

1                                   **RADIOACTIVE WASTE DISPOSAL -**  
2                                   **GROUNDWATER DISCHARGE**

3                                   1999 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Melvin R. Brown**

6 AN ACT RELATING TO THE ENVIRONMENT; AMENDING PROVISIONS REGARDING  
7 RADIOACTIVE MATERIAL LICENSES, INCLUDING REQUIREMENTS REGARDING  
8 GROUNDWATER DISCHARGE PERMITS AND A DEFINITION OF PROCESSING.

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

10 AMENDS:

11           **19-3-104**, as last amended by Chapters 28 and 90, Laws of Utah 1995

12           **19-3-105**, as last amended by Chapter 188, Laws of Utah 1994

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

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

15           **19-3-104. Registration and licensing of radiation sources by department --**  
16 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

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

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

21           (3) The board may make rules:

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

24           (b) to meet the requirements of federal law relating to radiation control to ensure the  
25 radiation control program under this part is qualified to maintain primacy from the federal  
26 government; and

27           (c) to establish:

28 (i) board accreditation requirements and procedures for mammography facilities; and  
29 (ii) certification procedure and qualifications for persons who survey mammography  
30 equipment and oversee quality assurance practices at mammography facilities.

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

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

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

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

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

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

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

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

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

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

57 (d) A commercial facility disposing of byproduct materials or other wastes as defined by  
58 42 U.S.C. 2014(e), Atomic Energy Act, may not receive a radioactive material license unless it

59 has:

60 (i) received a groundwater discharge permit from the Division of Water Quality under  
61 Section 19-5-107; and

62 (ii) met the siting criteria established by board rule for commercial low-level radioactive  
63 waste facilities.

64 (e) (i) As used in this Subsection (8)(e), "processing" means the net value of the source  
65 material extracted from the radioactive waste exceeds the price the facility charges to accept the  
66 waste.

67 (ii) Any facility processing radioactive waste for the purpose of extracting source material,  
68 as defined in 42 U.S.C. 2014(z), Atomic Energy Act, shall obtain a groundwater discharge permit  
69 from the Division of Water Quality under Section 19-5-107, but is not required to meet siting  
70 criteria established by board rule for commercial low-level radioactive waste facilities.

71 (iii) The board shall by rule establish the criteria for determining the net value of the  
72 source material extracted from the waste.

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

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

77 **19-3-105. Legislative and gubernatorial approval required.**

78 (1) (a) (i) A person may not own, construct, modify, or operate any facility for the purpose  
79 of commercially transferring, storing, decaying in storage, treating, or disposing of radioactive  
80 waste without first submitting and receiving the approval of the board for a radioactive material  
81 license for the facility[-]; and

82 (ii) if the facility is licensed by the federal Nuclear Regulatory Commission, also applying  
83 for and receiving a groundwater discharge permit issued by the state Division of Water Quality  
84 under Section 19-5-107.

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 (1)(a), the governor  
89 and 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.~~]

106 (iii) an application to the federal Nuclear Regulatory Commission or the state Division of  
107 Radiation Control for authorization to receive radioactive material for processing or disposal for  
108 which the net value of the source material is less than the price the applicant charges to accept the  
109 material.

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

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

120 (4) The board shall review each proposed radioactive waste license application to

121 determine whether the application complies with the provisions of this chapter and the rules of the  
122 board.

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

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

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**Legislative Review Note**  
**as of 2-9-99 6:26 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**