

# MAINE STATE LEGISLATURE

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R.S.

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NATURAL RESOURCES

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STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 955, L.D. 2496, Bill, "An Act to Clarify the Authority of State Environmental and Public Health Officials to Monitor and Regulate Nuclear Power Plant Decommissioning, Site Cleanup and Restoration Activities"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

'Sec. 1. 22 MRSA §664, sub-§2, as amended by PL 1997, c. 686, §5, is further amended to read:

2. **Monitoring.** Each facility licensee shall permit monitoring, for the purposes of this chapter, of the premises, equipment and materials, including source, special nuclear and by-product materials, in its possession or use, or subject to its control and any vehicle or means of transportation used to remove materials or equipment from the site, including, but not limited to, by rail, water, roadway or air. ~~For the purposes of this subsection, "monitoring" means observing the conduct of operations, including maintenance, quality assurance activities, the preparation, transportation and handling of radioactive waste, emissions monitoring, radiation protection and the observation of emergency preparedness tests and drills. Nothing in this chapter prohibits a State Nuclear Safety Inspector from participating in licensee training activities that are scheduled for licensee personnel. Monitoring of vehicles or other means of transportation used to remove materials or equipment from the site must be undertaken in a manner that is safe, that employs~~

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2 properly calibrated instruments and that does not result in  
3 unreasonable delays in the removal of materials or equipment from  
4 the site.

6 For the purposes of this subsection, "monitoring" means any one  
7 or combination of the following:

8 A. Observing the conduct of operations, including  
9 maintenance, quality assurance activities, the preparation,  
10 transportation and handling of radioactive waste, emissions  
11 monitoring, radiation protection and the observation of  
12 emergency preparedness tests and drills;

14 B. Taking analytical radiological measurements using  
15 properly calibrated instruments to confirm:

16 (1) The results of quality assurance activities  
17 undertaken by or on behalf of the facility licensee;

20 (2) That the preparation, transportation and handling  
21 of radioactive waste is undertaken in accordance with  
22 applicable standards;

24 (3) The results of emissions monitoring undertaken by  
25 or on behalf of the facility licensee; or

26 (4) That adequate radiation protection measures are in  
27 place; or

30 C. Taking radiological measurements for the purpose of  
31 verifying compliance with applicable state laws, including,  
32 but not limited to, Title 38, section 1455, and confirming  
33 and verifying compliance with the standards of the United  
34 States Nuclear Regulatory Commission for unrestricted  
35 license termination, provided that the taking of such  
36 measurements employs techniques, protocols, instruments and  
37 quality assurance practices in accordance with generally  
38 accepted scientific or industry practices, including, but  
39 not limited to, those described in the federal Multi-Agency  
40 Radiation Survey and Site Investigation Manual.

42 The licensee shall, upon request, provide split samples to the  
43 State Nuclear Safety Inspector. All analytical measurements  
44 taken pursuant to this subsection must be shared with the  
45 licensee. The licensee may provide data to explain any conflicts  
46 between measurements taken by the licensee and measurements taken  
47 pursuant to this subsection.

48 Nothing in this chapter prohibits the State Nuclear Safety  
49 Inspector from participating in licensee training activities that  
50 are scheduled for licensee personnel.

2           **Sec. 2. 38 MRSA §1305-B, sub-§1**, as enacted by PL 1999, c.  
366, §1, is amended to read:

4           **1. Disposal; notice.** A person may not dispose of  
6 decommissioning waste or transfer decommissioning waste to a  
7 facility defined in section 1303-C, subsection 30 or 31 in this  
8 State without giving notice to the municipality in which the  
decommissioning waste is to be disposed of. Notice must be given  
10 at least 5 working days before the first scheduled disposal. The  
notice must include:

12           A. The type of decommissioning waste to be delivered to the  
14 landfill facility;

16           B. The anticipated amount of decommissioning waste to be  
delivered to the landfill facility;

18           C. The anticipated number of loads that will be delivered  
20 to the landfill facility; and

22           D. The estimated delivery schedule of the decommissioning  
waste, including dates for delivery.

24           **Sec. 3. 38 MRSA §1451, sub-§11**, as amended by PL 1989, c. 461,  
26 §1, is further amended to read:

28           **11. Low-level radioactive waste.** "Low-level radioactive  
waste" means radioactive material that is not high-level  
30 radioactive waste, spent nuclear fuel, transuranic waste or  
by-product material, as defined in the United States Code, Title  
32 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section  
11(e)(2); and that the United States Nuclear Regulatory  
34 Commission, consistent with existing law, classifies as low-level  
radioactive waste. Low-level radioactive waste also includes any  
36 radioactive material that is generated through the production of  
nuclear power and that the United States Nuclear Regulatory  
38 Commission classified as low-level radioactive waste as of  
January 1, 1989, but which may be classified as below regulatory  
40 concern after that date. "Low-level radioactive waste" does not  
include radioactive material remaining at the site of a  
42 decommissioned nuclear power plant if the site:

44           A. Has been determined by the United States Nuclear  
Regulatory Commission to meet the criteria for release under  
46 10 Code of Federal Regulations, Part 20 pursuant to a  
license termination plan approved by that commission;

48           B. Is not used for the disposal of radioactive material  
50 generated by a facility other than the nuclear power plant;  
and

2 C. Meets the standards established under section 1455,  
3 subsection 2, as determined by the department.

4 **Sec. 4. 38 MRSA §1455** is enacted to read:

6 **§1455. Nuclear facility decommissioning cleanup**

8 **1. Definitions.** As used in this section, unless the  
10 context otherwise indicates, the following terms have the  
11 following meanings.

12 A. "Average member of the critical group" means a member of  
14 the critical group who is subjected to the most likely  
16 exposure situation based on prudently conservative exposure  
17 assumptions and parameter values within the model  
18 calculations.

19 B. "Critical group" means the group of individuals  
20 reasonably expected to receive the greatest exposure to  
21 residual radioactivity for any applicable set of  
22 circumstances.

23 C. "Nuclear facility owner" means the owner of a nuclear  
24 power plant or decommissioned nuclear power plant in the  
25 State.

26 D. "Total effective dose equivalent" has the same meaning  
27 as in 10 Code of Federal Regulations, Section 20.1003, as in  
28 effect on January 1, 2000.

29 **2. Radiation dose standard.** The site at which the  
30 decommissioning of a nuclear power plant has been completed must  
31 meet the following standards, as determined by the department:

32 A. The residual radioactivity distinguishable from  
33 background radiation results in a total effective dose  
34 equivalent to an average member of the critical group of not  
35 more than 10 millirems, or 0.10 millisievert, per year,  
36 including that from groundwater sources of drinking water;  
37 and

38 B. The residual radioactivity distinguishable from  
39 background radiation in groundwater sources of drinking  
40 water results in a total effective dose equivalent of not  
41 more than 4 millirems, or 0.04 millisievert, per year to the  
42 average member of the critical group.

43 A nuclear facility owner shall demonstrate compliance with this  
44 subsection using actual measurements and the analytic methodology  
45 approved by the United States Nuclear Regulatory Commission and  
46 the Department of Energy.

2 supplemented by modeling the effects of engineering controls that  
have been designed to reduce exposure.

4 In order to determine compliance with this subsection, the  
department may require appropriate testing and analysis,  
6 including, but not limited to, analysis of the effectiveness and  
integrity of engineering controls.

8  
10 3. Cumulative risk assessment. The department shall  
evaluate the cumulative risk posed by radiological and chemical  
contaminants that will remain at the site at which the  
12 decommissioning of a nuclear power plant is occurring or has been  
completed. In undertaking its evaluation, the department shall  
14 consider any proposed institutional and engineering controls.

16 4. Compliance with applicable law; assessment of  
compliance. A nuclear facility owner must obtain and be in  
18 compliance with all licenses, permits and approvals required  
under this Title, including, but not limited to, those required  
20 under chapter 3, article 6 and chapter 13 for the site at which  
the decommissioning of a nuclear power plant is occurring or has  
22 been completed. In addition to its existing authority to require  
monitoring wells and other measures for nonradiological  
24 environmental issues under chapters 3, 13, 13-B and other  
applicable laws, the department may require radiological  
26 monitoring, use of monitoring wells, soil sampling and other  
measures at the site to allow the department to assess and ensure  
28 compliance with applicable requirements of this Title, including,  
but not limited to, subsection 2, and the terms of any licenses  
30 and permits issued pursuant to this Title with respect to the  
site.

32  
34 5. Provision of information. As part of any permit  
application by a nuclear facility owner or site investigation by  
the department pursuant to this Title, the nuclear facility owner  
36 shall provide to the department information necessary for the  
department to establish compliance with the provisions of this  
38 section or other applicable laws.

40 **Sec. 5. 38 MRSA §1482, sub-§1, as enacted by PL 1985, c. 705,**  
42 **§5, is repealed.**

44 **Sec. 6. Interpretation and effect.** Nothing in this Act,  
including the provision that modifies the definition of  
46 "low-level radioactive waste" in the Maine Revised Statutes,  
Title 38, section 1451, subsection 11, may be interpreted as  
48 legislative approval of any particular method of handling or  
disposing of radioactive material, including, but not limited to,  
50 any method of encapsulating or burying such material at the site  
of a decommissioned nuclear power plant.'

2 Further amend the bill by inserting at the end before the  
summary the following:

4  
6 **FISCAL NOTE**

8 The Department of Environmental Protection will incur some  
minor additional costs to conduct certain risk assessments.  
10 These costs can be absorbed within the department's existing  
budgeted resources.'

12  
14 **SUMMARY**

16 This amendment replaces the bill. This amendment:

18 1. Provides that the State Nuclear Safety Inspector is  
permitted to monitor vehicles or other means of transportation  
20 used to remove material from the site of a nuclear power  
facility, that acceptable monitoring activities by the inspector  
22 include taking radiological measurements, provided these are done  
according to certain standards, and that the facility licensee  
must provide split samples to the inspector;

24 2. Clarifies that a municipality must be notified if  
26 decommissioning waste is shipped to a recycling or other solid  
waste facility in the municipality;

28 3. Modifies the definition of "low-level radioactive waste"  
30 to exclude radioactive material remaining at the site of a  
decommissioned nuclear power plant if the site meets the United  
32 States Nuclear Regulatory Commission's requirements for release,  
is not used to dispose of radioactive material generated by a  
34 facility other than the plant and meets the radiation dose  
standard established by the amendment;

36 4. Establishes a radiation dose standard for the site at  
38 which the decommissioning of a nuclear power plant has been  
completed;

40 5. Requires an evaluation of the cumulative risk posed by  
42 radiological and chemical contaminants that will remain at the  
site of a decommissioned nuclear power plant;

44 6. Requires the owner of a nuclear power plant or  
46 decommissioned nuclear power plant to comply with all applicable  
environmental laws and clarifies that the Department of  
48 Environmental Protection is authorized to require appropriate  
monitoring, sampling and other measures to assess and ensure  
50 compliance with applicable laws;

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- 2           7. Requires the owner of a nuclear power plant or  
4 decommissioned nuclear power plant to provide information to the  
Department of Environmental Protection necessary for it to  
6 establish compliance with applicable laws;
- 8           8. Repeals the provision of law that requires a low-level  
radioactive waste disposal facility to be owned by the State of  
10 Maine; and
- 12           9. Makes expressly clear that the bill may not be  
14 interpreted as legislative approval of any particular method of  
handling or disposing of radioactive material, including the  
method known as "rubblization"; and
- 16           10. Adds a fiscal note to the bill.

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