

**19-3-301 Restrictions on nuclear waste placement in state.**

- (1) The placement, including transfer, storage, decay in storage, treatment, or disposal, within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.
- (2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:
  - (a)
    - (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and
    - (ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or
  - (b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.
- (3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:
  - (a) transfer or transportation, by rail, truck, or other mechanisms;
  - (b) storage, including any temporary storage at a site away from the generating reactor;
  - (c) decay in storage;
  - (d) treatment; and
  - (e) disposal.
- (4)
  - (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.
  - (b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).
- (5)
  - (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.
  - (b)
    - (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):
      - (A) under nuclear industry self-insurance;
      - (B) under federal insurance requirements; and
      - (C) in federal money.
    - (ii) The department may not include any calculations of federal money that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

- (c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.
- (6)
- (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:
    - (i) the satisfaction of the conditions in Subsection (4); and
    - (ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.
  - (b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.
  - (c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.
- (7)
- (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:
    - (i) a cooperative;
    - (ii) a local district authorized by Title 17B, Limited Purpose Local Government Entities - Local Districts;
    - (iii) a special service district under Title 17D, Chapter 1, Special Service District Act;
    - (iv) a limited purpose local governmental entities authorized by Title 17, Counties;
    - (v) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and
    - (vi) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.
  - (b)
    - (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001, which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).
    - (ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.
- (8)
- (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:
    - (i) the satisfaction of the conditions in Subsection (4); and
    - (ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.
  - (b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:
    - (i) the satisfaction of the conditions in Subsection (4); and

- (ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.
- (c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:
  - (i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;
  - (ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and
  - (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.
- (9)
  - (a)
    - (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.
    - (ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are declared to be void from inception, agreement, or execution as against public policy.
  - (b)
    - (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.
    - (ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.
- (10)
  - (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:
    - (i) 25% of the gross value of the contract to the department; and
    - (ii) 50% of the gross value of the contract to the Department of Heritage and Arts, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).
  - (b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:
    - (i) are in existence on March 15, 2001; or
    - (ii) become effective notwithstanding Subsection (9)(a).
  - (c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the

fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d)

- (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after March 15, 2001.
- (ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11)

- (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of Heritage and Arts for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.
- (b) The program under Subsection (11)(a) shall include:
  - (i) educational services and facilities;
  - (ii) health care services and facilities;
  - (iii) programs of economic development;
  - (iv) utilities;
  - (v) sewer;
  - (vi) street lighting;
  - (vii) roads and other infrastructure; and
  - (viii) oversight and staff support for the program.
- (12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

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