



Ohio Revised Code

Section 3748.10 Prohibiting treatment, recycling, storing or disposal of waste except at licensed facility.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) As used in this section, "person" means any legal entity defined as a person under section 1.59 of the Revised Code, the state or any agency of the state, any political subdivision or agency of a political subdivision, and the United States or any agency or instrumentality of the United States other than the United States department of energy or the United States nuclear regulatory commission where state regulation of the treatment, recycling, storage, or disposal of low-level radioactive waste by either of those agencies is prohibited by federal law.

(B) No person shall treat, recycle, store, or dispose of any low-level radioactive waste except at a facility that is licensed for treatment, recycling, storage, or disposal of that waste by the director of health under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it regardless of whether the waste has been reclassified as "below regulatory concern" by the United States nuclear regulatory commission pursuant to any rule or standard adopted after January 1, 1990.

(C) Division (B) of this section does not apply to either of the following:

(1) Any low-level radioactive waste that on or before January 1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it to be treated, recycled, stored, or disposed of at a facility that has not been licensed under that act and regulations adopted under it;

(2) Any low-level radioactive waste that has received an exemption from the director of health under division (C)(2) of this section. If the United States nuclear regulatory commission declares its intent to institute a policy regarding the reclassification of waste as "below regulatory concern," the director, in consultation with the environmental protection agency, shall adopt rules in accordance



with Chapter 119. of the Revised Code that govern the granting of such exemptions and that do at least all of the following:

- (a) Establish an application procedure to be followed by the generator of a low-level radioactive waste who wishes to obtain an exemption for that waste under division (C)(2) of this section;
- (b) Require that in order to receive an exemption, a low-level radioactive waste shall have been reclassified as "below regulatory concern" by the United States nuclear regulatory commission after August 19, 1992. The rules adopted under division (C)(2)(b) of this section shall stipulate that such a reclassification does not automatically qualify a low-level radioactive waste for an exemption under division (C)(2) of this section.
- (c) Require an applicant to demonstrate with clear and convincing evidence that the low-level radioactive waste that is the subject of the application does not present a higher radioactive hazard than any low-level radioactive waste to which division (C)(1) of this section applies and that treatment, recycling, storage, or disposal of the waste at a facility that has not been licensed by the director under this chapter and rules adopted under it or, until the state becomes an agreement state pursuant to section 3748.03 of the Revised Code, by the United States nuclear regulatory commission under the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted under it, will not harm public health or safety or the environment;
- (d) Establish public notification procedures to be followed by the director for any public hearing held under division (C)(2) of this section.

The director shall review an application submitted under division (C)(2) of this section and shall hold a public hearing concerning the application before granting or denying the exemption requested. The director may grant an exemption to the low-level radioactive waste that is the subject of the application after determining that the generator has complied with the rules adopted under division (C)(2)(a) of this section and that the waste satisfies the requirements established in the rules adopted under divisions (C)(2)(b) and (c) of this section. The director shall maintain a list of all low-level radioactive wastes to which the director has granted such an exemption.

Division (C)(2) of this section does not apply to any low-level radioactive waste generated at a



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nuclear power station.