for deposit by the Treasurer of State to the aforementioned fund. Money in the fund shall not be used for normal operations of the department. The department shall adopt by rule the standards for determining the amount of financial responsibility required by each licensee and the procedures for the payment of funds or provision of surety. [1987, c. 493, §6 (NEW).]

The funds or sureties required in this section shall be in amounts necessary to comply with standards established by the United States Nuclear Regulatory Commission or the State. [1987, c. 493, §6 (NEW).]

The department may accept gifts or transfers from another agency or individual of land or appurtenances necessary to fulfill the purposes of this section. [1987, c. 493, §6 (NEW).]

SECTION HISTORY

1983, c. 345, §§13,14 (NEW). 1987, c. 493, §6 (RPR).

§682. INSPECTIONS

1. **Authorized.** The department or its duly authorized representatives may enter at all reasonable times upon any private or public property for the purpose of determining whether there is compliance with or violation of the provisions of this Act and the rules issued thereunder, except that entry into areas under the jurisdiction of the Federal Government or its duly designated representative shall be effected only with the concurrence of the Federal Government or its duly designated representative.

[1991, c. 151, §2 (AMD) .]

2. **Equipment inspection.** The department shall promulgate rules requiring periodic inspection, certification and calibration of equipment, capable of emitting ionizing radiation, by certified technicians.

[1987, c. 493, §7 (AMD) .]

3. **Technician certification.** The department shall promulgate rules providing for the qualifications and certification of technicians to inspect, certify and calibrate equipment capable of emitting ionizing radiation. The rules must also provide for the standardization of calibration equipment, inspection and calibration methodology and reporting procedures. The department may grant, modify or refuse to issue a certification in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375 subchapter 5. The District Court has exclusive jurisdiction to suspend or revoke a certification of any person found guilty of noncompliance with the rules pertaining to inspection, certification and reporting procedures or misrepresentation of inspection findings.

[2009, c. 2, §47 (COR) .]

4. **Failure to comply.** Persons failing to have their equipment inspected, certified and calibrated, as required in subsection 2, shall be subject to the penalties of section 690-A.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 493, §7 (AMD). 1987, c. 519, §8 (AMD). 1991, c. 151, §2 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). RR 2009, c. 2, §47 (COR).

§683. RECORDS

The department may require by rule, or order, the keeping of such records with respect to activities under licenses and registration certificates issued pursuant to this Act as may be necessary to effectuate the purposes of this Act. These records shall be made available for inspection by, or copies thereof shall be submitted to, the department. [1983, c. 345, §§13, 14 (NEW).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§684. FEDERAL - STATE AGREEMENTS

1. **General agreements and contracts.** The Governor, on behalf of this State, may enter into agreements with the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, Section 274b, as amended, providing for discontinuance of certain of the commission's licensing and related regulatory authority with respect to by-product, source and special nuclear materials and the assumption of regulatory authority therefor by this State.

[1983, c. 345, §§13, 14 (NEW) .]

2. **Limited agreements.** The Governor, on behalf of this State, may enter into an agreement with the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, Section 274i, as amended, other federal government agencies, where authorized by law, or other states or interstate agencies, whereby this State will perform on a cooperative basis inspections or other functions relating to control of sources of radiation.

[1983, c. 345, §§13, 14 (NEW) .]

3. **Contracts with federal agencies.** The Governor may, subject to the conditions of Title 5, section 1669 and any other provision of law, execute contracts with appropriate federal officers or agencies relating to radiation hazards.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§685. TRAINING PROGRAMS

The department may institute training programs for the purpose of qualifying personnel to carry out the provisions of this Act, and may make the 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. [1983, c. 345, §§13, 14 (NEW).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§686. CONFLICTING LAWS

Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state agencies other than the Department of Health and Human Services relating to by-product, source and special nuclear materials, except as provided in sections 678 and 679, shall not be superseded by this Act, provided that the ordinances or regulations are and continue to be consistent with this Act, amendments thereto and rules thereunder. [1987, c. 493, §8 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 493, §8 (AMD). 2003, c. 689, §B6 (REV).

§687. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Administrative procedure and judicial review shall be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [1983, c. 345, §§13, 14 (NEW).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§688. INJUNCTION PROCEEDINGS; IMPOUNDING

1. **Injunctions.** Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, or any rule or order issued thereunder, and at the request of the department, the Attorney General may make application to the Superior Court for an order enjoining those acts or practices, or for an order directing compliance, and, upon a showing by the department that the 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.

[1983, c. 345, §§13, 14 (NEW) .]

2. **Impounding.** In accordance with all applicable statutes and regulations, the department may, in the event of an emergency, 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 any rules issued under this Act.

[1983, c. 345, §§13, 14 (NEW) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§689. PROHIBITED USES

Except for consumer products, it is 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 department in conformance with rules, if any, promulgated in accordance with this Act. Notwithstanding this paragraph, licensing or registration of specific consumer products may be required by the department by rule in specified circumstances. [1983, c. 345, §§13, 14 (NEW).]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW).

§690. PENALTIES

1. **Criminal penalties.** A person who intentionally or knowingly:

A. Violates a provision of this Act, or a rule or order of the department in effect pursuant to this Act, commits a Class D crime; or [2003, c. 452, Pt. K, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Violates a term, condition or limitation of a license or registration certificate issued under this Act, or commits a violation for which a license or registration certificate may be revoked under rules issued pursuant to this Act, commits a Class D crime. [2003, c. 452, Pt. K, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. K, §3 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

2. **Civil penalties.** Civil penalties shall be assessed and enforced as follows.

A. Any person who violates any licensing or registration provision of this Act or any rule or order issued under this Act, any term, condition or limitation of any license or registration certificate issued under this Act, or any person who commits any violation for which a license or registration certificate may be revoked, suspended or modified under rules issued pursuant to this Act is subject to a civil penalty, to be imposed by the department, not to exceed $10,000 for each violation or $100,000 for any willful and wanton violation. If any violation is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The department may compromise, mitigate or remit the penalties. [1987, c. 493, §9 (NEW).]

B. When the department has reason to believe that a person has become subject to the imposition of a civil penalty under the provisions of this section, the department may notify the Attorney General or hold a public hearing. If a hearing is scheduled, the commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of that hearing. The notice shall specify the act done or omitted to be done which is claimed to be in violation of law; identify the particular provisions of the section, rule, order or license involved in the violation; and advising of each penalty which the department proposes to impose and its amount. The notice shall be sent by registered or certified mail by the department to the last known address of the person.

Any hearing conducted under the authority of this subsection shall be in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods, practices and procedures, if any, adopted or used by him to comply with this chapter and present such evidence as may be pertinent and relevant to the alleged violation. [1987, c. 493, §9 (NEW).]

C. On the request of the department, the Attorney General may institute a civil action to collect a penalty imposed pursuant to this subsection. Only the Attorney General may compromise, mitigate or remit such civil penalties as are referred to him for collection. [1987, c. 493, §9 (NEW).]

D. All money collected from civil penalties shall be paid to the Treasurer of State for deposit in the General Fund. Money collected from civil penalties shall not be used for normal operating expenses of the department, except as appropriations made from the General Fund in the normal budgetary process. [1987, c. 493, §9 (NEW).]

[1987, c. 493, §9 (RPR) .]

SECTION HISTORY
1983, c. 345, §§13,14 (NEW). 1987, c. 493, §9 (AMD). 2003, c. 452, §K3 (AMD). 2003, c. 452, §X2 (AFF).

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