

COMMITTEE TO BRIDGE THE GAP

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Court Throws Out New State Radiation Regulations

Would Have Set Lax Cleanup Standards and Permitted Radioactive Waste in Municipal Landfills

Controversial new radiation rules that would have permitted high levels of radioactivity to remain at contaminated nuclear sites and allowed radioactive waste to be disposed of in municipal landfills and recycled into consumer products have been overturned by Sacramento Superior Court Judge Gail D. Ohanesian, it was announced today.

“This is a great victory for protecting the public from unnecessary radiation exposure,” said Daniel Hirsch, President of the Committee to Bridge the Gap, lead plaintiff in the case. “The Davis Administration had deregulated radioactive waste, and the court has found the action illegal.”

In November, the Administration finalized rules that set cleanup levels for radioactively contaminated nuclear sites that the U.S. Environmental Protection Agency had found “nonprotective of public health and the environment.” The rules would have permitted enough radioactivity to remain behind that the public would receive 25 millirem/year, or in some case 100 or even 500 millirem. That is the equivalent of 300 to 6000 additional chest X-rays over one’s lifetime, for a risk of 1 fatal cancers in 1000 people exposed up to a 1 in 60 risk. By contrast, most other carcinogens are regulated at a one in a million risk for cancer incidence, and EPA had urged adoption of its primary one in a million risk cleanup standard. California chose to pick the least protective cleanup standard while failing to consider a stricter standard, despite its concession it was free to do so, which the court found to be a violation of the Administrative Procedure Act.

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Additionally, the Dept. of Health Services (DHS) had, after the close of the comment period on the proposed rule, disclosed it intended to use it to deregulate much radioactive waste in the state, permitting it to be disposed of in municipal landfills and even schools, parks, and farms. The rule would also permit radioactively contaminated metals to be recycled into consumer products such as belt buckles and zippers, spoons and children's braces.

DHS had declared itself exempt from the California Environmental Quality Act (CEQA) and the requirement to prepare an Environmental Impact Statement on the proposal. The court ruled that these actions violated CEQA. The court further found that DHS's claims, made not just to the court but to the press and legislators, that this rule was an improvement on past rules which it alleged allowed releases at 100 millirem were false, finding there was no such 100 millirem standard in the past.

Legislation proposed by State Senator Gloria Romero would write into state law binding prohibitions on radioactive waste being disposed of anywhere except in a licensed radioactive waste site. Other legislation introduced by State Senator Sheila Kuehl would require cleanup of contaminated nuclear sites to the strictest EPA standard of one-in-a-million remaining risk.

"DHS has a rogue outfit in charge of radiation matters, with a long history of working to relax radiation protection requirements rather than vigorously protect the public," said Hirsch. "It is time that the Governor rein them in, or the Legislature transfer their jurisdiction to an agency truly interested in protecting people from pollution rather than protecting polluters from the public."

The successful lawsuit was brought by Laurence Silver of the California Environmental Law Project on behalf of the Committee to Bridge the Gap, Southern California Federation of Scientists, and Physicians for Social Responsibility-LA.

