

**RADIATION CONTROL AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

Senate Sponsor: Ralph Okerlund

---

---

**LONG TITLE**

**General Description:**

This bill amends provisions related to the regulation of radioactive waste disposal.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to the funding of radioactive waste disposal regulation;
- ▶ increases civil penalties for the violation of certain provisions;
- ▶ provides for Division of Radiation Control access to radioactive waste disposal facilities under certain circumstances; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-1-108**, as last amended by Laws of Utah 2010, Chapter 17

**19-3-106.4**, as last amended by Laws of Utah 2012, Chapter 360

**19-3-109**, as last amended by Laws of Utah 2012, Chapter 360

---

---

*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section 19-1-108 is amended to read:

29 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**  
30 **restricted account -- Sources of funds -- Uses of funds.**

31 (1) There is created the Environmental Quality Restricted Account.

32 (2) The sources of money for the restricted account are:

33 (a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4  
34 and other fees collected under Subsection 19-3-104(5);

35 (b) hazardous waste disposal fees collected under Section 19-6-118;

36 (c) PCB waste disposal fees collected under Section 19-6-118.5;

37 (d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

38 (e) the investment income derived from money in the Environmental Quality  
39 Restricted Account.

40 (3) In each fiscal year, the first \$400,000 collected from the waste disposal fees listed  
41 in Subsection (2), collectively, shall be deposited in the General Fund as free revenue. The  
42 balance shall be deposited in the Environmental Quality Restricted Account.

43 (4) The Legislature may annually appropriate money from the Environmental Quality  
44 Restricted Account to:

45 (a) the department for the costs of administering radiation control programs;

46 (b) the department for the costs of administering solid and hazardous waste programs;  
47 and

48 (c) subject to Subsection [~~5~~] (6), the Hazardous Substances Mitigation Fund, up to  
49 \$400,000, to provide money to:

50 (i) meet the state's cost share requirements for cleanup under the Comprehensive  
51 Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.  
52 as amended; and

53 (ii) respond to an emergency as provided in Section 19-6-309.

54 (5) After the requirements of Subsection (3) are met, sources of money for the  
55 restricted account described in Subsection (2)(a) may only be used for the purpose described in  
56 Subsection (4)(a).

57 [~~5~~] (6) An annual request for money to be appropriated from the Environmental  
58 Quality Restricted Account to the Hazardous Substances Mitigation Fund may be made by the

59 department only after the executive director's review of the Environmental Quality Restricted  
60 Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal  
61 year immediately before the general session for which the request is made.

62 ~~[(6)]~~ (7) In order to stabilize funding for the radiation control program and the solid  
63 and hazardous waste program, the Legislature shall in years of excess revenues reserve in the  
64 Environmental Quality Restricted Account sufficient money to meet departmental needs in  
65 years of projected shortages.

66 ~~[(7)]~~ (8) The Legislature may not appropriate money from the General Fund to the  
67 department as a supplemental appropriation to cover the costs of the radiation control program  
68 and the solid and hazardous waste program in an amount exceeding 25% of the amount of  
69 waste disposal fees collected during the most recent prior fiscal year.

70 ~~[(8)]~~ (9) Money appropriated under this part that is not expended at the end of the  
71 fiscal year lapses into the Environmental Quality Restricted Account.

72 ~~[(9)]~~ (10) (a) The balance in the Environmental Quality Restricted Account may not  
73 exceed \$4,000,000 above the anticipated revenue need for the money in the restricted account  
74 for the fiscal year.

75 (b) Excess funds under Subsection ~~[(9)]~~ (10)(a) shall be credited on a proportionate  
76 basis to each person who paid money to the fund in the previous fiscal year.

77 Section 2. Section **19-3-106.4** is amended to read:

78 **19-3-106.4. Generator site access permits.**

79 (1) A generator or broker may not transfer radioactive waste to a commercial  
80 radioactive waste treatment or disposal facility in the state without first obtaining a generator  
81 site access permit from the director.

82 (2) The director may not grant a generator site access permit to a generator or broker  
83 unless the generator or broker agrees to grant the division reasonable access to its facilities for  
84 the inspection and verification of radioactive waste using Nuclear Regulatory Commission  
85 approved accountability guidelines.

86 ~~[(2)]~~ (3) The board may make rules ~~[pursuant to Section 19-3-104]~~ in accordance with  
87 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing a generator site access  
88 permit program.

89 ~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), the division shall establish

90 fees for generator site access permits in accordance with Section 63J-1-504.

91 (b) On and after July 1, 2001 through June 30, 2002, the fees are:

92 (i) \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per  
93 year;

94 (ii) \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per  
95 year; and

96 (iii) \$5,000 for brokers.

97 (c) The division shall deposit fees received under this section into the Environmental  
98 Quality Restricted Account created in Section 19-1-108.

99 ~~[(4)]~~ (5) This section does not apply to a generator or broker transferring radioactive  
100 waste to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source  
101 Material.

102 Section 3. Section **19-3-109** is amended to read:

103 **19-3-109. Civil penalties -- Appeals.**

104 (1) A person who violates ~~[any]~~ a provision of ~~[Sections 19-3-104 through 19-3-113,~~  
105 ~~any]~~ this part, a rule or order issued under the authority of ~~[those sections]~~ this part, or the  
106 terms of a license, permit, or registration certificate issued under the authority of ~~[those~~  
107 ~~sections]~~ this part is subject to a civil penalty not to exceed ~~[\$5,000]~~ \$10,000 for each  
108 violation.

109 (2) The director may assess and make a demand for payment of a penalty under this  
110 section and may compromise or remit that penalty.

111 (3) In order to make demand for payment of a penalty assessed under this section, the  
112 director shall issue a notice of agency action, specifying, in addition to the requirements for  
113 notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:

114 (a) the date, facts, and nature of each act or omission charged;

115 (b) the provision of the statute, rule, order, license, permit, or registration certificate  
116 that is alleged to have been violated;

117 (c) each penalty that the director proposes to impose, together with the amount and  
118 date of effect of that penalty; and

119 (d) that failure to pay the penalty or respond may result in a civil action for collection.

120 (4) A person notified according to Subsection (3) may request an adjudicative

121 proceeding.

122 (5) Upon request by the director, the attorney general may institute a civil action to  
123 collect a penalty imposed under this section.

124 (6) (a) Except as provided in Subsection (6)(b), the department shall deposit all money  
125 collected from civil penalties imposed under this section into the General Fund.

126 (b) The department may reimburse itself and local governments from money collected  
127 from civil penalties for extraordinary expenses incurred in environmental enforcement  
128 activities.

129 (c) The department shall regulate reimbursements by making rules that:

130 (i) define qualifying environmental enforcement activities; and

131 (ii) define qualifying extraordinary expenses.

---

---

**Legislative Review Note**  
as of 2-4-13 3:03 PM

**Office of Legislative Research and General Counsel**