

CHAPTER 18

HAZARDOUS WASTE INDUSTRIES

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CFR 61.55, such as spent nuclear rods. (Ord.2005-30, 11/22/05)

18-1-3. Existing permit amendment procedure.

(1) Any hazardous industry facility with a Tooele County permit issued before September 26, 2005 may make application to amend its conditional use permit. The amendment shall not be to accept wastes for which the facility is not already approved. An amendment may be made to expand to land adjacent the immediate area utilized in the storage, treatment, and disposal of those approved waste streams at the time the conditional use permit was issued within existing MG-H zoning onto the rest of the property owned in fee title. This provision shall not allow for the purchase of additional property with which to expand, but does allow that all property held at the time the more restrictive ordinance was passed can be used for the intended purpose.

18-1-1. Purpose.

The purposes of Hazardous Industries (MG-H) zoning districts are to provide areas in appropriate remote locations where hazardous and low-level radioactive wastes may be stored, treated, and disposed in a safe manner. The regulations of this district are designed to protect the environmental quality of the district and adjoining areas. (Ord.2005-30, 11/22/05)

(2) An application to amend a conditional use permit shall be submitted with the required fee as established by the Board of County Commissioners. The application fee less the administrative fee portion shall be used by Tooele County to facilitate its review of the proposal and to pay for the expenses it incurs in managing the required Environmental Impact Statement.

18-1-2. Prohibitions.

(1) All activities relating to the storage, treatment, and disposal of hazardous or radioactive wastes are hereby declared to be a public nuisance.

(3) An application shall include a statement of facts that show that there is a national need for the facility and the existing and proposed waste stream of the facility.

(2) The storage, treatment, or disposal of wastes regulated by the laws identified in this Section are prohibited except where application has been made to Tooele County prior to September 26, 2005, leading to a determination which authorizes and permits such uses in an MG-H zoning district and then only upon strict compliance with all industrial performance standards, ordinances, regulations, laws, and permits of Tooele County, the State of Utah, and the United States of America:

(4) The planning commission shall review the application for the conditional use permit amendment in accordance with Chapter 7 of this land use ordinance.

(a) wastes regulated by the Utah Solid and Hazardous Waste Act, Utah Code Annotated 19-6-101, et seq., the Toxic Substance Control Act (TSCA), and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA);

(5) The Environmental Impact Board (EIB) shall be formed by the Board of County Commissioners to review the Environmental Impact Statement (EIS) as outlined in Section 18-5 of this chapter.

(b) low-level or mixed wastes regulated by the Radiation Control Act, Title 19, Chapter 3 of the Utah Code Annotated, or those wastes defined as such in 10 CFR 61.55; and

(6) Upon the conclusion of the study conducted by the planning commission, a recommendation shall be forwarded to the county commission for the conditional use permit amendment along with proposed conditions.

(c) "high level" nuclear wastes which are hotter than class A, B, and C wastes under 10

(7) Upon the conclusion of the study conducted by the EIB, the EIB shall make a recommendation to the county commission for the conditional use permit amendment and proposed conditions that pertain to environmental protection of the site.

(8) The Board of County Commissioners shall review the recommendations of the planning

commission and the EIB and approve or deny the amendment application.

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(9) No new MG-H zones shall be created after September 25, 2005. (Ord.2005-30, 11/22/05)

### 18-1-4. Tooele County Environmental Impact Board.

Upon payment of the application fee, the Board of County Commissioners shall organize an Environmental Impact Board (EIB), consisting of a representative from the Tooele County Department of Engineering, Tooele County Health Department, Tooele County Attorney, and other applicable local, state and federal agencies. The EIB shall be the Environmental Impact Statement (EIS) manager, and shall select a third party consultant by a request for proposal. (Ord.2005-30, 11/22/05)

### 18-1-5. EIB action on the Environmental Impact Study.

(1) Upon selection of members to the Tooele County Environmental Impact Board, a meeting shall be scheduled between the applicant and the EIB. The Tooele County Department of Engineering shall act as support staff for the EIB.

(2) The EIB shall publish a request for proposal to qualified firms to perform an EIS study of the proposed site in accordance with this chapter. The request for proposal shall have a closing date in which all applicants are to submit their proposals to the department of engineering.

(3) The EIB shall review the proposals along with the applicant and choose the person or firm that is best qualified at a reasonable price as the EIS contractor.

(4) The study shall use the funds submitted as the application fee to begin the study less the administrative fee portion. When a firm is selected and a contract signed by all parties, the applicant shall make deposit of funds with Tooele County to cover the cost of the contract plus ten percent, before the contract is consummated with the consultant and any further action ensues.

(5) Upon payment by the applicant of the fees, the contractor shall then enter into a contract with Tooele County to perform the EIS study.

(6) With the exception of any portion of the fees that are non-refundable, all amounts not expended by Tooele County shall be reimbursed to applicant. If the County's costs of reviewing and managing the EIS exceed the initial fee, a change order shall be made to the contract and the applicant shall remit to the County such additional amounts as are necessary to cover the entire expenses incurred by the County. (Ord.2005-30,

11/22/05)

### 18-1-6. Location criteria emphasis in the EIS.

All hazardous and low-level radioactive waste industries regulated under Section 17-3 of the Tooele County Land Use Ordinance shall be located in those areas allowed by Tooele County's General Plan, as amended by the Hazardous Waste Corridor, and shall conform to the stricter of the following location standards or those promulgated by the State of Utah Solid and Hazardous Waste Committee:

(1) The facility shall not be established or constructed in a wetland as defined by the Army Corp of Engineers under Section 404 of the Clean Water Act or in the recharge zone of an aquifer.

(2) The facility shall not be established in a 100 year flood plain. This information may be obtained from 100 year flood plain maps or other supportive documents.

(3) For protection of waters of the State, the following factors shall be considered:

(a) The distance from waters of the State so that an unintentional release or discharge of hazardous waste will not contaminate such waters.

(b) Hydro geological characteristics of the site and surrounding land, i.e., soil type, groundwater table, geology, topography, etc.

(c) The quantity, quality, and direction of flow of groundwater.

(d) Proximity to and withdrawal rates from nearby wells. Consultation with public water suppliers and State Engineer's office.

(e) Availability of alternative water supplies.

(4) Consideration must be given to the type and permeability of the soil and depth to bedrock at the proposed site.

(5) The facility shall not be established, constructed, or operated on an active Holocene Fault or within a recognized zone of deformation along that fault.

(6) Transportation routes to the site must be addressed. The following items shall be considered:

(a) methods by which wastes will be transported to and from the site;

(b) the types of roads that will provide

(c) the extent to which weather renders such roads hazardous;

(d) the accident rates to determine if routes are above or below the average for a similar type road;

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e) the number of residential, school, and hospital structures along access routes;

f) safety, noise, and traffic disruption; and

g) the number of intersections per linear mile between the entrance of a facility and the nearest arterial highway.

(7) The location of facilities shall avoid watershed management areas and agricultural lands that are available for crop production.

(8) The location of facilities shall comply with State and Federal Wildlife Regulations.

(9) Historical significance of the location and aesthetics, including visual and noise level aspects, shall be considered. Natural areas designated as having county, state, regional, or national significance due to their recreational, historical, educational, aesthetic value, or importance as a natural resource or a value to the economy shall be avoided.

(10) The economic and environmental impact of the proposed facility upon local government, adjacent to, or within which, the facility is proposed for location shall be considered.

(11) Compatibility with current land use plans shall be considered, to include the following:

(a) Existing land use adjacent to and in the general area of the site. No facility shall be located closer than five miles from any existing dwelling.

(b) Areas with existing compatible industrial development and areas that are planned or zoned for hazardous industrial development.

(c) Densities of population near proposed site.

(12) Any exception to these guidelines will be considered by the planning commission and the county commission on a case by case basis. The following shall be considered in granting an exception to the foregoing provisions:

(a) protection of public health and the environment;

(b) type of hazardous waste activity, whether it is treatment, storage, or disposal;

(c) type and volumes of hazardous wastes to be managed; and

(d) other information that may be submitted or required.

(13) Environmental Impact Statement (EIS): Each facility shall be reviewed on its own site specific merits by means of an environmental impact statement conforming to and including all elements required under the National Environmental Policy Act (NEPA) for natural and

human resources, and shall address in detail each of the following items:

(a) Mining Claims and Natural Resources, Surface Water (Flood and Erosion), Aquatic Species, Natural Hazards, Groundwater, Air Quality, Rare Plants, Wilderness, Wildlife, Geology.

(b) Closure and Post-Closure Assurances, Description of Wastes, Treatments and processes, Monitoring and Quality Assurance, Infrastructure (Utilities and Services), Public Finance and Services, Public Safety and Emergency, Employment and Labor Force, Paleontological Resources, Grazing and Agriculture, Construction Resources, Economic Feasibility, Response Services, Health Services, Quality of Life, Transportation, Archeological, Evaporation, Population, Recreation, Education, Earnings, Land Use, Housing, Energy.

(14) The analysis of impacts under this section may be more or less intensive than that required by other permitting agencies, i.e., the EPA Toxic Substance Control Act (TSCA) review and Utah Department of Health Resource Conservation and Recovery Act (RCRA) review. The principal objective of these requirements shall be to identify and quantify those impacts that affect the local community and units of government. (Ord.2005-30, 11/22/05)

### **18-1-7. Action of the Board of County Commissioners.**

(1) The Board of County Commissioners shall take into consideration the recommendations of the planning commission and the environmental impact board in making a decision to amend a conditional use permit.

(2) Each applicant for a facility shall demonstrate its financial capability to construct, operate, and properly close the facility to the satisfaction of the County, together with a demonstration of the need for such a facility to be located within Tooele County. Financial statements shall be submitted for the business, together with a list of its financial supporters. Statements showing the cost estimates for construction, first year of operation, and closing costs shall be submitted with financial statements.

Need shall be demonstrated by evidence that the proposed facility has a proven market including information on the source, quantity, hazard potential of waste stream, and a review of other existing and proposed commercial facilities regionally and nationally that would also provide a

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means of disposal materials, and why Tooele County should host those wastes as opposed to other locales.

(3) No facility shall be permitted until such time as a properly executed and binding impact mitigation agreement and bond is accepted by the Board of County Commissioners. Prior to the execution of such an agreement, the applicant shall identify, with the concurrence of Tooele County, the impacts that the proposed facility will have upon Tooele County, and will submit a plan to mitigate such impacts. All amendments to the use permits authorized under this section or other sections dealing with the MG-H zone shall also be reviewed and approved by the Board of County Commission.

(4) All hazardous waste facilities shall comply with the Utah State Solid and Hazardous Waste Act and other applicable state and federal regulations pertaining to the siting of such facilities. Failure to do so will be just cause for the revocation of the conditional use permit.  
(Ord.2005-30, 11/22/05)