

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

---

---

ONE HUNDRED AND TENTH LEGISLATURE

---

---

**Legislative Document**

**No. 1522**

H. P. 1322

House of Representatives, April 7, 1981

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

Cosponsors: Senator Pierce of Kennebec, Representative Ketover of Portland and Representative Huber of Falmouth.

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

---

**AN ACT Assuring Legislative Participation in Nuclear Waste Repository  
Research and Development Activity within the State.**

---

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 10 MRSA § 52, sub-§§ 2-A and 2-B are enacted to read:

2-A. **Environmental impact statement.** "Environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of the United States National Environmental Policy Act of 1969, Section 102(2) (c), 83 Stat. 852.

2-B. **High-level waste.** "High-level waste" means irradiated nuclear fuel, radioactive wastes resulting from the reprocessing of spent nuclear fuel, and includes both the liquid waste which is produced directly in reprocessing and any solid material into which such liquid waste is made.

Sec. 2. 10 MRSA § 52, sub-§§ 3-A and 3-B are enacted to read:

3-A. **Low-level waste.** "Low-level waste" means any source, by-product or special nuclear material other than high-level waste or transuranic waste.

3-B. **Low-level waste licensee.** "Low-level waste licensee" means any person licensed under section 103 or 151 to generate, treat, store or dispose of low-level radioactive wastes.

Sec. 3. 10 MRSA § 52, sub-§ 4-A is enacted to read:

**4-A. Repository.** “Repository” means a facility for the disposal of high-level waste, transuranic contaminated waste or spent nuclear fuel, whether or not the facility is designed to permit the subsequent recover of such material, except for facilities to be used exclusively for research and development purposes containing an insignificant amount of such material.

Sec. 4. 10 MRSA § 52, sub-§ 6-A is enacted to read:

**6-A. Transuranic contaminated waste.** “Transuranic contaminated waste” means material contaminated with elements having an atomic number greater than 92, including neptunium, plutonium, americium and curium, in concentrations of greater than 10 nanocuries per gram.

Sec. 5. 10 MRSA § 151-A is enacted to read:

**§ 151-A. Coordination and liaison with federal agencies**

The following state agencies shall serve as liaison with federal agencies and coordinate administration of the issues indicated.

**1. Department of Human Services.** The Department of Human Services shall coordinate monitoring of radiation and health and safety in medical and industrial use of radiation.

**2. Bureau of Civil Emergency Preparedness.** The Bureau of Civil Emergency Preparedness shall coordinate off-site emergency procedures for nuclear facilities, and shall serve as liaison with federal agencies with jurisdiction over defense activities and emergency response management.

**3. Department of Transportation.** The Department of Transportation shall coordinate transportation of radioactive materials.

**4. Department of Environmental Protection.** The Department of Environmental Protection shall coordinate management of low-level wastes and shall serve as liaison with the United States Nuclear Regulatory Commission.

**5. Maine Geological Survey.** The Maine Geological Survey shall provide technical assistance for radioactive waste management.

**6. Office of Energy Resources.** The Office of Energy Resources shall serve as liaison with the United States Department of Energy.

Sec. 6. 10 MRSA § 152 is repealed and the following enacted in its place:

**§ 152. Contracts with federal agencies**

The Governor may, subject to the conditions of Title 5, section 1669, execute contracts with appropriate federal officers or agencies relating to the responsibility for radiation hazards under the Federal-State Amendment to the United States Atomic Energy Act of 1954, Public Law 86-377. He may execute contracts with federal officers or agencies relating to radioactive waste management and disposal, subject to the further limitations of subchapter III-A.

Sec. 7. 10 MRSA § 153 is amended to read:

**§ 153. Agreements and cooperative arrangements authorized**

~~Any~~ **Except as expressly limited**, any appropriate department or agency may cooperate with the Federal Government in performing functions on behalf of the Federal Government relating to atomic energy, and in the administration of this chapter or any matter pertaining thereto, and for that purpose ~~with the approval of the coordinator~~ enter into agreements or cooperative arrangements with the Federal Government.

Such department or agency may receive, administer and disburse any funds or contributions received from the Federal Government for the purposes mentioned in this chapter.

Sec. 8. 10 MRSA c. 3, sub-c. III-A is enacted to read:

**SUBCHAPTER III-A  
HIGH-LEVEL WASTES**

**§ 161. Intent**

**It is the intent of the Legislature to cooperate fully with the Federal Government to manage safely and effectively high-level radioactive wastes. It is further the intent of the Legislature to participate to the maximum extent in consultation and concurrence in siting federal high-level waste repositories.**

**§ 162. Limitation**

**The Governor may not accept any funds related to siting high-level repositories, nor may any state agency participate in these efforts, unless the requirements of this subchapter have been fulfilled.**

**§ 163. Area studies**

**1. Definition. "Area studies" means geological reconnaissance and field work, including core sample drilling, to define locations of up to 30 square miles that may be suitable for high-level radioactive waste repositories.**

**2. Exploration. No person may explore geological formations within this State for the purpose of siting a high-level waste repository without a written permit from the State Geologist. The State Geologist shall approve requests for these exploration permits if the proposed activity is consistent with the plan required by subsection 3.**

**3. Plan. The Governor shall submit a plan for area studies to the Legislature for approval. This plan shall include procedures for the establishment of a state review group to review the conduct of area studies and report their findings. This review group shall include representatives of the scientific community, the Legislature and the general public.**

**4. Reports. All findings and reports conducted under this section shall be submitted to the Governor and the Legislature.**

### § 164. Location studies

1. **Definition.** “Location studies” mean detailed site evaluations, socioeconomic studies, environmental studies, surveys of plant and animal populations and other studies to identify specific sites that may be suitable for high-level waste repositories.

2. **Plan.** The Governor shall submit a plan for location studies to the Legislature for approval. This plan shall include as a minimum public hearings on the following issues:

- A. The technical feasibility of the proposed waste management technology;
- B. The environmental impact of a waste repository in the area of study;
- C. The social impact of a waste repository in the area of study; and
- D. The economic impact of a waste repository in the area of study.

3. **Legislative findings.** No agent of the State may participate in further efforts to site a high-level radioactive waste repository unless the Legislature finds that all of the issues in subsection 2 have been adequately addressed.

### § 165. Site selection

1. **Definition.** “Site selection” means the selection of a specific site as a candidate to be licensed as a high-level radioactive waste repository.

2. **Limitation.** No agent of the State may participate in site selection efforts unless the Federal Government agrees that the site selection process will include:

- A. Compliance with the United States National Environmental Policy Act of 1969, Public Law 91-190, including preparation of a specific environmental impact statement; and
- B. Compliance with all applicable state and local laws.

Sec. 9. 10 MRSA c. 3, sub-c. III-B is enacted to read:

#### SUBCHAPTER III-B LOW-LEVEL RADIOACTIVE WASTES

### § 171. Purpose

In accordance with the United States Low-level Radioactive Waste Policy Act of 1980, Public Law 96-573, the Legislature accepts its responsibility for providing for the capacity for the disposal of low-level radioactive waste generated within this State. It is the purpose of this subchapter to establish a program for the safe management of low-level radioactive wastes, and to provide capacity for its disposal either within this State or in regional facilities.

### § 172. Reporting

Each low-level waste licensee shall annually report, by March 31st, the volume

and radioactivity of low-level radioactive wastes generated and the volume and radioactivity of low-level radioactive wastes shipped to commercial disposal facilities. This report shall be submitted to the Commissioner of Human Services, and shall include information on the specific radioactive materials handled.

**§ 173. Geological characterization**

Within one year of the effective date of this subchapter, the State Geologist shall report to the Governor and the Legislature on the suitability of areas of this State for low-level radioactive waste disposal. In determining suitability, the State Geologist shall consider proposed and final rules for facility siting under the 10 Code of Federal Regulations, Part 61.

**§ 174. Low-level Waste Siting Commission**

1. **Establishment.** There is established a Low-level Waste Siting Commission, referred to as the "commission."

2. **Membership; appointment.** The commission shall consist of 9 members, who shall be appointed as follows. The Governor shall appoint 9 persons from his staff or executive agencies who are familiar with low-level waste management. The President of the Senate shall appoint 2 Senators and one person from an organization that is a low-level waste licensee. The Speaker of the House of Representatives shall appoint 2 Representatives and one person from an organization that is a low-level waste licensee. The members shall be appointed in a timely manner. The Chairman of the Legislative Council shall call the first meeting of the commission, and at this meeting the commission shall elect a chairman and a vice-chairman from its membership.

3. **Duties.** The duties of the commission are as follows.

A. The commission shall negotiate on behalf of the State, with other states and the Federal Government with respect to the siting, licensing, operation and use of low-level waste facilities within and outside this State. The commission may only negotiate with other states that have:

- (1) Identified their annual low-level radioactive waste generation; and
- (2) Identified areas within each state that meet preliminary site criteria.

B. The commission shall hold at least one public hearing in this State prior to submitting any regional proposals.

C. Any proposal developed by the commission as a result of negotiations under this subchapter must be ratified by legislative act.

4. **Reports.** The commission shall regularly report on the progress of the negotiations to the Governor and the Legislature.

5. **Compensation.** Members, except state employees, shall receive reimbursement for the necessary actual expenses incurred in carrying out their duties.

6. Assistance. The Commissioner of Human Services shall assist the commission in the conduct of its business.

§ 175. Low-level Waste Siting Fund

1. Establishment. There is established the Low-level Waste Siting Fund to be used to carry out the purposes of this subchapter. This fund shall be administered by the Commissioner of Human Services in accordance with established budgetary procedures. The commissioner may accept state, federal and private funds to be used to assure safe and effective low-level radioactive waste management, and to develop capacity to safely dispose of these wastes.

2. Service fee. A service fee of \$1 per cubic foot shall be levied on all low-level radioactive waste generated in this state and shipped to commercial disposal facilities. The revenue from this service fee shall be credited to the fund established in subsection 1 and used to carry out the purposes of this subchapter.

3. Allocation. The expenses for the administration of the commission in carrying out the duties as set forth in this subchapter shall be paid from such amounts as the Legislature may allocate from the revenues in the Low-level Waste Siting Fund. These amounts shall become available in accordance with Title 5, chapters 141 to 155.

4. Balance carried forward. Any unexpended balance shall not lapse, but shall be carried forward to the same fund for the next fiscal year and shall be available for the purposes authorized by this subchapter.

5. Report to Legislature. The commissioner shall report annually to the Legislature the revenues and expenditures under this subchapter.

Sec. 10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82
LOW-LEVEL WASTE SITING COMMISSION	
All Other	\$5,000

STATEMENT OF FACT

This bill establishes a responsible and comprehensive program to manage radioactive wastes.

Sections 1 to 4 define high and low-level radioactive wastes and other terms. There is currently no comprehensive federal definition of these terms, but the definitions in the bill are similar to commonly accepted working definitions and definitions in proposed federal rules.

Section 5 clarifies state agency responsibilities for radioactive wastes and other nuclear issues.

Sections 6 and 7 modify current executive authority to contract with the Federal Government on nuclear issues. Explicit guidelines for high-level wastes are contained in section 8. This section establishes a new subchapter on high-level wastes. While the Federal Government may have the authority to preempt states in siting high-level waste repositories, this chapter establishes a reasonable but affirmative role for the State in the "consultation and concurrence" siting process. The subchapter defines steps in the siting process and requires specific state actions at each step. This process is important since Maine has been identified as a potential host state for a high-level waste repository.

Section 9 establishes a process for the State to establish new and much needed low-level waste disposal capacity. Currently there are only 3 sites licensed to dispose of low-level wastes, and by 1985 their capacity will be substantially restricted. Without new disposal capacity, this State may have to curtail nuclear medicine, such as radioscope diagnosis and therapy, and other industrial and commercial activities. The Federal Government has established, Public Law 96-573, that low-level waste disposal will be the responsibility of the individual states. Section 9 establishes a study commission to examine the generation and disposal needs for low-level wastes, and to negotiate with other states to establish regional facilities. It also establishes a fund to be used for a geological characterization of potential low-level waste disposal sites, and to finance the activities of the study commission. The fund will include revenues from the General Fund, a service fee on low-level wastes and may be augmented by federal grant assistance.