

WASTE AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Darin G. Peterson

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LONG TITLE

General Description:

This bill exempts certain radioactive waste disposal facilities from certain approval and siting requirements.

Highlighted Provisions:

This bill:

- ▶ exempts a radioactive waste disposal facility license in effect on or before December 31, 2006 from local government planning and zoning approval, legislative and gubernatorial approval, and certain siting requirements; and
- ▶ exempts an amendment to or renewal of a radioactive waste disposal facility license in effect on or before December 31, 2006 from local government planning and zoning approval, legislative and gubernatorial approval, and certain siting requirements unless the amendment or renewal would authorize waste disposal at a different geographic location.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

31 AMENDS:

32 **19-3-104**, as last amended by Chapter 10, Laws of Utah 2005

33 **19-3-105**, as last amended by Chapter 10, Laws of Utah 2005

34

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

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

37 **19-3-104. Registration and licensing of radiation sources by department --**

38 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

39 (1) As used in this section:

40 (a) "Decommissioning" includes financial assurance.

41 (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.

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

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

47 (4) The board may make rules:

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

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

53 (c) to establish:

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

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

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

59 (i) the licensing, operation, decontamination, and decommissioning, including financial
60 assurances; and

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

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

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

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

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

71 (c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection
72 (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an
73 amendment for agreement state status for uranium recovery regulation on or before March 30,
74 2003.

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

78 (i) October 1, 2003; or

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

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

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

86 (6) (a) The department shall assess fees for registration, licensing, and inspection of

87 radiation sources under this section.

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

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

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

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

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

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

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

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

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

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

112 (11) (a) The board may by rule establish criteria for siting commercial low-level
113 radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section
114 19-3-103.7.

115 (b) [~~Any~~] Subject to Subsection 19-3-105(10), any facility under Subsection (11)(a) for
116 which a radioactive material license is required by this section shall comply with those criteria.

117 (c) [~~A~~] Subject to Subsection 19-3-105(10), a facility may not receive a radioactive
118 material license until siting criteria have been established by the board. The criteria also apply
119 to facilities that have applied for but not received a radioactive material license.

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

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

124 **19-3-105. Definitions -- Legislative and gubernatorial approval required for**
125 **radioactive waste license -- Exceptions -- Application for new, renewed, or amended**
126 **license.**

127 (1) As used in this section:

128 (a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

129 (b) (i) "Class A low-level radioactive waste" means:

130 (A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

131 (B) radium-226 up to a maximum radionuclide concentration level of 10,000
132 picocuries per gram.

133 (ii) "Class A low-level radioactive waste" does not include:

134 (A) uranium mill tailings;

135 (B) naturally occurring radioactive materials; or

136 (C) the following radionuclides if classified as "special nuclear material" under the
137 Atomic Energy Act of 1954, 42 U.S.C. 2014:

138 (I) uranium-233; and

139 (II) uranium-235 with a radionuclide concentration level greater than the concentration
140 limits for specific conditions and enrichments established by an order of the Nuclear

141 Regulatory Commission:

142 (Aa) to ensure criticality safety for a radioactive waste facility in the state; and

143 (Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive
144 waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special
145 nuclear material exemption order.

146 (c) (i) "Radioactive waste facility" or "facility" means a facility that receives, transfers,
147 stores, decays in storage, treats, or disposes of radioactive waste:

148 (A) commercially for profit; or

149 (B) generated at locations other than the radioactive waste facility.

150 (ii) "Radioactive waste facility" does not include a facility that receives:

151 (A) alternate feed material for reprocessing; or

152 (B) radioactive waste from a location in the state designated as a processing site under
153 42 U.S.C. 7912(f).

154 (d) "Radioactive waste license" or "license" means a radioactive material license issued
155 by the executive secretary under Subsection 19-3-108(2)(c)(i), to own, construct, modify, or
156 operate a radioactive waste facility.

157 (2) The provisions of this section are subject to the prohibition under Section
158 19-3-103.7.

159 (3) ~~[A]~~ Subject to Subsection (10), a person may not own, construct, modify, or operate
160 a radioactive waste facility without:

161 (a) having received a radioactive waste license for the facility;

162 (b) meeting the requirements established by rule under Section 19-3-104;

163 (c) the approval of the governing body of the municipality or county responsible for
164 local planning and zoning where the radioactive waste is or will be located; and

165 (d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the
166 approval of the governor and the Legislature.

167 (4) ~~[A]~~ Subject to Subsection (10), a new radioactive waste license application, or an
168 application to renew or amend an existing radioactive waste license, is subject to the
169 requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

170 (a) specifies a different geographic site than a previously submitted application;

171 (b) would cost 50% or more of the cost of construction of the original radioactive
172 waste facility or the modification would result in an increase in capacity or throughput of a
173 cumulative total of 50% of the total capacity or throughput which was approved in the facility
174 license as of January 1, 1990, or the initial approval facility license if the initial license
175 approval is subsequent to January 1, 1990; or

176 (c) requests approval to receive, transfer, store, decay in storage, treat, or dispose of
177 radioactive waste having a higher radionuclide concentration limit than allowed, under an
178 existing approved license held by the facility, for the specific type of waste to be received,
179 transferred, stored, decayed in storage, treated, or disposed of.

180 (5) The requirements of Subsection (4)(c) do not apply to an application to renew or
181 amend an existing radioactive waste license if:

182 (a) the radioactive waste facility requesting the renewal or amendment has received a
183 license prior to January 1, 2004; and

184 (b) the application to renew or amend its license is limited to a request to approve the
185 receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level
186 radioactive waste.

187 (6) A radioactive waste facility which receives a new radioactive waste license after
188 May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license
189 application, renewal, or amendment that requests approval to receive, transfer, store, decay in
190 storage, treat, or dispose of radioactive waste not previously approved under an existing license
191 held by the facility.

192 (7) If the board finds that approval of additional radioactive waste license applications,
193 renewals, or amendments will result in inadequate oversight, monitoring, or licensure
194 compliance and enforcement of existing and any additional radioactive waste facilities, the
195 board shall suspend acceptance of further applications for radioactive waste licenses. The
196 board shall report the suspension to the Legislative Management Committee.

197 (8) The board shall review each proposed radioactive waste license application to
198 determine whether the application complies with the provisions of this chapter and the rules of

199 the board.

200 (9) (a) If the radioactive waste license application is determined to be complete, the
201 board shall issue a notice of completeness.

202 (b) If the board determines that the radioactive waste license application is incomplete,
203 the board shall issue a notice of deficiency, listing the additional information to be provided by
204 the applicant to complete the application.

205 (10) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(11) do
206 not apply to:

207 (a) a radioactive waste license that is in effect on December 31, 2006, including all
208 amendments to the license that have taken effect as of December 31, 2006;

209 (b) a license application for a facility in existence as of December 31, 2006, unless the
210 license application includes an area beyond the facility boundary approved in the license
211 described in Subsection (10)(a); or

212 (c) an application to renew or amend a license described in Subsection (10)(a), unless
213 the renewal or amendment includes an area beyond the facility boundary approved in the
214 license described in Subsection (10)(a).