

Effective 5/8/2018

19-3-105 Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

- (1) As used in this section:
- (a) "Alternate feed material" has the same definition as provided in Section 59-24-102.
 - (b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.
 - (c)
 - (i) "Class A low-level radioactive waste" means:
 - (A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and
 - (B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.
 - (ii) "Class A low-level radioactive waste" does not include:
 - (A) uranium mill tailings;
 - (B) naturally occurring radioactive materials; or
 - (C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:
 - (I) uranium-233; and
 - (II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:
 - (Aa) to ensure criticality safety for a radioactive waste facility in the state; and
 - (Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.
 - (d)
 - (i) "Radioactive waste facility" or "facility" means a facility that decays radioactive waste in storage, treats radioactive waste, or disposes of radioactive waste:
 - (A) commercially for profit; or
 - (B) generated at locations other than the radioactive waste facility.
 - (ii) "Radioactive waste facility" does not include a facility that receives:
 - (A) alternate feed material for reprocessing; or
 - (B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).
 - (e) "Radioactive waste license" or "license" means a radioactive material license issued by the director to own, construct, modify, or operate a radioactive waste facility.
- (2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.
- (3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:
- (a) having received a radioactive waste license for the facility;
 - (b) meeting the requirements established by rule under Section 19-3-104;
 - (c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and
 - (d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.

- (4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:
 - (a) specifies a different geographic site than a previously submitted application;
 - (b) would cost 50% or more of the cost of construction of the original radioactive waste 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
 - (c) requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an existing approved license held by the facility, for the specific type of waste to be decayed in storage, treated, or disposed of.
- (5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend an existing radioactive waste license if:
 - (a) the radioactive waste facility requesting the renewal or amendment has received a license prior to January 1, 2004; and
 - (b) the application to renew or amend its license is limited to a request to approve the receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level radioactive waste.
- (6) A radioactive waste facility that receives a new radioactive waste license after May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license application, renewal, or amendment that requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste not previously approved under an existing license held by the facility.
- (7) If the board finds that approval of additional radioactive waste license applications, renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.
- (8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(10) do not apply to:
 - (a) a radioactive waste license that is in effect on December 31, 2006, including all amendments to the license that have taken effect as of December 31, 2006;
 - (b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or
 - (c) an application to renew or amend a license described in Subsection (8)(a), unless the renewal or amendment includes an area beyond the facility boundary approved in the license described in Subsection (8)(a).
- (9)
 - (a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.
 - (b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:
 - (i) determine whether the application is complete and contains all the information necessary to process the application for approval; and
 - (ii)
 - (A) issue a notice of completeness to the applicant; or

- (B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.
- (c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.
- (10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) categorize approval applications as follows:
 - (i) approval applications that:
 - (A) are administrative in nature;
 - (B) require limited scrutiny by the director; and
 - (C) do not require public input;
 - (ii) approval applications that:
 - (A) require substantial scrutiny by the director;
 - (B) require public input; and
 - (C) are not described in Subsection (10)(a)(iii); and
 - (iii) approval applications for:
 - (A) the granting or renewal of a radioactive waste license;
 - (B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;
 - (C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;
 - (D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and
 - (E) a radioactive waste facility closure plan;
 - (b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:
 - (i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application;
 - (ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;
 - (iii) for applications categorized under Subsection (10)(a)(iii), as follows:
 - (A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;
 - (B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after the day on which the director receives the application;
 - (C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;
 - (D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which the director receives the application;
 - (E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;
 - (F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and
 - (G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;

- (c) toll the time periods described in Subsection (10)(b):
 - (i) while an owner or operator of a facility responds to the director's request for information;
 - (ii) during a public comment period; or
 - (iii) while the federal government reviews the application; and
- (d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Amended by Chapter 281, 2018 General Session