

SB0244S01 compared with SB0244

~~text~~ shows text that was in SB0244 but was deleted in SB0244S01.

text shows text that was not in SB0244 but was inserted into SB0244S01.

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Senator Margaret Dayton proposes the following substitute bill:

DEPARTMENT OF ENVIRONMENTAL QUALITY

MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the organizational structure of the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- ▶ combines the Division of Radiation and the Division of Solid and Hazardous Waste to create a new division known as the Division of Waste Management and Radiation Control; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

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None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-15-23, as last amended by Laws of Utah 1991, Chapter 112

19-1-105, as last amended by Laws of Utah 2012, Chapter 360

19-1-106, as enacted by Laws of Utah 1991, Chapter 112

~~† **19-1-205**, as enacted by Laws of Utah 1991, Chapter 112~~

† **19-1-307**, as last amended by Laws of Utah 2010, Chapter 278

19-3-102, as last amended by Laws of Utah 2012, Chapter 360

19-3-104, as last amended by Laws of Utah 2012, Chapter 360

19-3-105, as last amended by Laws of Utah 2013, Chapter 330

19-5-102, as last amended by Laws of Utah 2013, Chapter 227

19-6-102, as last amended by Laws of Utah 2012, Chapter 360

19-6-102.1, as last amended by Laws of Utah 2012, Chapter 360

19-6-103, as last amended by Laws of Utah 2012, Chapter 360

19-6-104, as last amended by Laws of Utah 2012, Chapter 360

19-6-107, as last amended by Laws of Utah 2012, Chapter 360

19-6-202, as last amended by Laws of Utah 2011, Chapter 297

19-6-402, as last amended by Laws of Utah 2014, Chapter 227

19-6-601, as last amended by Laws of Utah 2012, Chapter 360

19-6-703, as last amended by Laws of Utah 2012, Chapter 360

19-6-803, as last amended by Laws of Utah 2012, Chapters 263 and 360

19-6-902, as last amended by Laws of Utah 2013, Chapter 278

19-6-906, as last amended by Laws of Utah 2008, Chapter 382

19-6-1002, as last amended by Laws of Utah 2012, Chapter 360

19-6-1102, as last amended by Laws of Utah 2012, Chapter 360

26-7-7, as enacted by Laws of Utah 2014, Chapter 93

59-1-403, as last amended by Laws of Utah 2014, Chapter 320

63J-4-502, as last amended by Laws of Utah 2012, Chapter 212

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REPEALS:

19-3-103, as last amended by Laws of Utah 2012, Chapter 360

19-3-103.5, as last amended by Laws of Utah 2012, Chapter 360

19-3-108, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section **17-15-23** is amended to read:

17-15-23. County solid waste management plans.

(1) (a) Each county or entity created or designated by a county for this purpose shall submit to the [~~Solid and Hazardous~~] Waste ~~Control~~ Management and Radiation Control Board, organized in Section 19-6-103, a county solid waste management plan providing solid waste management information as reasonably required by the board and according to a timetable established by the board.

(b) Each county shall review and modify its solid waste management plan no less frequently than every five years.

(2) Each county solid waste management plan shall be consistent with Title 19, Chapter 6, Part 5, Solid Waste Management Act, and shall establish the county's solid waste management plan for the next 20 years.

(3) Each county solid waste management plan shall include an estimate of the solid waste capacity needed in the county for the next 20 years and the county's program to ensure that the county will have sufficient solid waste disposal capacity for the next 20 years.

(4) The solid waste management plan mandated by this section is contingent upon the adoption and implementation of a funding mechanism. Nothing contained in this section precludes a political subdivision, local health department, or district from undertaking comprehensive solid waste planning.

Section 2. Section **19-1-105** is amended to read:

19-1-105. Divisions of department -- Control by division directors.

(1) The following divisions are created within the department:

(a) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation Act;

(b) the Division of Drinking Water, to administer Title 19, Chapter 4, Safe Drinking

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Water Act;

(c) the Division of Environmental Response and Remediation, to administer:

(i) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; and

(ii) Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

~~[(d) the Division of Radiation Control, to administer Title 19, Chapter 3, Radiation Control Act;]~~

~~[(e) the Division of Solid and Hazardous Waste, to administer:]~~

(d) the Division of Waste Management **and Radiation Control**, to administer:

(i) Title 19, Chapter 3, Radiation Control Act;

~~[(i)]~~ (ii) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;

~~[(ii)]~~ (iii) Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act;

~~[(iii)]~~ (iv) Title 19, Chapter 6, Part 5, Solid Waste Management Act;

~~[(iv)]~~ (v) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal;

~~[(v)]~~ (vi) Title 19, Chapter 6, Part 7, Used Oil Management Act;

~~[(vi)]~~ (vii) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act;

~~[(vii)]~~ (viii) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act;

~~[(viii)]~~ (ix) Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse; and

~~[(ix)]~~ (x) Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program; and

~~[(x)]~~ (e) the Division of Water Quality, to administer Title 19, Chapter 5, Water Quality Act.

(2) Each division is under the immediate direction and control of a division director appointed by the executive director.

(3) (a) A division director shall possess the administrative skills and training necessary to perform the duties of division director.

(b) A division director shall hold one of the following degrees from an accredited college or university:

(i) a four-year degree in physical or biological science or engineering;

(ii) a related degree; or

(iii) a degree in law.

(4) The executive director may remove a division director at will.

(5) A division director shall serve as the executive secretary to the policymaking board,

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created in Section 19-1-106, that has rulemaking authority over the division director's division.

Section 3. Section **19-1-106** is amended to read:

19-1-106. Boards within department.

(1) The following policymaking boards are created within the department:

(a) the Air Quality Board, appointed under Section 19-2-103;

~~[(b) the Radiation Control Board, appointed under Section 19-3-103;]~~

~~[(c)]~~ (b) the Drinking Water Board, appointed under Section 19-4-103;

~~[(d)]~~ (c) the Water Quality Board, appointed under Section 19-5-103; and

(d) the Waste Management and Radiation Control Board, appointed under Section 19-6-104.

~~[(e) the Solid and Hazardous Waste Control Board, appointed under Section 19-6-103.]~~

(2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

Section 4. Section ~~{19-1-205}~~ 19-1-307 is amended to read:

~~{~~ **19-1-205. Assumption of responsibilities.**

~~—— The department assumes all the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Environmental Health, the Air Conservation Committee, the [Solid and Hazardous] Waste Management Committee, the Utah Safe Drinking Water Committee, and the Water Pollution Control Committee previously vested in the Department of Health and its executive director:~~

~~—— (1) including programs for individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies; but~~

~~—— (2) excluding all other sanitation programs, which shall be administered by the Department of Health.~~

~~—— Section 5. Section 19-1-307 is amended to read:~~

~~‡~~ **19-1-307. Evaluation of closure, postclosure, and perpetual care and maintenance for hazardous waste and radioactive waste treatment and disposal facilities -- Report.**

(1) (a) Beginning in 2006, the [Solid and Hazardous] Waste ~~{[Control]}~~ Management and Radiation Control Board created in Section 19-1-106 shall direct an evaluation every five years of:

(i) the adequacy of the amount of financial assurance required for closure and

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postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment, storage, or disposal facility under Section 19-6-108; and

(ii) the adequacy of the amount of financial assurance or funds required for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility, if found necessary following the evaluation under Subsection (1)(c).

(b) The evaluation shall determine:

(i) whether the amount of financial assurance required is adequate for closure and postclosure care of hazardous waste treatment, storage, or disposal facilities;

(ii) whether the amount of financial assurance or funds required is adequate for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility, if found necessary following the evaluation under Subsection (1)(c); and

(iii) the costs above the minimal maintenance and monitoring for reasonable risks that may occur during closure, postclosure, and perpetual care and maintenance of commercial hazardous waste treatment, storage, or disposal facilities including:

(A) groundwater corrective action;

(B) differential settlement failure; or

(C) major maintenance of a cell or cells.

(c) The [~~Solid and Hazardous~~] Waste ~~{Control}~~ Management and Radiation Control Board shall evaluate in 2006 whether financial assurance or funds are necessary for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility to protect human health and the environment.

(2) (a) Beginning in 2006, the ~~{}~~ Waste Management and Radiation Control ~~{}~~ Waste Management Board created in Section 19-1-106 shall direct an evaluation every five years of:

(i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance Account created by Section 19-3-106.2; and

(ii) the adequacy of the amount of financial assurance required for closure and postclosure care of commercial radioactive waste treatment or disposal facilities under Subsection 19-3-104~~{(12)}~~(11).

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(b) The evaluation shall determine:

(i) whether the restricted account is adequate to provide for perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities;

(ii) whether the amount of financial assurance required is adequate to provide for closure and postclosure care of commercial radioactive waste treatment or disposal facilities;

(iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste Perpetual Care and Maintenance Account during the period before the end of 100 years following final closure of the facility for maintenance, monitoring, or corrective action in the event that the owner or operator is unwilling or unable to carry out the duties of postclosure maintenance, monitoring, or corrective action; and

(iv) the costs above the minimal maintenance and monitoring for reasonable risks that may occur during closure, postclosure, and perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities including:

(A) groundwater corrective action;

(B) differential settlement failure; or

(C) major maintenance of a cell or cells.

(3) The ~~[boards]~~ board under Subsections (1) and (2) shall submit a ~~[joint]~~ report on the evaluations to the Legislative Management Committee on or before October 1 of the year in which the report is due.

Section ~~16~~5. Section **19-3-102** is amended to read:

19-3-102. Definitions.

As used in this chapter:

(1) "Board" means the ~~the~~ Waste Management and Radiation Control ~~the~~ Waste Management Board created under Section 19-1-106.

(2) (a) "Broker" means a person who performs one or more of the following functions for a generator:

(i) arranges for transportation of the radioactive waste;

(ii) collects or consolidates shipments of radioactive waste; or

(iii) processes radioactive waste in some manner.

(b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

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(3) "Byproduct material" has the same meaning as in 42 U.S.C. Sec. 2014(e)(2).

(4) "Class B and class C low-level radioactive waste" has the same meaning as in 10 CFR 61.55.

(5) "Director" means the director of the Division of ~~Waste Management and~~ Waste Management and Radiation Control ~~Waste Management~~.

(6) "Division" means the Division of ~~Waste Management and~~ Waste Management and Radiation Control ~~Waste Management~~, created in Subsection 19-1-105(1)(d).

(7) "Generator" means a person who:

(a) possesses any material or component:

(i) that contains radioactivity or is radioactively contaminated; and

(ii) for which the person foresees no further use; and

(b) transfers the material or component to:

(i) a commercial radioactive waste treatment or disposal facility; or

(ii) a broker.

(8) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.

(b) "High-level nuclear waste" does not include medical or institutional wastes, naturally-occurring radioactive materials, or uranium mill tailings.

(9) (a) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release.

(b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

(10) "Radiation" means ionizing and nonionizing radiation, including gamma rays, X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

(11) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.

Section ~~7~~6. Section **19-3-104** is amended to read:

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19-3-104. Registration and licensing of radiation sources by department -- Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.

- (1) As used in this section:
 - (a) "Decommissioning" includes financial assurance.
 - (b) "Source material" and "byproduct material" have the same definitions as in 42 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.
- (2) The division may require the registration or licensing of radiation sources that constitute a significant health hazard.
- (3) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.
- (4) The board may make rules:
 - (a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;
 - (b) to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government;
 - ~~[(c) to establish:]~~
 - ~~[(i) board accreditation requirements and procedures for mammography facilities; and]~~
 - ~~[(ii)]~~ (c) to establish certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and
- (d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material to establish requirements for:
 - (i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and
 - (ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).
- (5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).
- (b) On and after January 1, 2003 through March 30, 2003:

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(i) \$6,667 per month for uranium mills or commercial sites disposing of or reprocessing byproduct material; and

(ii) \$4,167 per month for those uranium mills the director has determined are on standby status.

(c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation on or before March 30, 2003.

(d) If the Nuclear Regulatory Commission does not grant the amendment for state agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and are not required to be paid until on and after the later date of:

(i) October 1, 2003; or

(ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation.

(e) For the payment periods beginning on and after July 1, 2003, the department shall establish the fees required under Subsection (5)(a) under Section 63J-1-504, subject to the restrictions under Subsection (5)(d).

(f) The division shall deposit fees it receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.

(6) (a) The division shall assess fees for registration, licensing, and inspection of radiation sources under this section.

(b) The division shall comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.

~~[(7) The division shall coordinate its activities with the Department of Health rules made under Section 26-21a-203.]~~

~~[(8)]~~ (7) (a) Except as provided in Subsection ~~[(9)]~~ (8), the board may not adopt rules, for the purpose of the state assuming responsibilities from the United States Nuclear Regulatory Commission with respect to regulation of sources of ionizing radiation, that are more stringent than the corresponding federal regulations which address the same circumstances.

(b) In adopting those rules, the board may incorporate corresponding federal

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regulations by reference.

~~[(9)]~~ (8) (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection ~~[(8)]~~ (7) only if it makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the board's conclusion.

~~[(10)]~~ (9) (a) The board shall by rule:

(i) authorize independent qualified experts to conduct inspections required under this chapter of x-ray facilities registered with the division; and

(ii) establish qualifications and certification procedures necessary for independent experts to conduct these inspections.

(b) Independent experts under this Subsection ~~[(10)]~~ (9) are not considered employees or representatives of the division or the state when conducting the inspections.

~~[(11)]~~ (10) (a) The board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.

(b) Subject to Subsection 19-3-105(10), any facility under Subsection ~~[(11)]~~ (10)(a) for which a radioactive material license is required by this section shall comply with those criteria.

(c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive material license until siting criteria have been established by the board. The criteria also apply to facilities that have applied for but not received a radioactive material license.

~~[(12)]~~ (11) The board shall by rule establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities, taking into account existing financial assurance requirements.

Section ~~{8}~~7. Section **19-3-105** is amended to read:

19-3-105. Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

(1) As used in this section:

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(a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

(b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.

(c) (i) "Class A low-level radioactive waste" means:

(A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

(B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.

(ii) "Class A low-level radioactive waste" does not include:

(A) uranium mill tailings;

(B) naturally occurring radioactive materials; or

(C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:

(I) uranium-233; and

(II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:

(Aa) to ensure criticality safety for a radioactive waste facility in the state; and

(Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.

(d) (i) "Radioactive waste facility" or "facility" means a facility that receives, transfers, stores, decays in storage, treats, or disposes of radioactive waste:

(A) commercially for profit; or

(B) generated at locations other than the radioactive waste facility.

(ii) "Radioactive waste facility" does not include a facility that receives:

(A) alternate feed material for reprocessing; or

(B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).

(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director under Subsection 19-3-108(2)(d), to own, construct, modify, or operate a

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radioactive waste facility.

(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.

(3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:

(a) having received a radioactive waste license for the facility;

(b) meeting the requirements established by rule under Section 19-3-104;

(c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and

(d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.

(4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

(a) specifies a different geographic site than a previously submitted application;

(b) would cost 50% or more of the cost of construction of the original radioactive waste facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or

(c) requests approval to receive, transfer, store, decay in storage, treat, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an existing approved license held by the facility, for the specific type of waste to be received, transferred, stored, decayed in storage, treated, or disposed of.

(5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend an existing radioactive waste license if:

(a) the radioactive waste facility requesting the renewal or amendment has received a license prior to January 1, 2004; and

(b) the application to renew or amend its license is limited to a request to approve the receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level radioactive waste.

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(6) A radioactive waste facility which receives a new radioactive waste license after May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license application, renewal, or amendment that requests approval to receive, transfer, store, decay in storage, treat, or dispose of radioactive waste not previously approved under an existing license held by the facility.

(7) If the board finds that approval of additional radioactive waste license applications, renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.

(8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104~~[(11)]~~(10) do not apply to:

(a) a radioactive waste license that is in effect on December 31, 2006, including all amendments to the license that have taken effect as of December 31, 2006;

(b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or

(c) an application to renew or amend a license described in Subsection (8)(a), unless the renewal or amendment includes an area beyond the facility boundary approved in the license described in Subsection (8)(a).

(9) (a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.

(b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:

(i) determine whether the application is complete and contains all the information necessary to process the application for approval; and

(ii) (A) issue a notice of completeness to the applicant; or

(B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.

(c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.

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(10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

(ii) approval applications that:

(A) require substantial scrutiny by the director;

(B) require public input; and

(C) are not described in Subsection (10)(a)(iii); and

(iii) approval applications for:

(A) the granting or renewal of a radioactive waste license;

(B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;

(C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;

(D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and

(E) a radioactive waste facility closure plan;

(b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:

(i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application;

(ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;

(iii) for applications categorized under Subsection (10)(a)(iii), as follows:

(A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;

(B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after

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the day on which the director receives the application;

(C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;

(D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which the director receives the application;

(E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;

(F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and

(G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;

(c) toll the time periods described in Subsection (10)(b):

(i) while an owner or operator of a facility responds to the director's request for information;

(ii) during a public comment period; or

(iii) while the federal government reviews the application; and

(d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Section ~~19-5-8~~8. Section **19-5-102** is amended to read:

19-5-102. Definitions.

As used in this chapter:

(1) "Agriculture discharge":

(a) means the release of agriculture water from the property of a farm, ranch, or feed lot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, and other water conveyance system of the state;

(ii) pollutes the ground water of the state; or

(iii) constitutes a significant nuisance on urban land; and

(b) does not include:

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(i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land that is not part of a body of water; or

(ii) a release into a normally dry water conveyance to an active body of water, unless the release reaches the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) "Agriculture water" means:

(a) water used by a farmer, rancher, or feed lot for the production of food, fiber, or fuel;

(b) return flows from irrigated agriculture; and

(c) agricultural storm water runoff.

(3) "Board" means the Water Quality Board created in Section 19-1-106.

(4) "Commission" means the Conservation Commission, created in Section 4-18-104.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Director" means the director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the jurisdiction of the Division of ~~Waste Management and Radiation Control~~ Waste Management and Radiation Control, the director of the Division of ~~Waste Management and Radiation Control~~ Waste Management and Radiation Control.

(7) "Discharge" means the addition of any pollutant to any waters of the state.

(8) "Discharge permit" means a permit issued to a person who:

(a) discharges or whose activities would probably result in a discharge of pollutants into the waters of the state; or

(b) generates or manages sewage sludge.

(9) "Disposal system" means a system for disposing of wastes and includes sewerage systems and treatment works.

(10) "Division" means the Division of Water Quality, created in Subsection 19-1-105(1)(~~f~~)(e).

(11) "Effluent limitations" means any restrictions, requirements, or prohibitions, including schedules of compliance established under this chapter, which apply to discharges.

(12) "Point source":

(a) means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated

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animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged; and

(b) does not include return flows from irrigated agriculture.

(13) "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for the public health and safety.

(14) "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, its political subdivisions, or other public entity.

(15) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with this chapter.

(16) "Sewage sludge" means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage.

(17) "Sewerage system" means pipelines or conduits, pumping stations, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to a point of ultimate disposal.

(18) "Total maximum daily load" means a calculation of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards.

(19) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

(20) "Underground injection" means the subsurface emplacement of fluids by well injection.

(21) "Underground wastewater disposal system" means a system for disposing of domestic wastewater discharges as defined by the board and the executive director.

(22) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(23) "Waters of the state":

(a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow

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through, or border upon this state or any portion of the state; and

(b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Section ~~{10}9~~. Section **19-6-102** is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous Waste Control~~] Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a facility that:

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements; or

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include: asbestos; contaminated soils or tanks resulting from remediation or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous or potentially hazardous materials.

(5) "Demolition waste" has the same meaning as the definition of construction waste in

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this section.

(6) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(7) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(8) "Division" means the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control, created in Subsection 19-1-105(1)(~~e~~)(d).

(9) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

(10) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(11) "Health facility" means hospitals, psychiatric hospitals, home health agencies, hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for people with an intellectual disability, residential health care facilities, maternity homes or birthing centers, free standing ambulatory surgical centers, facilities owned or operated by health maintenance organizations, and state renal disease treatment centers including free standing hemodialysis units, the offices of private physicians and dentists whether for individual or private practice, veterinary clinics, and mortuaries.

(12) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(13) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

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(14) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(15) "Mixed waste" means any material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(16) "Modification plan" means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(17) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification plan; or

(d) an approval that the director is authorized to issue.

(18) "Permittee" means a person who is obligated under an operation plan.

(19) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq.

(b) "Solid waste" does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(i) certain large volume wastes, such as inert construction debris used as fill material;

(ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;

(iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(iv) solid wastes from the extraction, beneficiation, and processing of ores and

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minerals; or

(v) cement kiln dust.

(20) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(21) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(22) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(23) "Underground storage tank" means a tank which is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C., Section 6991, et seq.

Section ~~{11}~~10. Section **19-6-102.1** is amended to read:

19-6-102.1. Treatment and disposal -- Exclusions.

As used in Subsections 19-6-104[~~(1)~~](3)(e)(ii)(B), 19-6-108(3)(b) [~~and~~], 19-6-108(3)(c)(ii)(B), [~~and~~] 19-6-119(1)(a), and 19-3-103.5(2)(f)(i) and (ii), the term "treatment and disposal" specifically excludes the recycling, use, reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; waste from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

Section ~~{12}~~11. Section **19-6-103** is amended to read:

19-6-103. Waste Management and Radiation Control Board -- Members -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following [~~nine~~] ~~{11}~~12 members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

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(b) the following ~~[eight]~~ ~~{10}~~ 11 voting members appointed by the governor with the consent of the Senate:

(i) one representative who is:

~~{}~~(A) is not connected with industry; ~~{}~~ and

~~{(B) is an expert in waste management matters; and}~~

~~{(C)}~~ (B) is a Utah-licensed professional engineer; ~~{}~~

~~{(A) a health physicist; or}~~

~~{(B) a professional employed in the field of radiation safety;}~~

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the manufacturing, mining, or fuel industry;

(iv) one representative from the private solid or hazardous waste disposal industry;

(v) one representative from the private hazardous waste recovery industry;

(vi) one representative from the radioactive waste management industry;

(vii) one representative from the uranium milling industry;

~~{(vi)}~~ (viii) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

~~{(vii)}~~ (ix) one representative from the public who is trained and experienced in public health~~[-]~~ and a licensed:

(A) medical doctor; or

(B) dentist; and

(x) one representative who is:

(A) a health physicist; or

(B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

(a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the

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department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B).

(3) No more than [~~five~~] six of the appointed members may be from the same political party.

(4) (a) Members shall be appointed for terms of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.

(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) Each member is eligible for reappointment.

(6) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the consent of the Senate.

(8) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.

(b) Meetings shall be held on the call of the chair, the director, or any three of the members.

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(11) ~~Five~~ Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

Section ~~{13}~~12. Section **19-6-104** is amended to read:

19-6-104. Powers of board -- Creation of statewide solid waste management plan.

(1) The board may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

(b) recommend that the director:

(i) issue orders necessary to enforce the provisions of the Radiation Control Act;

(ii) enforce the orders by appropriate administrative and judicial proceedings; or

(iii) institute judicial proceedings to secure compliance with this part;

(c) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or

(e) order the director to impound radioactive material in accordance with Section 19-3-111.

(2) (a) The board shall ~~+~~

~~— (a) prepare a radioactive waste management plan in compliance with Section 19-3-107 as soon as practicable;~~

~~— (b) ~~+~~ promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources; and~~

~~(~~c~~) to ensure compliance with applicable statutes and regulations;~~

~~— (i) review a settlement negotiated by the director that requires a civil penalty of \$25,000 or more; and~~

~~— (ii) approve or disapprove the settlement;~~ (b) review the qualifications of, and issue certificates of approval to, individuals who:

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

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~~[(+)]~~ (3) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) order the director to:

(i) issue orders necessary to effectuate the provisions of this part and rules made under this part;

(ii) enforce the orders by administrative and judicial proceedings; or

(iii) initiate judicial proceedings to secure compliance with this part;

(c) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;

(d) meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;

(e) (i) require any facility, including those listed in Subsection ~~[(+)]~~ (3)(e)(ii), that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection ~~[(+)]~~ (3)(e)(ii)(B) to submit plans, specifications, and other information required by the board to the board prior to construction, modification, installation, or establishment of a facility to allow the board to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

(ii) facilities referred to in Subsection ~~[(+)]~~ (3)(e)(i) include:

(A) any incinerator that is intended for disposing of nonhazardous solid waste; and

(B) except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; and

(f) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection

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19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement.

~~[(2)]~~ (4) The board may:

(a) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

or

(b) advise, consult, cooperate with, or provide technical assistance to other agencies of the state or federal government, other states, interstate agencies, or affected groups, political subdivisions, industries, or other persons in carrying out the purposes of this part.

~~[(3)]~~ (5) (a) The board shall establish a comprehensive statewide ~~[solid]~~ waste management plan by January 1, 1994.

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.

(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

~~[(4)]~~ (6) (a) The board shall determine the type of solid waste generated in the state and tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every

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five years.

~~[(5)]~~ (7) Subject to the limitations contained in Subsection 19-6-102(19)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

~~[(6)]~~ (8) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or
- (e) another administrative authorization made by the director.

~~[(7)]~~ (9) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section ~~{14}~~13. Section 19-6-107 is amended to read:

19-6-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs to promote and protect the public from radiation sources in the state;

(b) advise, consult, cooperate with, and provide technical assistance to other agencies, states, the federal government, political subdivisions, industries, and other persons in carrying out the provisions of the Radiation Control Act;

(c) receive specifications or other information relating to licensing applications for radioactive materials or registration of radiation sources for review, approval, disapproval, or termination;

(d) issue permits, licenses, registrations, certifications, and other administrative authorizations;

(e) review and approve plans;

(f) assess penalties in accordance with Section 19-3-109;

(g) impound radioactive material under Section 19-3-111;

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(h) issue orders necessary to enforce the provisions of this part, to enforce the orders by appropriate administrative and judicial proceedings, or to institute judicial proceedings to secure compliance with this part;

~~(a)~~ (i) carry out inspections pursuant to Section 19-6-109;

~~(b)~~ (j) require submittal of specifications or other information relating to hazardous waste plans for review, and approve, disapprove, revoke, or review the plans;

~~(c)~~ (k) develop programs for solid waste and hazardous waste management and control within the state;

~~(d)~~ (l) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this part;

~~(e)~~ (m) subject to the provisions of this part, enforce rules made or revised by the board through the issuance of orders;

~~(f)~~ (n) review plans, specifications or other data relative to solid waste and hazardous waste control systems or any part of the systems as provided in this part;

~~(g)~~ (o) under the direction of the executive director, represent the state in all matters pertaining to interstate solid waste and hazardous waste management and control including, under the direction of the board, entering into interstate compacts and other similar agreements; and

~~(h)~~ (p) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the chairman of the board.

(3) The director may:

(a) subject to Subsection 19-6-104~~(1)~~(3)(f), settle or compromise any administrative or civil action initiated to compel compliance with this part and any rules adopted under this part;

(b) employ full-time employees necessary to carry out this part;

(c) as authorized by the board pursuant to the provisions of this part, authorize any employee or representative of the department to conduct inspections as permitted in this part;

(d) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to solid waste and hazardous waste management and control necessary for the discharge of duties assigned under this part;

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(e) collect and disseminate information relating to solid waste and hazardous waste management control; ~~[and]~~

(f) cooperate with any person in studies and research regarding solid waste and hazardous waste management and control[-];

(g) cooperate with any person in studies, research, or demonstration projects regarding radioactive waste management or control of radiation sources;

(h) settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; and

(i) authorize employees or representatives of the department to enter, at reasonable times and upon reasonable notice, in and upon public or private property for the purpose of inspecting and investigating conditions and records concerning radiation sources.

Section ~~{15}~~14. Section **19-6-202** is amended to read:

19-6-202. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~Management and Radiation Control Board created in Section 19-1-106.

(2) "Disposal" means the final disposition of hazardous wastes into or onto the lands, waters, and air of this state.

(3) "Hazardous wastes" means wastes as defined in Section 19-6-102.

(4) "Hazardous waste treatment, disposal, and storage facility" means a facility or site used or intended to be used for the treatment, storage, or disposal of hazardous waste materials, including physical, chemical, or thermal processing systems, incinerators, and secure landfills.

(5) "Site" means land used for the treatment, disposal, or storage of hazardous wastes.

(6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the board pursuant to Sections 19-6-204 and 19-6-205.

(7) "Storage" means the containment of hazardous wastes for a period of more than 90 days.

(8) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste to neutralize or render it nonhazardous, safer for transport, amenable to recovery or storage, convertible to another usable material, or reduced in volume and suitable for ultimate disposal.

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Section ~~16~~15. Section 19-6-402 is amended to read:

19-6-402. Definitions.

As used in this part:

- (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:
 - (a) a release from an underground storage tank or petroleum storage tank; or
 - (b) the damage caused by that release.

(2) "Board" means the [~~Solid and Hazardous~~] Waste ~~Control~~ Management and Radiation Control Board created in Section 19-1-106.

(3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.

(4) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing all tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

(5) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more underground storage tanks has:

(a) registered the tanks; and

(b) paid the annual underground storage tank fee.

(6) (a) "Certified underground storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation;

(ii) has submitted an application to the director;

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(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified underground storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation.

(7) "Closed" means an underground storage tank no longer in use that has been:

(a) emptied and cleaned to remove all liquids and accumulated sludges; and

(b) (i) removed from the ground; or

(ii) filled with an inert solid material.

(8) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

(a) cleanup or removal of the release;

(b) containment or isolation of the release;

(c) treatment of the release;

(d) correction of the cause of the release;

(e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

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(9) "Costs" means money expended for:

(a) investigation;

(b) abatement action;

(c) corrective action;

(d) judgments, awards, and settlements for bodily injury or property damage to third parties;

(e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or

(f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

(10) "Covered by the fund" means the requirements of Section 19-6-424 have been met.

(11) "Director" means the director of the Division of Environmental Response and Remediation.

(12) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

(13) "Dwelling" means a building that is usually occupied by a person lodging there at night.

(14) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

(15) "Facility" means all underground storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(16) "Fund" means the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

(17) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of an underground storage tank that is in use for the storage, use, or dispensing of a regulated substance.

(18) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance; and

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(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance.

(19) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

(20) "Petroleum storage tank" means a tank that:

(a) (i) is underground;

(ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq.; and

(iii) contains petroleum; or

(b) the owner or operator voluntarily submits for participation in the Petroleum Storage Tank Trust Fund under Section 19-6-415.

(21) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

(22) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

(23) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

(24) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(25) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from an underground storage tank or petroleum storage tank.

(b) A release of a regulated substance from an underground storage tank or petroleum storage tank is considered a single release from that tank system.

(26) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or an underground storage tank;

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(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections (26)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection (26)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection (26)(b)(i)(B).

(27) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

(28) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

(29) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) a petroleum storage tank;

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- (b) underground pipes and lines connected to a storage tank;
- (c) underground ancillary equipment;
- (d) a containment system; and
- (e) each compartment of a multi-compartment storage tank.

(30) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization who installs underground storage tanks.

(31) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.

(32) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified underground storage tank consultant to assist in carrying out the functions described in Subsection (6)(a).

Section ~~{17}~~16. Section **19-6-601** is amended to read:

19-6-601. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~Management and Radiation Control Board appointed under Title 19, Chapter 6, Hazardous Substances.

(2) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

Section ~~{18}~~17. Section **19-6-703** is amended to read:

19-6-703. Definitions.

(1) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~Management and Radiation Control Board created in Section 19-1-106.

(2) "Commission" means the State Tax Commission.

(3) "Department" means the Department of Environmental Quality created in Title 19, Chapter 1, General Provisions.

(4) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(5) "Division" means the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control, created in [~~Subsection~~] Section 19-1-105~~{(e)}~~.

(6) "DIY" means do it yourself.

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(7) "DIYer" means a person who generates used oil through household activities, including maintenance of personal vehicles.

(8) "DIYer used oil" means used oil a person generates through household activities, including maintenance of personal vehicles.

(9) "DIYer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from DIYers.

(10) "Hazardous waste" means any substance defined as hazardous waste under Title 19, Chapter 6, Hazardous Substances.

(11) "Lubricating oil" means the fraction of crude oil or synthetic oil used to reduce friction in an industrial or mechanical device. Lubricating oil includes rerefined oil.

(12) "Lubricating oil vendor" means the person making the first sale of a lubricating oil in Utah.

(13) "Manifest" means the form used for identifying the quantity and composition and the origin, routing, and destination of used oil during its transportation from the point of collection to the point of storage, processing, use, or disposal.

(14) "Off-specification used oil" means used oil that exceeds levels of constituents and properties as specified by board rule and consistent with 40 CFR 279, Standards for the Management of Used Oil.

(15) "On-specification used oil" means used oil that does not exceed levels of constituents and properties as specified by board rule and consistent with 40 CFR 279, Standards for the Management of Used Oil.

(16) (a) "Processing" means chemical or physical operations under Subsection (16)(b) designed to produce from used oil, or to make used oil more amenable for production of:

- (i) gasoline, diesel, and other petroleum derived fuels;
- (ii) lubricants; or
- (iii) other products derived from used oil.

(b) "Processing" includes:

- (i) blending used oil with virgin petroleum products;
- (ii) blending used oils to meet fuel specifications;
- (iii) filtration;
- (iv) simple distillation;

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(v) chemical or physical separation; and

(vi) rerefining.

(17) "Recycled oil" means oil reused for any purpose following its original use, including:

(a) the purpose for which the oil was originally used; and

(b) used oil processed or burned for energy recovery.

(18) "Rerefining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition varies with column operation and feedstock.

(19) "Used oil" means any oil, refined from crude oil or a synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities.

(20) (a) "Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons.

(b) A used oil aggregation point may also accept oil from DIYers.

(21) "Used oil burner" means a person who burns used oil for energy recovery.

(22) "Used oil collection center" means any site or facility registered with the state to manage used oil and that accepts or aggregates and stores used oil collected from used oil generators, other than DIYers, who are regulated under this part and bring used oil to the collection center in shipments of no more than 55 gallons and under the provisions of this part. Used oil collection centers may accept DIYer used oil also.

(23) "Used oil fuel marketer" means any person who:

(a) directs a shipment of off-specification used oil from its facility to a used oil burner;

or

(b) first claims the used oil to be burned for energy recovery meets the used oil fuel specifications of 40 CFR 279, Standards for the Management of Used Oil, except when the oil is to be burned in accordance with rules for on-site burning in space heaters in accordance with 40 CFR 279.

(24) "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

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(25) "Used oil handler" means a person generating used oil, collecting used oil, transporting used oil, operating a transfer facility or aggregation point, processing or rerefining used oil, or marketing used oil.

(26) "Used oil processor or rerefiner" means a facility that processes used oil.

(27) "Used oil transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days.

(28) (a) "Used oil transporter" means the following persons unless they are exempted under Subsection (28)(b):

(i) any person who transports used oil;

(ii) any person who collects used oil from more than one generator and transports the collected oil;

(iii) except as exempted under Subsection (28)(b)(i), (ii), or (iii), any person who transports collected DIYer used oil from used oil generators, collection centers, aggregation points, or other facilities required to be permitted or registered under this part and where household DIYer used oil is collected; and

(iv) owners and operators of used oil transfer facilities.

(b) "Used oil transporter" does not include:

(i) persons who transport oil on site;

(ii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil collection center as allowed under 40 CFR 279.24, Off-site Shipments;

(iii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as allowed under 40 CFR 279.24, Off-site Shipments;

(iv) persons who transport used oil generated by DIYers from the initial generator to a used oil generator, used oil collection center, used oil aggregation point, used oil processor or rerefiner, or used oil burner subject to permitting or registration under this part; or

(v) railroads that transport used oil and are regulated under 49 U.S.C. Subtitle V, Rail Programs, and 49 U.S.C. 5101 et seq., federal Hazardous Materials Transportation Uniform Safety Act.

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Section ~~{19}~~18. Section 19-6-803 is amended to read:

19-6-803. Definitions.

As used in this part:

- (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local department of health has not been able to:
 - (a) locate the persons responsible for the tire pile; or
 - (b) cause the persons responsible for the tire pile to remove it.
- (2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.
 - (b) "Beneficial use" includes the use of chipped tires:
 - (i) as daily landfill cover;
 - (ii) for civil engineering purposes;
 - (iii) as low-density, light-weight aggregate fill; or
 - (iv) for septic or drain field construction.
 - (c) "Beneficial use" does not include the use of waste tires or material derived from waste tires:
 - (i) in the construction of fences; or
 - (ii) as fill, other than low-density, light-weight aggregate fill.
- (3) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~Management and [Radiation Control](#) Board created under Section 19-1-106.
- (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.
- (5) "Commission" means the Utah State Tax Commission.
- (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale.
 - (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be rented or leased.
- (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98% wire free by weight.
- (8) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste

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Management and Radiation Control.

(9) "Disposal" means the deposit, dumping, or permanent placement of any waste tire in or on any land or in any water in the state.

(10) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on any land or in any water in the state.

(11) "Division" means the Division of [~~Solid and Hazardous~~] Waste[;] Management and Radiation Control created in [~~Subsection~~] Section 19-1-105[~~(1)(c)~~].

(12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

(13) "Landfill waste tire pile" means a waste tire pile:

(a) located within the permitted boundary of a landfill operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

(14) "Local health department" means the local health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

(15) "Materials derived from waste tires" means tire sections, tire chips, tire shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

(16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

(17) "New motor vehicle" means a motor vehicle which has never been titled or registered.

(18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

(19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

(20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

(b) is registered as a recycler in accordance with Section 19-6-806.

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(21) "Recycling fee" means the fee provided for in Section 19-6-805.

(22) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.

(23) (a) "Storage" means the placement of waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Storage" does not include:

(i) the use of waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site;

(ii) the storage for five or fewer days of waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use; or

(iii) the storage of a waste tire before the tire is:

(A) resold wholesale or retail; or

(B) recapped.

(24) (a) "Store" means to place waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Store" does not include:

(i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site; or

(ii) to store for five or fewer days waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use.

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle in which a person or property is or may be transported or drawn upon a highway.

(26) "Tire retailer" means any person engaged in the business of selling new tires either as replacement tires or as part of a new vehicle sale.

(27) (a) "Ultimate product" means a product that has as a component materials derived from waste tires and that the director finds has a demonstrated market.

(b) "Ultimate product" includes pyrolyzed materials derived from:

(i) waste tires; or

(ii) chipped tires.

(c) "Ultimate product" does not include a product regarding which a waste tire remains after the product is disposed of or disassembled.

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(28) "Waste tire" means:

(a) a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

(29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

(30) (a) "Waste tire transporter" means a person or entity engaged in picking up or transporting at one time more than 10 whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes any person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection (30)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

(A) that person's personal vehicles;

(B) a commercial vehicle fleet owned or operated by that person or that person's employer;

(C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or

(D) a retail tire business owned or operated by that person or that person's employer;

(ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63M-5-103, or a local health department;

(iii) a recycler of waste tires;

(iv) a person transporting tires by rail as a common carrier subject to federal regulation;

or

(v) a person transporting processed or chipped tires.

Section ~~19-6-19~~ 19. Section **19-6-902** is amended to read:

19-6-902. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste ~~Control~~ Management and Radiation Control Board, as defined in Section 19-1-106, within the Department of

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Environmental Quality.

(2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board under Subsection 19-6-906(2).

(3) "Contaminated" or "contamination" means:

(a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or

(b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health under Section 26-51-201.

(4) "Contamination list" means a list maintained by the local health department of properties:

(a) reported to the local health department under Section 19-6-903; and

(b) determined by the local health department to be contaminated.

(5) (a) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.

(b) "Decontaminated" for a property that was contaminated by the use, production, or presence of methamphetamine means that the property satisfies decontamination standards adopted by the Department of Health under Section 26-51-201.

(6) "Hazardous materials":

(a) has the same meaning as "hazardous or dangerous material" as defined in Section 58-37d-3; and

(b) includes any illegally manufactured controlled substances.

(7) "Health department" means a local health department under Title 26A, Local Health Authorities.

(8) "Owner of record":

(a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and

(b) may include an individual, financial institution, company, corporation, or other entity.

(9) "Property":

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(a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

(b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

Section ~~{21}~~20. Section **19-6-906** is amended to read:

19-6-906. Decontamination standards -- Specialist certification standards -- Rulemaking.

(1) The Department of Health shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the local health departments and the Department of Environmental Quality, to establish:

(a) decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris under this part;

(b) appropriate methods for the testing of buildings and interior surfaces, and furnishings, soil, and septic tanks for contamination; and

(c) when testing for contamination may be required.

(2) The Department of Environmental Quality [~~Solid and Hazardous~~] Waste ~~{Control}~~ Management and Radiation Control Board shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the Department of Health and local health departments, to establish within the Department of Environmental Quality Division of Environmental Response and Remediation:

(a) certification standards for any private person, firm, or entity involved in the decontamination of contaminated property; and

(b) a process for revoking the certification of a decontamination specialist who fails to maintain the certification standards.

(3) All rules made under this part shall be consistent with other state and federal requirements.

(4) The board has authority to enforce the provisions under Subsection (2).

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Section ~~{22}~~21. Section **19-6-1002** is amended to read:

19-6-1002. Definitions.

- (1) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~ Management and Radiation Control Board created in Section 19-1-106.
- (2) "Director" means the director of the Division [~~of Solid and Hazardous~~] Waste Management and Radiation Control.
- (3) "Division" means the Division of [~~Solid and Hazardous~~] Waste[;] Management and Radiation Control created in [~~Subsection~~] Section 19-1-105[~~(+)(e)~~].
- (4) "Manufacturer" means the last person in the production or assembly process of a vehicle.
- (5) "Mercury switch" means a mercury-containing capsule that is part of a convenience light switch assembly installed in a vehicle's hood or trunk.
- (6) "Person" means an individual, a firm, an association, a partnership, a corporation, the state, or a local government.
- (7) "Plan" means a plan for removing and collecting mercury switches from vehicles.
- (8) "Vehicle" means any passenger automobile or car, station wagon, truck, van, or sport utility vehicle that may contain one or more mercury switches.

Section ~~{23}~~22. Section **19-6-1102** is amended to read:

19-6-1102. Definitions.

As used in this part:

- (1) "Board" means the [~~Solid and Hazardous~~] Waste ~~{Control}~~ Management and Radiation Control Board created under Section 19-1-106.
- (2) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.
- (3) "Division" means the Division of [~~Solid and Hazardous~~] Waste[;] Management and Radiation Control created in [~~Subsection~~] Section 19-1-105[~~(+)(e)~~].
- (4) (a) "Industrial byproduct" means an industrial residual, including:
 - (i) inert construction debris;
 - (ii) fly ash;
 - (iii) bottom ash;
 - (iv) slag;

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(v) flue gas emission control residuals generated primarily from the combustion of coal or other fossil fuel;

(vi) residual from the extraction, beneficiation, and processing of an ore or mineral;

(vii) cement kiln dust; or

(viii) contaminated soil extracted as a result of a corrective action subject to an operation plan under Part 1, Solid and Hazardous Waste Act.

(b) "Industrial byproduct" does not include material that:

(i) causes a public nuisance or public health hazard; or

(ii) is a hazardous waste under Part 1, Solid and Hazardous Waste Act.

(5) "Public project" means a project of the Department of Transportation to construct:

(a) a highway or road;

(b) a curb;

(c) a gutter;

(d) a walkway;

(e) a parking facility;

(f) a public transportation facility; or

(g) a facility, infrastructure, or transportation improvement that benefits the public.

(6) "Reuse" means to use an industrial byproduct in place of a raw material.

Section ~~{24}~~23. Section 26-7-7 is amended to read:

26-7-7. Radon awareness campaign.

The department shall, in consultation with the Division of ~~{}~~Waste Management and Radiation Control ~~{}~~Waste Management, develop a statewide electronic awareness campaign to educate the public regarding:

(1) the existence and prevalence of radon gas in buildings and structures;

(2) the health risks associated with radon gas;

(3) options for radon gas testing; and

(4) options for radon gas remediation.

Section ~~{25}~~24. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

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(i) a tax commissioner;
(ii) an agent, clerk, or other officer or employee of the commission; or
(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;
(ii) on behalf of the commission in any action or proceeding under:
(A) this title; or
(B) other law under which persons are required to file returns with the commission;
(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;
(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of [~~Solid and Hazardous Waste~~] Environmental Response and Remediation, as defined in Section 19-6-102, as requested by the director of the Division of [~~Solid and Hazardous Waste~~] Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

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(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address,

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telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter

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2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

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(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax. Section ~~26~~25. Section **63J-4-502** is amended to read:

63J-4-502. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee shall consist of the following [25] 24 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the executive director;

(c) a representative from the Department of Heritage and Arts appointed by the

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executive director;

(d) a representative from the Department of Environmental Quality appointed by the executive director;

(e) a representative from the Department of Natural Resources appointed by the executive director;

(f) a representative from the Department of Transportation appointed by the executive director;

(g) a representative from the Governor's Office of Economic Development appointed by the director;

(h) a representative from the Housing and Community Development Division appointed by the director;

(i) a representative from the Division of State History appointed by the director;

(j) a representative from the Division of Air Quality appointed by the director;

(k) a representative from the Division of Drinking Water appointed by the director;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director;

~~[(m)]~~ a representative from the Division of Radiation appointed by the director;

~~[(n)]~~ (m) a representative from the Division of ~~[Solid and Hazardous]~~ Waste Management and Radiation Control appointed by the director;

~~[(o)]~~ (n) a representative from the Division of Water Quality appointed by the director;

~~[(p)]~~ (o) a representative from the Division of Oil, Gas, and Mining appointed by the director;

~~[(q)]~~ (p) a representative from the Division of Parks and Recreation appointed by the director;

~~[(r)]~~ (q) a representative from the Division of Forestry, Fire, and State Lands appointed by the director;

~~[(s)]~~ (r) a representative from the Utah Geological Survey appointed by the director;

~~[(t)]~~ (s) a representative from the Division of Water Resources appointed by the director;

~~[(u)]~~ (t) a representative from the Division of Water Rights appointed by the director;

~~[(v)]~~ (u) a representative from the Division of Wildlife Resources appointed by the

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director;

~~[(w)]~~ (v) a representative from the School and Institutional Trust Lands Administration appointed by the director;

~~[(x)]~~ (w) a representative from the Division of Facilities Construction and Management appointed by the director; and

~~[(y)]~~ (x) a representative from the Division of Emergency Management appointed by the director.

(2) (a) As particular issues require, the committee may, by majority vote of the members present, and with the concurrence of the state planning coordinator, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the state planning coordinator.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section ~~{27}~~26. **Repealer.**

This bill repeals:

Section **19-3-103, Radiation Control Board -- Members -- Organization -- Meetings -- Per diem and expenses.**

Section **19-3-103.5, Board authority and duties.**

Section **19-3-108, Powers and duties of director.**

Section ~~{28}~~27. **Effective date.**

This bill takes effect on July 1, 2015.

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Legislative Review Note

~~as of 2-20-15 11:12 AM~~

~~Office of Legislative Research and General Counsel~~