

1 **RADIOACTIVE WASTE - PROHIBITION OF**
2 **B AND C WASTE**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Kory M. Holdaway**

6 **This act modifies the Radiation Control Act in the Environmental Quality Code by**
7 **prohibiting the storage, treatment, or disposal of B or C low-level radioactive waste at**
8 **any facility in this state.**

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

10 AMENDS:

11 **19-3-104**, as last amended by Chapter 297, Laws of Utah 2002

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

13 ENACTS:

14 **19-3-103.7**, Utah Code Annotated 1953

15 This act enacts uncodified material.

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

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

18 **19-3-103.7. Facilities may not accept B and C radioactive waste.**

19 An entity may not accept class B or C low-level radioactive waste for commercial
20 storage, decay in storage, treatment, incineration, or disposal.

21 Section 2. Section **19-3-104** is amended to read:

22 **19-3-104. Registration and licensing of radiation sources by department --**
23 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

24 (1) As used in this section:

25 (a) "Decommissioning" includes financial assurance.

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



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

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

32 (4) The board may make rules:

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

35 (b) to meet the requirements of federal law relating to radiation control to ensure the
36 radiation control program under this part is qualified to maintain primacy from the federal
37 government;

38 (c) to establish:

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

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

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

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

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

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

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

52 (i) \$6,667 per month for uranium mills or commercial sites disposing of or
53 reprocessing byproduct material; and

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

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

59 2003.

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

63 (i) October 1, 2003; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109 **19-3-105. Legislative and gubernatorial approval required -- B and C low-level**
110 **radioactive waste prohibited.**

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

113 [~~(1)~~] (2) (a) A person may not own, construct, modify, or operate any facility for the
114 purpose of commercially transferring, storing, decaying in storage, treating, or disposing of
115 radioactive waste without first submitting and receiving the approval of the board for a
116 radioactive material license for the facility.

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

119 (i) the requirements of Section 19-3-104 have been met;

120 (ii) in addition and subsequent to the approval required in Subsection (2)(a), the

121 governor and the Legislature have approved the facility; and

122 (iii) local planning and zoning has authorized the facility.

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

125 (i) the submission of a revised application specifying a different geographic site than a
126 previously submitted application; or

127 (ii) an application for amendment of a commercial radioactive waste license for
128 transfer, storage, decay in storage, treatment, or disposal facilities, including incinerators, if the
129 construction would cost 50% or more of the cost of construction of the original transfer,
130 storage, decay in storage, treatment, or disposal facility or the modification would result in an
131 increase in capacity or throughput of a cumulative total of 50% of the total capacity or
132 throughput which was approved in the facility license as of January 1, 1990, or the initial
133 approval facility license if the initial license approval is subsequent to January 1, 1990; or

134 (iii) any request for approval for a commercial radioactive waste transfer, storage,
135 decay in storage, treatment, or disposal facility to receive class B or class C low-level
136 radioactive waste, including the submission of a new license application, revised license
137 application, or major license amendment.

138 [~~(2)~~] (3) A person need not obtain gubernatorial or legislative approval for the
139 construction of a radioactive waste facility for which a license application has been approved
140 by the Department of Health or submitted to the federal Nuclear Regulatory Commission and
141 to the Department of Health for approval before January 1, 1990, and which has been
142 determined, on or before October 31, 1990, by the Department of Health to be complete in
143 accordance with state and federal requirements.

144 [~~(3)~~] (4) The board shall suspend acceptance of further applications for commercial
145 radioactive waste facilities upon a finding that they cannot adequately oversee existing and
146 additional radioactive waste facilities for license compliance, monitoring, and enforcement.
147 The board shall report the suspension to the Legislative Management Committee.

148 [~~(4)~~] (5) The board shall review each proposed radioactive waste license application to
149 determine whether the application complies with the provisions of this chapter and the rules of
150 the board.

151 [~~(5)~~] (6) (a) If the radioactive license application is determined to be complete, the

152 board shall issue a notice of completeness.

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

Legislative Review Note
as of 1-22-03 3:04 PM

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

Office of Legislative Research and General Counsel

Fiscal Note**Radioactive Waste - Prohibition of B and C Waste***31-Jan-03***Bill Number HB0237***8:55 AM*

State Impact

No fiscal impact.

Individual and Business Impact

Individuals and businesses that might have petitioned the State for permitting to dispose of B or C low level radioactive waste could lose the business opportunity and profits associated with disposal of those wastes.

Office of the Legislative Fiscal Analyst