

HOUSE BILL No. 5336

September 10, 2009, Introduced by Reps. Haines, Kowall, McMillin, Rick Jones, Agema, Wayne Schmidt, Tyler, DeShazor, Proos and Bolger and referred to the Committee on Appropriations.

A bill to amend 1987 PA 204, entitled
"Low-level radioactive waste authority act,"
by amending section 2 (MCL 333.26202), as amended by 1994 PA 434.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Authority" means the low-level radioactive waste
3 authority established in section 3.

4 (b) "Candidate site" means a site designated by the authority
5 as a possible host site pursuant to section 11.

6 (c) "Carrier" means a person authorized pursuant to part 137
7 who is engaged in the transportation of waste by air, rail,

1 highway, or water.

2 (d) "Commissioner" means the head of the authority.

3 (e) "Compact" means a contractual, cooperative agreement among
4 2 or more states to provide for the disposal of low-level
5 radioactive waste that is reflected by the passage of statutes by
6 the participating states.

7 (f) "Department" means the department of ~~public health~~ **NATURAL**
8 **RESOURCES**.

9 (g) "Director" means the director of public health.

10 (h) "Disposal" means the isolation of waste from the biosphere
11 by emplacement in the disposal site or as otherwise authorized in
12 section 13709(3) of part 137, **MCL 333.13709**.

13 (i) "Disposal site" means a geographic location in this state
14 upon which the disposal unit and any other structures and
15 appurtenances are located, the property upon which any monitoring
16 equipment is located, and the isolation distance from the disposal
17 unit to adjacent property lines.

18 (j) "Disposal unit" means the portion of the disposal site
19 into which waste is placed for disposal.

20 (k) "Generator" means any person licensed as a generator by
21 the nuclear regulatory commission and authorized pursuant to part
22 137 whose act or process results in the production of waste or
23 whose act first causes waste to become subject to regulation under
24 part 137 or federal law.

25 (l) "Groundwater" means water below the land surface in a zone
26 of saturation.

27 (m) "Host site" means the candidate site that is designated by

1 the commissioner as the location for the disposal site in this
2 state.

3 (n) "Host site community" means the municipality that is
4 designated by the commissioner as the host site.

5 (o) "Institute" means the international low-level radioactive
6 waste research and education institute.

7 (p) "Institutional control" means the continued surveillance,
8 monitoring, and care of the disposal site after site closure and
9 stabilization to ~~insure~~**ENSURE** the protection of the public health,
10 safety, and welfare, and the environment until the contents of the
11 disposal site no longer have a radioactive content that is greater
12 than the natural background radiation of the host site as
13 determined during its site characterization.

14 (q) "Local monitoring committee" means a committee established
15 pursuant to section 14 to represent a candidate site.

16 (r) "Low-level radioactive waste" or "waste" means radioactive
17 material that consists of or contains class A, B, or C radioactive
18 waste as defined by 10 ~~C.F.R.~~**CFR** 61.55, as in effect on January
19 26, 1983, but does not include waste or material that is any of the
20 following:

21 (i) Owned or generated by the department of energy.

22 (ii) Generated by or resulting from the operation or closure of
23 a superconducting super collider.

24 (iii) Owned or generated by the United States navy as a result
25 of the decommissioning of vessels of the United States navy.

26 (iv) Owned or generated as a result of any research,
27 development, testing, or production of an atomic weapon.

1 (v) Identified under the formerly utilized sites remedial
2 action program.

3 (vi) High-level radioactive waste, spent nuclear fuel, or
4 byproduct material as defined in section 11(e) (2) of the atomic
5 energy act of 1954, ~~chapter 1073, 68 Stat. 922, 42 U.S.C.~~ **USC** 2014.

6 (vii) Contains greater than or equal to 100 nanocuries per gram
7 of transuranic elements.

8 (viii) Contains concentrations of radionuclides that exceed the
9 limits established by the nuclear regulatory commission for class C
10 radioactive waste as defined by 10 ~~C.F.R.~~ **CFR** 61.55, as in effect
11 January 26, 1983.

12 (ix) Classified as naturally occurring or accelerator-produced
13 radioactive materials known as N.A.R.M. waste.

14 (x) Waste that after December 22, 1987 is determined by the
15 nuclear regulatory commission to be waste that is beneath
16 regulatory concern, or B.R.C. waste as defined by the nuclear
17 regulatory commission, unless the department and the authority
18 concur with this designation.

19 (s) "Low-level radioactive waste management fund" or "fund"
20 means the fund created in section 20.

21 (t) "Manifest" means a form provided or approved by the
22 department that is used for identifying the quantity; composition,
23 including the class, curie count, and radioactive nuclides; origin;
24 routing; and destination of waste from the point of generation to
25 the point of processing, collection, or disposal.

26 (u) "Municipality" means a city, village, township, or Indian
27 tribe.

1 (v) "Operation" means the control, supervision, or
2 implementation of the actual physical activities involved in the
3 acceptance, storage, disposal, and monitoring of waste at the
4 disposal site, the maintenance of the disposal site, and any other
5 responsibility pertaining to the disposal unit and the disposal
6 site.

7 (w) "Part 137" means part 137 of the public health code, ~~Act~~
8 ~~No. 368 of the Public Acts of 1978, being sections 333.13701 to~~
9 ~~333.13741 of the Michigan Compiled Laws 1978 PA 368, MCL 333.13701~~
10 ~~TO 333.13741.~~

11 (x) "Performance assessment" means an analysis of the
12 potential pathways for release of waste to the environment and the
13 potential impacts of a release during the transportation of
14 radioactive waste to the disposal site and during the handling and
15 disposal of waste at the disposal site, including, but not limited
16 to:

17 (i) A description of the potential pathways for radioactive
18 nuclide migration beyond the boundaries of the disposal site during
19 the operation of the site and if there is a release.

20 (ii) A description of the potential pathways for radioactive
21 nuclide migration beyond the packaging boundaries if a release
22 occurs during transportation.

23 (iii) An analysis of safety factors pertaining to the
24 transportation of waste.

25 (iv) The identification of the potential impacts to air,
26 surface water, and groundwater quality, and vegetation, animals,
27 and humans, or any other living thing beyond the boundaries of the

1 disposal site.

2 (v) A description of potential mechanisms for radioactive
3 release, including, but not limited to, mechanical failure,
4 structural failure, and human error.

5 (y) "Person" means an individual, partnership, cooperative,
6 association, corporation, receiver, trustee, or assignee.

7 (z) "Postclosure observation and maintenance" means the
8 surveillance, monitoring, and maintenance of the disposal site
9 after it has been closed and continuing through site closure and
10 stabilization and institutional control.

11 (aa) "Release" means any intentional or unintentional
12 spilling, leaking, pumping, emitting, emptying, discharging,
13 injecting, escaping, leaching, dumping, disposing, or placing of
14 waste into the environment, except in compliance with all of the
15 following:

16 (i) Part 137 **AND THE RULES PROMULGATED UNDER PART 137.**

17 (ii) The rules promulgated under part 135 of the public health
18 code, ~~Act No. 368 of the Public Acts of 1978, being sections~~
19 ~~333.13501 to 333.13536 of the Michigan Compiled Laws 1978 PA 368,~~
20 **MCL 333.13501 TO 333.13536.**

21 (iii) A permit or license issued pursuant to federal law, if the
22 person who is responsible for the release holds such a permit or
23 license.

24 (iv) A permit or license issued pursuant to part 137, if the
25 person who is responsible for the release holds such a permit or
26 license.

27 ~~(v) The rules promulgated under this part.~~

1 (bb) "Remedial actions" means those actions taken in the event
2 of a radioactive release or threatened release into the environment
3 to prevent or minimize the radioactive release so that it does not
4 migrate and cause significant danger to the present or future
5 public health, safety, or welfare, or to the environment. Remedial
6 action includes, but is not limited to, actions at the location of
7 the release such as storage, confinement, perimeter protection
8 which may include using dikes, trenches, and ditches, clay cover,
9 neutralization, dredging or excavation, repair or replacement of
10 leaking containers, collection of leachate and runoff, efforts to
11 minimize the social and economic harm of processing, provision of
12 alternative water supplies, and any required monitoring to assure
13 that the actions taken are sufficient to protect the public health,
14 safety, and welfare, and the environment.

15 (cc) "Site characterization" means the site specific
16 investigation of a candidate site undertaken pursuant to section
17 12.

18 (dd) "Site closure and stabilization" means the actions taken
19 at the disposal site during the time period after the closure of
20 the disposal unit during which on-site low-level radioactive waste
21 is disposed in accordance with part 137, equipment is dismantled,
22 decontaminated, removed for reuse or disposed of, and radioactive
23 residues are removed from, or properly isolated on, the disposal
24 site in preparation for transfer of ownership of the disposal site
25 to the federal government.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 807 or House Bill No.____ (request no.

1 04046'09) of the 95th Legislature is enacted into law.