

SENATE BILL 95

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Jeff Steinborn

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO RADIOACTIVE MATERIALS; AMENDING THE DUTIES AND COMPOSITION OF THE RADIOACTIVE WASTE CONSULTATION TASK FORCE; PRESCRIBING RESPONSIBILITIES REGARDING PRIVATE DISPOSAL FACILITIES; MAKING TECHNICAL CHANGES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 74-4A-4 NMSA 1978 (being Laws 1981, Chapter 374, Section 3, as amended) is amended to read:

"74-4A-4. DEFINITIONS.--As used in the Radioactive and Hazardous Materials Act:

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A. "committee" means the joint interim legislative radioactive and hazardous materials committee;

B. "disposal" means the long-term isolation of radioactive material, including [~~long-term~~] temporary or permanent monitored storage, [~~which~~] that permits retrieval of the radioactive material stored and includes the temporary or permanent disposal of all hazardous wastes;

C. "environmental evaluation group" means the independent state review facility administratively attached to New Mexico institute of mining and technology and funded by the United States department of energy;

D. "hazardous waste" means any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility or other discarded material, including solid, liquid, semisolid or [~~containing~~] gaseous material resulting from industrial, commercial, mining or agricultural operations or from community activities [~~which~~] that because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial [~~present~~] current or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The term "hazardous waste" does not include solid or dissolved

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material in domestic sewage or animal excrement in connection with farm, ranch or feedlot operations or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended, as the provisions exist on January 1, 1981, or source, special or byproduct material as defined in the federal Atomic Energy Act of 1954, as amended, as these definitions exist on January 1, 1981, or any of the following, until the environmental improvement board determines that they are subject to Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6921 et seq.): drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy, any fly ash waste, bottom ash waste, slag waste, flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels and solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore or cement kiln dust waste;

E. "high-level waste" means the highly radioactive materials produced as a byproduct of the reactions that occur inside nuclear reactors, including spent nuclear fuel, or highly radioactive wastes resulting from the reprocessing of spent nuclear fuel and includes both the liquid waste [which]

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that is produced directly in reprocessing and any solid material into which such liquid waste is made;

F. "low-level waste" means material contaminated with radioactive elements emitting beta or gamma particles or with traces of transuranic elements in concentrations of less than one hundred nanocuries per gram;

G. "mixed waste" means any mixture of hazardous waste regulated under the Hazardous Waste Act and radioactive waste regulated under the federal Atomic Energy Act of 1954;

H. "radioactive materials" means any material or combination of materials [~~which~~] that spontaneously emits ionizing radiation, including high-level waste. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials;

I. "radioactive waste" means high-level waste, transuranic contaminated waste and low-level waste;

J. "spent nuclear fuel" means nuclear fuel that has been irradiated in and recovered from a civilian nuclear power plant;

K. "task force" means the radioactive waste consultation task force; and

L. "transuranic contaminated waste" means material contaminated with radionuclides emitting alpha radiation having

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an atomic number greater than ninety-two, including neptunium, plutonium, americium and curium, in concentrations of greater than one hundred nanocuries per gram."

SECTION 2. Section 74-4A-6 NMSA 1978 (being Laws 1979, Chapter 380, Section 5, as amended by Laws 2001, Chapter 12, Section 1 and also by Laws 2001, Chapter 103, Section 1) is amended to read:

"74-4A-6. TASK FORCE.--There is created the "radioactive waste consultation task force". The task force shall consist of the secretaries of energy, minerals and natural resources; health; environment; public safety; ~~and highway and~~ transportation; ~~Sf1~~ and ~~Sf1~~ homeland security and emergency management Sf1; and Indian affairs department ~~Sf1~~ or their designees. The ~~chairman~~ chair and vice ~~chairman~~ chair, or their designees from the committee, shall be advisory members of the task force. The state fire marshal or ~~his~~ the state fire marshal's designee shall serve as a ~~[non-voting]~~ nonvoting member of the task force."

SECTION 3. Section 74-4A-7 NMSA 1978 (being Laws 1979, Chapter 380, Section 6, as amended) is amended to read:

"74-4A-7. DUTIES OF THE TASK FORCE.--

A. The task force shall negotiate for the state with the federal government in all areas relating to siting, licensing and operation of new federal disposal facilities, including research, development and demonstration, for high-

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level [~~radioactive wastes~~] waste, transuranic [~~radioactive wastes and~~] contaminated waste and low-level [~~radioactive~~] waste. This subsection shall not be construed to limit the powers of any agency otherwise authorized to negotiate with the federal government, and if such negotiation should also come within the authority of the task force, the task force shall provide assistance to that agency but shall not limit the agency's exercise of authority. Any action taken pursuant to this subsection may be disapproved by joint resolution of the legislature.

~~[B. The task force may recommend legislation to implement the state's policies with respect to new federal disposal facilities.]~~

G.] B. The task force shall identify impacts of new federal and private disposal facilities within the state and shall disseminate that information to the legislature, the governor and the relevant executive departments.

C. The task force shall review federal license applications for privately operated disposal facilities in New Mexico and shall evaluate the public safety, environmental, health, infrastructure and transportation impacts and requirements of the proposed facilities. The task force shall transmit the findings of its evaluations to the legislature, the governor and the relevant executive departments.

D. The task force may recommend legislation to

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implement the state's policies with respect to disposal facilities.

[D.] E. The task force shall coordinate the investigations and studies related to disposal facilities undertaken by all state agencies and shall forward an executive summary of ongoing and recently completed investigations and studies, including information from federal or other studies, to the legislature and the governor as the studies are completed or information released.

[E.] F. The task force shall meet [~~regularly~~] annually with the committee and keep the committee apprised of all actions taken by the task force. SJC→"←SJC

SJC→G. The authority of the task force and its actions and those of state agencies with respect to federal or privately operated disposal or storage facilities are subject to the limitations contained in federal law and shall be consistent with federal law."←SJC

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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