

URANIUM MILL TAILINGS OVERSIGHT

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Bill Wright

This act modifies the Radiation Control Act to authorize the Department of Environmental Quality to regulate uranium recovery and specified related operations. The act imposes a fee on these operations, with specified contingencies. This act also increases the size of the Radiation Control Board by two members.

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

AMENDS:

19-1-108, as last amended by Chapter 314, Laws of Utah 2001

19-3-103, as last amended by Chapter 243, Laws of Utah 1996

19-3-104, as last amended by Chapter 311, Laws of Utah 2001

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

Section 1. Section **19-1-108** is amended to read:

19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of restricted account -- Sources of funds -- Uses of funds.

(1) There is created the Environmental Quality Restricted Account.

(2) The sources of monies for the restricted account are:

(a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4 and other fees collected under Subsection 19-3-104(5);

(b) hazardous waste disposal fees collected under Section 19-6-118;

(c) PCB waste disposal fees collected under Section 19-6-118.5;

(d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

(e) all investment income derived from money in the restricted account created in this section.

(3) In each fiscal year, the first \$500,000 collected from all waste disposal fees listed in Subsection (2), collectively, shall be deposited in the General Fund as free revenue. The balance shall be deposited in the restricted account created in this section.

(4) The Legislature may annually appropriate monies from the Environmental Quality Restricted Account to:

- (a) the department for the costs of administering radiation control programs;
- (b) the department for the costs of administering solid and hazardous waste programs; and
- (c) the Hazardous Substances Mitigation Fund, up to \$400,000, for purposes set forth in Title

19, Chapter 6, Part 3, Hazardous Substances Mitigation Act.

(5) In order to stabilize funding for the radiation control program and the solid and hazardous

waste program, the Legislature shall in years of excess revenues reserve in the restricted account sufficient monies to meet departmental needs in years of projected shortages.

(6) The Legislature may not appropriate money from the General Fund to the department as a supplemental appropriation to cover the costs of the radiation control program and the solid and hazardous waste program in an amount exceeding 25% of the amount of waste disposal fees collected during the most recent prior fiscal year.

(7) The Legislature may annually appropriate not more than \$200,000 from this account to the Department of Public Safety, created in Section 53-1-103, to be used by that department solely for hazardous materials:

- (a) management training; and
- (b) response preparation and emergency response training.

(8) All funds appropriated under this part that are not expended at the end of the fiscal year lapse into the account created in Subsection (1).

(9) For fiscal year 1998-99, up to \$537,000 in the Environmental Quality Restricted Account may be appropriated by the Legislature to fund legislative priorities.

Section 2. Section **19-3-103** is amended to read:

19-3-103. Radiation Control Board -- Members -- Organization -- Meetings -- Per diem and expenses.

(1) The board created under Section 19-1-106 comprises [~~11~~] 13 members, one of whom shall be the executive director, or his designee, and the remainder of whom shall be appointed by the governor, with the advice and consent of the Senate.

(2) No more than [~~five~~] six appointed members shall be from the same political party.

(3) The appointed members shall be knowledgeable about radiation protection and shall be as follows:

(a) one physician;

(b) one dentist;

(c) one health physicist or other professional employed in the field of radiation safety;

(d) [~~two~~] three representatives of regulated industry, at least one of whom represents the radioactive waste management industry, and at least one of whom represents the uranium milling industry;

(e) one registrant or licensee representative from academia;

(f) one representative of a local health department;

(g) one elected county official; and

(h) [~~two~~] three members of the general public, at least one of whom represents organized environmental interests.

(4) (a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(5) Each board member is eligible for reappointment to more than one term.

(6) Each board member shall continue in office until the expiration of his term and until a successor is appointed, but not more than 90 days after the expiration of his term.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations by the department and with the consent of the Senate.

(8) The board shall annually elect a chair and vice chair from its members.

(9) The board shall meet at least quarterly. Other meetings may be called by the chair, by the executive secretary, or upon the request of three members of the board.

(10) Reasonable notice shall be given each member of the board prior to any meeting.

(11) [~~Six~~] Seven members constitute a quorum. The action of a majority of the members present is the action of the board.

(12) (a) (i) Members who are not government employees [~~staff~~] receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 3. 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.

~~[(2)]~~ (3) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.

~~[(3)]~~ (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; ~~[and]~~

(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.

~~[(4)]~~ (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.

~~[(5)]~~ (7) The department shall coordinate its activities with the Department of Health rules made under Section 26-21a-203.

~~[(6)]~~ (8) (a) Except as provided in Subsection ~~[(7)]~~ (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.

~~[(7)]~~ (9) (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection ~~[(6)]~~ (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.

~~[(8)]~~ (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 ~~[(8)]~~ (10) are not considered employees or representatives of the division or the state when conducting the inspections.

~~[(9)]~~ (11) (a) The board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities.

(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.

~~[(10)]~~ (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.