

Representative Melvin R. Brown proposes to substitute the following bill:

**RADIOACTIVE WASTE DISPOSAL -
GROUNDWATER DISCHARGE**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Melvin R. Brown

AN ACT RELATING TO THE ENVIRONMENT; AMENDING PROVISIONS REGARDING RADIOACTIVE MATERIAL LICENSES, INCLUDING REQUIREMENTS APPLICABLE TO GROUND WATER DISCHARGE PERMITS; AND PROVIDING A DEFINITION OF PROCESSING.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-3-104, as last amended by Chapters 28 and 90, Laws of Utah 1995

19-3-105, as last amended by Chapter 188, Laws of Utah 1994

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-3-104** is amended to read:

**19-3-104. Registration and licensing of radiation sources by department --
Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

(1) The board may require the registration or licensing of radiation sources that constitute a significant health hazard.

(2) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.

(3) The board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the

26 radiation control program under this part is qualified to maintain primacy from the federal
27 government; and

28 (c) to establish:

29 (i) board accreditation requirements and procedures for mammography facilities; and

30 (ii) certification procedure and qualifications for persons who survey mammography
31 equipment and oversee quality assurance practices at mammography facilities.

32 (4) (a) The department shall assess fees for registration, licensing, and inspection of
33 radiation sources under this section.

34 (b) The department shall comply with the requirements of Section 63-38-3.2 in assessing
35 fees for licensure and registration.

36 (5) The department shall coordinate its activities with the Department of Health rules made
37 under Section 26-21a-203.

38 (6) (a) Except as provided in Subsection (7), the board may not adopt rules, for the purpose
39 of the state assuming responsibilities from the United States Nuclear Regulatory Commission with
40 respect to regulation of sources of ionizing radiation, that are more stringent than the
41 corresponding federal regulations which address the same circumstances.

42 (b) In adopting those rules, the board may incorporate corresponding federal regulations
43 by reference.

44 (7) (a) The board may adopt rules more stringent than corresponding federal regulations
45 for the purpose described in Subsection (6) only if it makes a written finding after public comment
46 and hearing and based on evidence in the record that corresponding federal regulations are not
47 adequate to protect public health and the environment of the state.

48 (b) Those findings shall be accompanied by an opinion referring to and evaluating the
49 public health and environmental information and studies contained in the record which form the
50 basis for the board's conclusion.

51 (8) (a) The board may by rule establish criteria for siting commercial low-level radioactive
52 waste treatment or disposal facilities.

53 (b) Any facility for which a radioactive material license is required by this section shall
54 comply with those criteria.

55 (c) A facility may not receive a radioactive material license until siting criteria have been
56 established by the board. The criteria also apply to facilities that have applied for but not received

57 a radioactive material license.

58 (d) A commercial facility transferring, storing, decaying in storage, treating, or disposing
59 of byproduct materials as defined by 42 U.S.C. 2014(e), Atomic Energy Act, or other radioactive
60 materials shall:

61 (i) obtain a groundwater discharge permit from the Division of Water Quality;

62 (ii) except as provided in Subsection (8)(e)(ii), meet the siting criteria established by board
63 rule for commercial low-level radioactive waste facilities; and

64 (iii) comply with the requirements of Subsection 19-3-105(1)(b).

65 (e) (i) As used in this Subsection (8)(e), "processing" is a procedure which results in the
66 net value of the source material extracted from the radioactive materials exceeding the price the
67 facility charges to accept the radioactive materials.

68 (ii) The board shall by rule establish the criteria for determining the net value of the source
69 material extracted from the radioactive materials.

70 (iii) Any facility processing radioactive materials for the purpose of extracting source
71 material as defined in 42 U.S.C. 2014(z), Atomic Energy Act, shall obtain a groundwater
72 discharge permit from the Division of Water Quality, but is not required to:

73 (A) meet the siting criteria established by the board regarding commercial low-level
74 radioactive waste facilities; or

75 (B) comply with the requirements of Subsection 19-3-105(1)(b).

76 (9) The board shall by rule establish financial assurance requirements for closure and
77 postclosure care of radioactive waste land disposal facilities, taking into account existing financial
78 assurance requirements.

79 Section 2. Section **19-3-105** is amended to read:

80 **19-3-105. Legislative and gubernatorial approval required.**

81 (1) (a) A person may not own, construct, modify, or operate any facility for the purpose
82 of commercially transferring, storing, decaying in storage, treating, or disposing of radioactive
83 waste without first submitting and receiving the approval of the board for a radioactive material
84 license for the facility.

85 (b) A person may not construct a new commercial radioactive waste transfer, storage,
86 decay in storage, treatment, or disposal facility until:

87 (i) the requirements of Section 19-3-104 have been met;

88 (ii) in addition and subsequent to the approval required in Subsection (a), the governor and
89 the Legislature have approved the facility; and

90 (iii) local planning and zoning has authorized the facility.

91 (c) For purposes of this section, the following items shall be treated as submission of a
92 new license application:

93 (i) the submission of a revised application specifying a different geographic site than a
94 previously submitted application;

95 (ii) an application for amendment of a commercial radioactive waste license for transfer,
96 storage, decay in storage, treatment, or disposal facilities, including incinerators, if the construction
97 would cost 50% or more of the cost of construction of the original transfer, storage, decay in
98 storage, treatment, or disposal facility or the modification would result in an increase in capacity
99 or throughput of a cumulative total of 50% of the total capacity or throughput which was approved
100 in the facility license as of January 1, 1990, or the initial approval facility license if the initial
101 license approval is subsequent to January 1, 1990; [or]

102 (iii) any request for approval for a commercial radioactive waste transfer, storage, decay
103 in storage, treatment, or disposal facility to receive class B or class C low-level radioactive waste,
104 including the submission of a new license application, revised license application, or major license
105 amendment; or

106 (iv) an application or an amendment to an application to the federal Nuclear Regulatory
107 Commission or the state Division of Radiation Control for the processing of radioactive material
108 for the extraction of source material as defined in 42 U.S.C. 2014(z), Atomic Energy Act, if the
109 net value of the source material is less than the price charged for the receipt of the radioactive
110 material.

111 (2) A person need not obtain gubernatorial or legislative approval for the construction of
112 a radioactive waste facility for which a license application has been approved by the Department
113 of Health or submitted to the federal Nuclear Regulatory Commission and to the Department of
114 Health for approval before January 1, 1990, and which has been determined, on or before October
115 31, 1990, by the Department of Health to be complete in accordance with state and federal
116 requirements.

117 (3) The board shall suspend acceptance of further applications for commercial radioactive
118 waste facilities upon a finding that they cannot adequately oversee existing and additional

119 radioactive waste facilities for license compliance, monitoring, and enforcement. The board shall
120 report the suspension to the Legislative Management Committee.

121 (4) The board shall review each proposed radioactive waste license application to
122 determine whether the application complies with the provisions of this chapter and the rules of the
123 board.

124 (5) (a) If the radioactive license application is determined to be complete, the board shall
125 issue a notice of completeness.

126 (b) If the plan is determined by the board to be incomplete, the board shall issue a notice
127 of deficiency, listing the additional information to be provided by the applicant to complete the
128 application.