

**HAZARDOUS WASTE REGULATION AND TAX
POLICY TASK FORCE AND MORATORIUM ON
ACCEPTANCE OF CLASS B AND C
RADIOACTIVE WASTE**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act creates a task force to study radioactive waste, hazardous waste, and commercial solid waste issues in the state, including state policy and an evaluation of fees and taxes imposed on these wastes. The task force is composed of 16 members of the Legislature. The task force expires on November 30, 2004. This act also places a moratorium on any acceptance of class B or C radioactive waste through February 15, 2005.

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

AMENDS:

19-3-104, as last amended by Chapter 297, Laws of Utah 2002

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

ENACTS:

19-3-103.7, Utah Code Annotated 1953

This act enacts uncodified material.

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

Section 1. Section **19-3-103.7** is enacted to read:

19-3-103.7. Moratorium on class B and C radioactive waste.

On and after May 3, 2003, through February 15, 2005, there is a moratorium prohibiting any entity in the state from accepting class B or C low-level radioactive waste for commercial storage, decay in storage, treatment, incineration, or disposal.

Section 2. 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) As used in this section:

(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" have the same definitions as in 42 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.

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

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

(4) 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 radiation control program under this part is qualified to maintain primacy from the federal government;

(c) to establish:

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

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

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material to establish requirements for:

(i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and

(ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).

(5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).

(b) On and after January 1, 2003 through March 30, 2003:

(i) \$6,667 per month for uranium mills or commercial sites disposing of or reprocessing

byproduct material; and

(ii) \$4,167 per month for those uranium mills the executive secretary has determined are on standby status.

(c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation on or before March 30, 2003.

(d) If the Nuclear Regulatory Commission does not grant the amendment for state agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and are not required to be paid until on and after the later date of:

(i) October 1, 2003; or

(ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation.

(e) For the payment periods beginning on and after July 1, 2003, the department shall establish the fees required under Subsection (5)(a) under Section 63-38-3.2, subject to the restrictions under Subsection (5)(d).

(f) The department shall deposit fees it receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.

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

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

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

(8) (a) Except as provided in Subsection (9), the board may not adopt rules, for the purpose of the state assuming responsibilities from the United States Nuclear Regulatory Commission with respect to regulation of sources of ionizing radiation, that are more stringent than the corresponding federal regulations which address the same circumstances.

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

(9) (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection (8) only if it makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

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

(10) (a) The board shall by rule:

(i) authorize independent qualified experts to conduct inspections required under this chapter of x-ray facilities registered with the division; and

(ii) establish qualifications and certification procedures necessary for independent experts to conduct these inspections.

(b) Independent experts under this Subsection (10) are not considered employees or representatives of the division or the state when conducting the inspections.

(11) (a) The board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the moratorium regarding class B and C low-level radioactive waste imposed by Section 19-3-103.7.

(b) Any facility under Subsection (11)(a) for which a radioactive material license is required by this section shall comply with those criteria.

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

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

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

19-3-105. Legislative and gubernatorial approval required -- Class B and C low-level radioactive waste moratorium.

(1) The provisions of this section are subject to the moratorium regarding class B and C low-level radioactive waste under Section 19-3-103.7.

[(+)] (2) (a) A person may not own, construct, modify, or operate any facility for the purpose of commercially transferring, storing, decaying in storage, treating, or disposing of radioactive waste without first submitting and receiving the approval of the board for a radioactive material license for the facility.

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

- (i) the requirements of Section 19-3-104 have been met;
- (ii) in addition and subsequent to the approval required in Subsection (2)(a), the governor and the Legislature have approved the facility; and
- (iii) local planning and zoning has authorized the facility.

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

- (i) the submission of a revised application specifying a different geographic site than a previously submitted application;
- (ii) an application for amendment of a commercial radioactive waste license for transfer, storage, decay in storage, treatment, or disposal facilities, including incinerators, if the construction would cost 50% or more of the cost of construction of the original transfer, storage, decay in storage, treatment, or disposal facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or
- (iii) any request for approval for a commercial radioactive waste transfer, storage, decay in storage, treatment, or disposal facility to receive class B or class C low-level radioactive waste, including the submission of a new license application, revised license application, or major

license amendment.

~~[(2)]~~ (3) A person need not obtain gubernatorial or legislative approval for the construction of a radioactive waste facility for which a license application has been approved by the Department of Health or submitted to the federal Nuclear Regulatory Commission and to the Department of Health for approval before January 1, 1990, and which has been determined, on or before October 31, 1990, by the Department of Health to be complete in accordance with state and federal requirements.

~~[(3)]~~ (4) The board shall suspend acceptance of further applications for commercial radioactive waste facilities upon a finding that they cannot adequately oversee existing and additional radioactive waste facilities for license compliance, monitoring, and enforcement. The board shall report the suspension to the Legislative Management Committee.

~~[(4)]~~ (5) The board shall review each proposed radioactive waste license application to determine whether the application complies with the provisions of this chapter and the rules of the board.

~~[(5)]~~ (6) (a) If the radioactive license application is determined to be complete, the board shall issue a notice of completeness.

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

Section 4. Hazardous Waste Regulation and Tax Policy Task Force -- Creation -- Membership -- Interim rules followed -- Compensation -- Staff.

(1) There is created the Hazardous Waste Regulation and Tax Policy Task Force consisting of the following 16 members:

(a) seven members of the Senate, appointed by the president of the Senate, of whom not more than five may be members of the majority political party; and

(b) nine members of the House of Representatives, appointed by the speaker of the House of Representatives, of whom not more than seven may be members of the majority political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) In conducting its business, the task force shall comply with the rules of legislative interim committees.

(4) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rule 15.03.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

Section 5. Duties -- Interim Reports.

(1) The task force shall review and make recommendations on the following issues:

(a) radioactive waste policy and economic considerations for the state, including:

(i) how facilities in Utah that accept radioactive waste or radioactive material for processing or reprocessing compare to other facilities in terms of competitive fees and tax structure;

(ii) evaluation and recommendations regarding whether Utah should accept class B and C low-level radioactive waste, in terms of long-term state policy, relative public health and environment issues, and economic considerations;

(iii) the role of interstate compacts regarding radioactive waste and Utah's obligations under the Interstate Compact on Low-level Radioactive Waste of which it is a member; and

(iv) the long-term management of radioactive waste facilities and radioactive material processing and reprocessing facilities in the state and the perpetual care of those facilities; and

(b) evaluation and recommendations regarding policy, fees, and taxes for commercial hazardous waste and nonhazardous solid waste treatment, storage, or disposal facilities, as defined in Section 19-6-102, in Utah, including:

(i) current fee and tax structures for various types of facilities and types of hazardous waste in the state;

(ii) taxes and fees for comparable facilities and wastes in other states; and
(iii) the long-term management of hazardous waste facilities in the state and the perpetual care of those facilities.

(2) The task force shall, as funding allows:

(a) visit a low-level radioactive waste storage facility; and
(b) request information from parties having relevant expertise regarding the issues, as funding allows.

(3) (a) The task force shall prepare a preliminary report and shall present it to the Executive Appropriations Committee, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee before November 30, 2003.

(b) The task force shall present a final report, including any proposed legislation, to the Executive Appropriations Committee, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee before November 30, 2004.

Section 6. Repeal date.

Uncodified Sections 4 and 5 that create the task force in this act are repealed November 30, 2004.