

Effective 7/1/2015

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

- (1) As used in this section:
 - (a) "Decommissioning" includes financial assurance.
 - (b) "Source material" and "byproduct material" have the same definitions as in the Atomic Energy Act of 1954, 42 U.S.C. Sec. 2014, as amended.
- (2) The division 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) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 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 director 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 63J-1-504, subject to the restrictions under Subsection (5)(d).
 - (f) The division shall deposit fees it receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.
- (6)

- (a) The division shall assess fees for registration, licensing, and inspection of radiation sources under this section.
 - (b) The division shall comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.
- (7)
- (a) Except as provided in Subsection (8), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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.
- (8)
- (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection (7) 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.
- (9)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 (9) are not considered employees or representatives of the division or the state when conducting the inspections.
- (10)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.
 - (b) Subject to Subsection 19-3-105(10), any facility under Subsection (10)(a) for which a radioactive material license is required by this section shall comply with those criteria.
 - (c) Subject to Subsection 19-3-105(10), 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.
- (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities.
- (12) The rules described in Subsection (11) shall include the following provisions:
- (a) the financial assurance shall be based on an annual calculation and shall include the costs of closure and postclosure care of radioactive waste land disposal facilities in all areas subject to the licensed or permitted portions of the facility;
 - (b) financial assurance for closing the areas within the disposal embankments shall be limited to the cost of closing areas where waste has been disposed; and

- (c) at the option of the licensee or permittee, the financial assurance requirements shall be based on:
 - (i) an annual calculation using the current edition of RS Means Facilities Construction Cost Data or using a process, including an indirect cost multiplier, previously agreed to between the licensee or permittee and the director; or
 - (ii)
 - (A) for an initial financial assurance determination and for each financial assurance determination every five years thereafter, a competitive site-specific bid for closure and postclosure care of the facility at least once every five years; and
 - (B) for each year between a financial assurance determination as described in Subsection (12)(c)(ii)(A), an annual inflation adjustment to the financial assurance determination using the Gross Domestic Product Implicit Price Deflator of the Bureau of Economic Analysis, United States Department of Commerce, calculated by dividing the latest annual deflator by the deflator for the previous year.
- (13) Subject to the financial assurance requirements described in Subsections (11) and (12), if the director and the licensee or permittee do not agree on a final financial assurance determination made by the director, the licensee or permittee may appeal the determination in:
 - (a) an arbitration proceeding governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, with the costs of the arbitration to be split equally between the licensee or permittee and the division, if both the licensee or permittee and the director agree in writing to arbitration; or
 - (b) a special adjudicative proceeding under Section 19-1-301.5.

Amended by Chapter 441, 2015 General Session

Amended by Chapter 451, 2015 General Session