

1 ENVIRONMENTAL QUALITY REVISIONS

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Ralph Okerlund

5 House Sponsor: Suzanne Harrison

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7 LONG TITLE

8 General Description:

9 This bill addresses provisions related to environmental quality.

10 Highlighted Provisions:

11 This bill:

- 12 ▶ addresses fees throughout the Environmental Quality Code;
- 13 ▶ addresses a dedicated credit;
- 14 ▶ requires that a person that operates a source of air pollution to have a permit under  
15 certain circumstances;
- 16 ▶ provides for authority and duties of the Waste Management and Radiation Control  
17 Board;
- 18 ▶ provides for the powers and duties of the director of the Division of Waste  
19 Management and Radiation Control;
- 20 ▶ amends provisions related to powers of the Drinking Water Board;
- 21 ▶ amends provisions related to the authority of the director of the Division of  
22 Drinking Water;
- 23 ▶ addresses violations of the Safe Drinking Water Act or rules or orders issued under  
24 that act;
- 25 ▶ addresses source and storage minimum sizing requirements for public water  
26 systems;
- 27 ▶ modifies definitions under the Water Quality Act;
- 28 ▶ clarifies powers and duties of the Water Quality Board;
- 29 ▶ provides for legislative review of total maximum daily load, rules, and standards;

- 30           ▶ modifies rules related to a penalty imposed on an agriculture discharge;
- 31           ▶ allows for discharge permits to be renewed;
- 32           ▶ addresses limitations on effluent limitations standards;
- 33           ▶ modifies definitions related to the Solid and Hazardous Waste Act;
- 34           ▶ addresses the powers of the Waste Management and Radiation Control Board,
- 35 including rulemaking;
- 36           ▶ modifies provisions related to the director of the Division of Waste Management
- 37 and Radiation Control;
- 38           ▶ addresses proof of service;
- 39           ▶ allows a designee of the executive director to issue enforceable written assurances;
- 40           ▶ addresses violations related to used oil management; and
- 41           ▶ makes technical and conforming amendments.

**42 Money Appropriated in this Bill:**

43           None

**44 Other Special Clauses:**

45           None

**46 Utah Code Sections Affected:**

47 AMENDS:

- 48           **19-1-106**, as last amended by Laws of Utah 2015, Chapter 451
- 49           **19-1-201**, as last amended by Laws of Utah 2019, Chapter 338
- 50           **19-2-108**, as last amended by Laws of Utah 2015, Chapters 154 and 441
- 51           **19-2-109.1**, as last amended by Laws of Utah 2015, Chapter 154
- 52           **19-4-104**, as repealed and reenacted by Laws of Utah 2018, Second Special Session,
- 53 Chapter 5
- 54           **19-4-106**, as last amended by Laws of Utah 2012, Chapter 360
- 55           **19-4-107**, as last amended by Laws of Utah 2012, Chapter 360
- 56           **19-4-109**, as last amended by Laws of Utah 2012, Chapter 360
- 57           **19-4-114**, as repealed and reenacted by Laws of Utah 2018, Second Special Session,

58 Chapter 5

59 19-5-102, as last amended by Laws of Utah 2015, Chapter 451

60 19-5-104, as last amended by Laws of Utah 2012, Chapter 360

61 19-5-104.5, as last amended by Laws of Utah 2019, Chapter 454

62 19-5-105.5, as last amended by Laws of Utah 2012, Chapter 360

63 19-5-108, as last amended by Laws of Utah 2012, Chapter 360

64 19-5-116, as last amended by Laws of Utah 2011, Chapter 297

65 19-6-102, as last amended by Laws of Utah 2019, Chapter 152

66 19-6-102.1, as last amended by Laws of Utah 2018, Chapter 281

67 19-6-104, as last amended by Laws of Utah 2019, Chapter 152

68 19-6-105, as last amended by Laws of Utah 2018, Chapter 281

69 19-6-107, as last amended by Laws of Utah 2015, Chapter 451

70 19-6-108, as last amended by Laws of Utah 2019, Chapter 152

71 19-6-114, as renumbered and amended by Laws of Utah 1991, Chapter 112

72 19-6-120, as last amended by Laws of Utah 2012, Chapter 360

73 19-6-326, as last amended by Laws of Utah 2008, Chapter 382

74 19-6-502, as last amended by Laws of Utah 2019, Chapter 152

75 ENACTS:

76 19-3-103.1, Utah Code Annotated 1953

77 19-3-108.1, Utah Code Annotated 1953

78 19-6-721.1, Utah Code Annotated 1953

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

81 Section 1. Section 19-1-106 is amended to read:

82 **19-1-106. Boards within department.**

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

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

85 (b) the Drinking Water Board, appointed under Section 19-4-103;

86 (c) the Water Quality Board, appointed under Section 19-5-103; and  
87 (d) the Waste Management and Radiation Control Board, appointed under Section  
88 [~~19-6-104~~] 19-6-103.

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

91 Section 2. Section 19-1-201 is amended to read:

92 **19-1-201. Powers and duties of department -- Rulemaking authority --**  
93 **Committee -- Monitoring environmental impacts of inland port.**

94 (1) The department shall:

95 (a) enter into cooperative agreements with the Department of Health to delineate  
96 specific responsibilities to assure that assessment and management of risk to human health  
97 from the environment are properly administered;

98 (b) consult with the Department of Health and enter into cooperative agreements, as  
99 needed, to ensure efficient use of resources and effective response to potential health and safety  
100 threats from the environment, and to prevent gaps in protection from potential risks from the  
101 environment to specific individuals or population groups;

102 (c) coordinate implementation of environmental programs to maximize efficient use of  
103 resources by developing, in consultation with local health departments, a Comprehensive  
104 Environmental Service Delivery Plan that:

105 (i) recognizes that the department and local health departments are the foundation for  
106 providing environmental health programs in the state;

107 (ii) delineates the responsibilities of the department and each local health department  
108 for the efficient delivery of environmental programs using federal, state, and local authorities,  
109 responsibilities, and resources;

110 (iii) provides for the delegation of authority and pass through of funding to local health  
111 departments for environmental programs, to the extent allowed by applicable law, identified in  
112 the plan, and requested by the local health department; and

113 (iv) is reviewed and updated annually;

114 (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
115 Rulemaking Act, as follows:

116 (i) for a board created in Section 19-1-106, rules regarding:  
117 (A) board meeting attendance; and  
118 (B) conflicts of interest procedures; and  
119 (ii) procedural rules that govern:  
120 (A) an adjudicative proceeding, consistent with Section 19-1-301; and  
121 (B) a special adjudicative proceeding, consistent with Section 19-1-301.5; [and]  
122 (e) ensure that [any] training or certification required of a public official or public  
123 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter  
124 22, State Training and Certification Requirements, if the training or certification is required:  
125 (i) under this title;  
126 (ii) by the department; or  
127 (iii) by an agency or division within the department[-]; and  
128 (f) subject to Subsection (2), establish annual fees that conform with Title V of the  
129 Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a  
130 source subject to the Title V program.

131 (2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under  
132 Subsection (6)(i) for issuance of an approval order.

133 (b) In establishing a fee under Subsection (1)(f), the department shall comply with  
134 Section 63J-1-504 that requires a public hearing and requires the established fee to be  
135 submitted to the Legislature for the Legislature's approval as part of the department's annual  
136 appropriations request.

137 (c) A fee established under this section shall cover the reasonable direct and indirect  
138 costs required to develop and administer the Title V program and the small business assistance  
139 program established under Section 19-2-109.2.

140 (d) A fee established under Subsection (1)(f) shall be established for all sources subject  
141 to the Title V program and for all regulated pollutants.

142 (e) An emission fee may not be assessed for a regulated pollutant if the emissions are  
143 already accounted for within the emissions of another regulated pollutant.

144 (f) An emission fee may not be assessed for any amount of a regulated pollutant  
145 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

146 (g) An emission fee shall be based on actual emissions for a regulated pollutant unless  
147 a source elects, before the issuance or renewal of a permit, to base the fee during the period of  
148 the permit on allowable emissions for that regulated pollutant.

149 (h) The fees collected by the department under Subsection (1)(f) and penalties  
150 collected under Subsection [19-2-109.1\(4\)](#) shall be deposited into the General Fund as the Air  
151 Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable  
152 direct and indirect costs incurred by the department in developing and administering the  
153 program and the small business assistance program under Section [19-2-109.2](#).

154 ~~[(2)]~~ (3) The department shall establish a committee that consists of:

- 155 (a) the executive director or the executive director's designee;
- 156 (b) two representatives of the department appointed by the executive director; and
- 157 (c) three representatives of local health departments appointed by a group of all the  
158 local health departments in the state.

159 ~~[(3)]~~ (4) The committee established in Subsection ~~[(2)]~~ (3) shall:

- 160 (a) review the allocation of environmental quality resources between the department  
161 and the local health departments;
- 162 (b) evaluate department policies that affect local health departments;
- 163 (c) consider policy changes proposed by the department or by local health departments;
- 164 (d) coordinate the implementation of environmental quality programs to maximize  
165 environmental quality resources; and
- 166 (e) review each department application for any grant from the federal government that  
167 affects a local health department before the department submits the application.

168 ~~[(4)]~~ (5) The committee shall create bylaws to govern the committee's operations.

169 ~~[(5)]~~ (6) The department may:

- 170 (a) investigate matters affecting the environment;
- 171 (b) investigate and control matters affecting the public health when caused by
- 172 environmental hazards;
- 173 (c) prepare, publish, and disseminate information to inform the public concerning
- 174 issues involving environmental quality;
- 175 (d) establish and operate programs, as authorized by this title, necessary for protection
- 176 of the environment and public health from environmental hazards;
- 177 (e) use local health departments in the delivery of environmental health programs to
- 178 the extent provided by law;
- 179 (f) enter into contracts with local health departments or others to meet responsibilities
- 180 established under this title;
- 181 (g) acquire real and personal property by purchase, gift, devise, and other lawful
- 182 means;
- 183 (h) prepare and submit to the governor a proposed budget to be included in the budget
- 184 submitted by the governor to the Legislature;
- 185 ~~[(i) establish a schedule of fees that may be assessed for actions and services of the~~
- 186 ~~department according to the procedures and requirements of Section 63J-1-504; and]~~
- 187 ~~[(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect~~
- 188 ~~the cost of services provided;]~~
- 189 (i) in accordance with Section 63J-1-504, establish a schedule of fees that may be
- 190 assessed for actions and services of the department that are reasonable, fair, and reflect the cost
- 191 of services provided;
- 192 (j) for an owner or operator of a source subject to a fee established by Subsection (6)(i)
- 193 who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to
- 194 the fee, plus interest on the fee computed at 12% annually;
- 195 ~~[(j)]~~ (k) prescribe by rule reasonable requirements not inconsistent with law relating to
- 196 environmental quality for local health departments;
- 197 ~~[(k)]~~ (l) perform the administrative functions of the boards established by Section

198 19-1-106, including the acceptance and administration of grants from the federal government  
199 and from other sources, public or private, to carry out the board's functions;

200 ~~[(t)]~~ (m) upon the request of ~~[any]~~ a board or a division director, provide professional,  
201 technical, and clerical staff and field and laboratory services, the extent of which are limited by  
202 the ~~[funds]~~ money available to the department for the staff and services; and

203 ~~[(m)]~~ (n) establish a supplementary fee, not subject to Section 63J-1-504, to provide  
204 service that the person paying the fee agrees by contract to be charged for the service ~~[in order]~~  
205 to efficiently ~~[utilize]~~ use department resources, protect department permitting processes,  
206 address extraordinary or unanticipated stress on permitting processes, or make use of  
207 specialized expertise.

208 ~~[(6)]~~ (7) In providing service under Subsection ~~[(5)(m)]~~ (6)(n), the department may not  
209 provide service in a manner that impairs ~~[any other]~~ another person's service from the  
210 department.

211 ~~[(7)]~~ (8) (a) As used in this Subsection ~~[(7)]~~ (8):

212 (i) "Environmental impacts" means:

213 (A) impacts on air quality, including impacts associated with air emissions; and

214 (B) impacts on water quality, including impacts associated with storm water runoff.

215 (ii) "Inland port" means the same as that term is defined in Section 11-58-102.

216 (iii) "Inland port area" means the area in and around the inland port that bears the  
217 environmental impacts of destruction, construction, development, and operational activities  
218 within the inland port.

219 (iv) "Monitoring facilities" means:

220 (A) for monitoring air quality, a sensor system consisting of monitors to measure levels  
221 of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment  
222 with internal data storage ~~[which]~~ that are interconnected at all times to capture air quality  
223 readings and store data; and

224 (B) for monitoring water quality, facilities to collect groundwater samples, including in  
225 existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to



226 storm water.

227 (b) The department shall:

228 (i) develop and implement a sampling and analysis plan to:

229 (A) characterize the environmental baseline for air quality and water quality in the  
230 inland port area;

231 (B) characterize the environmental baseline for only air quality for the Salt Lake  
232 International Airport; and

233 (C) define the frequency, parameters, and locations for monitoring;

234 (ii) establish and maintain monitoring facilities to measure the environmental impacts  
235 in the inland port area arising from destruction, construction, development, and operational  
236 activities within the inland port;

237 (iii) publish the monitoring data on the department's website; and

238 (iv) provide at least annually before November 30 a written report summarizing the  
239 monitoring data to:

240 (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part  
241 3, Port Authority Board; and

242 (B) the Legislative Management Committee.

243 Section 3. Section **19-2-108** is amended to read:

244 **19-2-108. Notice of construction or modification of installations required --**

245 **Authority of director to prohibit construction -- Hearings -- Limitations on authority of**  
246 **director -- Inspections authorized.**

247 (1) Notice shall be given to the director by a person planning to:

248 (a) construct a new installation [~~which~~] that will or might reasonably be expected to be  
249 a source or indirect source of air pollution [~~or to~~];

250 (b) make modifications to an existing installation [~~which~~] that will or might reasonably  
251 be expected to increase the amount of or change the character or effect of air pollutants  
252 discharged, so that the installation may be expected to be a source or indirect source of air  
253 pollution[;]; or [~~by a person planning to~~]

254 (c) install an air cleaning device or other equipment intended to control emission of air  
255 pollutants.

256 (2) A person may not operate a source of air pollution required to have a permit by a  
257 rule adopted under Section 19-2-104 or 19-2-107 without having obtained a permit from the  
258 director under procedures the board establishes by rule.

259 ~~[(2)]~~ (3) (a) The director may require, as a condition precedent to the construction,  
260 modification, installation, or establishment of the air pollutant source or indirect source, the  
261 submission of plans, specifications, and other information as ~~[he]~~ the director finds necessary  
262 to determine whether the proposed construction, modification, installation, or establishment  
263 will be in accord with applicable rules in force under this chapter, and the payment of a new  
264 source review fee established under Subsection 19-1-201(6)(i).

265 (b) If within 90 days after the receipt of plans, specifications, or other information  
266 required under this ~~[subsection]~~ Subsection (3), the director determines that the proposed  
267 construction, installation, or establishment or any part of it will not be in accord with the  
268 requirements of this chapter or applicable rules or that further time, not exceeding three  
269 extensions of 30 days each, is required by the director to adequately review the plans,  
270 specifications, or other information, ~~[he]~~ the director shall issue an order prohibiting the  
271 construction, installation, or establishment of the air pollutant source or sources in whole or in  
272 part.

273 ~~[(3)]~~ (4) In addition to any other remedies but ~~[prior to]~~ before invoking any ~~[such]~~  
274 other remedies, a person aggrieved by the issuance of an order either granting or denying a  
275 request for the construction of a new installation, ~~[shall]~~ upon request, in accordance with the  
276 rules of the department, ~~[be]~~ is entitled to a special adjudicative proceeding conducted by an  
277 administrative law judge as provided by Section 19-1-301.5.

278 ~~[(4) Any features, machines, and devices constituting parts of]~~ (5) A feature, machine,  
279 or device constituting a part of or called for by plans, specifications, or other information  
280 submitted under Subsection (1) shall be maintained in good working order.

281 ~~[(5)]~~ (6) This section does not authorize the director to require the use of machinery,

282 devices, or equipment from a particular supplier or produced by a particular manufacturer if the  
283 required performance standards may be met by machinery, devices, or equipment otherwise  
284 available.

285 ~~[(6)]~~ (7) (a) An authorized officer, employee, or representative of the director may enter  
286 and inspect ~~[any]~~ a property, premise, or place on or at which an air pollutant source is located  
287 or is being constructed, modified, installed, or established at ~~[any]~~ a reasonable time for the  
288 purpose of ascertaining the state of compliance with this chapter and the rules adopted under  
289 ~~[it]~~ this chapter.

290 (b) (i) A person may not refuse entry or access to an authorized representative of the  
291 director who requests entry for purposes of inspection and who presents appropriate  
292 credentials.

293 (ii) A person may not obstruct, hamper, or interfere with an inspection.

294 (c) If requested, the owner or operator of the premises shall receive a report setting  
295 forth ~~[all]~~ the facts found ~~[which]~~ that relate to compliance status.

296 Section 4. Section **19-2-109.1** is amended to read:

297 **19-2-109.1. Operating permit required -- Fees -- Implementation.**

298 (1) As used in this section and Sections [19-2-109.2](#) and [19-2-109.3](#):

299 (a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

300 (b) "EPA" means the federal Environmental Protection Agency.

301 (c) "Operating permit" means a permit issued by the director to sources of air pollution  
302 that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

303 (d) "Program" means the air pollution operating permit program established under this  
304 section to comply with Title V of the 1990 Clean Air Act.

305 (e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990  
306 Clean Air Act and implementing federal regulations.

307 (2) A person may not operate a source of air pollution required to have a permit under  
308 Title V of the 1990 Clean Air Act without having obtained an operating permit from the  
309 director under procedures the board establishes by rule.

310 (3) (a) Operating permits issued under this section shall be for a period of five years  
311 unless the director makes a written finding, after public comment and hearing, and based on  
312 substantial evidence in the record, that an operating permit term of less than five years is  
313 necessary to protect the public health and the environment of the state.

314 (b) The director may issue, modify, or renew an operating permit only after providing  
315 public notice, an opportunity for public comment, and an opportunity for a public hearing.

316 (c) The director shall, in conformity with the 1990 Clean Air Act and implementing  
317 federal regulations, revise the conditions of issued operating permits to incorporate applicable  
318 federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the  
319 remaining period of the permit is three or more years.

320 (d) The director may terminate, modify, revoke, or reissue an operating permit for  
321 cause.

322 ~~[(4) (a) The board shall establish a proposed annual emissions fee that conforms with  
323 Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources  
324 required to obtain a permit. The emissions fee established under this section is in addition to  
325 fees assessed under Section 19-2-108 for issuance of an approval order.]~~

326 ~~[(b) In establishing the fee the board shall comply with the provisions of Section  
327 63J-1-504 that require a public hearing and require the established fee to be submitted to the  
328 Legislature for its approval as part of the department's annual appropriations request.]~~

329 ~~[(c) The fee shall cover all reasonable direct and indirect costs required to develop and  
330 administer the program and the small business assistance program established under Section  
331 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the  
332 costs covered by those fees under this Subsection (4).]~~

333 ~~[(d) The fee shall be established uniformly for all sources required to obtain an  
334 operating permit under the program and for all regulated pollutants.]~~

335 ~~[(e) The fee may not be assessed for emissions of any regulated pollutant if the  
336 emissions are already accounted for within the emissions of another regulated pollutant.]~~

337 ~~[(f) An emissions fee may not be assessed for any amount of a regulated pollutant~~

338 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.]

339 ~~[(5) Emissions fees shall be based on actual emissions for a regulated pollutant unless a~~  
340 ~~source elects, prior to the issuance or renewal of a permit, to base the fee during the period of~~  
341 ~~the permit on allowable emissions for that regulated pollutant.]~~

342 ~~[(6)]~~ (4) If the owner or operator of a source subject to this section fails to timely pay  
343 ~~[an annual emissions]~~ a fee established under Subsection [19-1-201\(1\)\(f\)](#), the director may:

344 (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus  
345 interest on the fee computed at 12% annually; or

346 (b) revoke the operating permit.

347 ~~[(7)]~~ (5) The owner or operator of a source subject to this section may contest ~~[an~~  
348 ~~emissions]~~ a fee assessment or associated penalty in an adjudicative hearing under the Title  
349 63G, Chapter 4, Administrative Procedures Act, and Section [19-1-301](#), as provided in this  
350 Subsection ~~[(7)]~~ (5).

351 (a) The owner or operator shall pay the fee under protest ~~[prior to]~~ before being entitled  
352 to a hearing. Payment of ~~[an emissions]~~ a fee or penalty under protest is not a waiver of the  
353 right to contest the fee or penalty under this section.

354 (b) A request for a hearing under this Subsection ~~[(7)]~~ (5) shall be made after payment  
355 of the ~~[emissions]~~ fee and within six months after the ~~[emissions]~~ fee was due.

356 ~~[(8)]~~ (6) To reinstate an operating permit revoked under Subsection ~~[(6)]~~ (4) the owner  
357 or operator shall pay ~~[aH]~~ the outstanding ~~[emissions]~~ fees, a penalty of not more than 50% of  
358 ~~[aH]~~ outstanding fees, and interest on the outstanding ~~[emissions]~~ fees computed at 12%  
359 annually.

360 ~~[(9) All emissions fees and penalties collected by the department under this section~~  
361 ~~shall be deposited in the General Fund as the Air Pollution Operating Permit Program~~  
362 ~~dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by~~  
363 ~~the department in developing and administering the program and the small business assistance~~  
364 ~~program under Section [19-2-109.2](#).]~~

365 ~~[(10)]~~ (7) Failure of the director to act on an operating permit application or renewal is

366 a final administrative action only for the purpose of obtaining judicial review by any of the  
367 following persons to require the director to take action on the permit or ~~[its]~~ the permit's  
368 renewal without additional delay:

- 369 (a) the applicant;
- 370 (b) a person who participated in the public comment process; or
- 371 (c) a person who could obtain judicial review of that action under applicable law.

372 Section 5. Section **19-3-103.1** is enacted to read:

373 **19-3-103.1. Board authority and duties under this part.**

374 (1) The board may:

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

376 Rulemaking Act, that are necessary to implement this part;

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

378 (ii) appoint a hearing officer to conduct a hearing that is not an adjudicative  
379 proceeding;

380 (c) accept, receive, and administer grants or other money or gifts from public and  
381 private agencies, including the federal government, for the purpose of carrying out any function  
382 of this chapter;

383 (d) order the director to impound radioactive material in accordance with Section  
384 19-3-111; or

385 (e) advise, consult, cooperate with, or provide technical assistance to another agency of  
386 the state or federal government, another state, an interstate agency, an affected group, an  
387 affected political subdivision, an affected industry, or other person in carrying out the purposes  
388 of this part.

389 (2) The board shall:

390 (a) promote the planning and application of pollution prevention and radioactive waste  
391 minimization measures to prevent the unnecessary waste and depletion of natural resources;

392 (b) to ensure compliance with applicable statutes and rules:

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

394 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than \$25,000; and  
395 (ii) approve or disapprove the settlement described in Subsection (2)(b)(i);  
396 (c) review the qualifications of, and issue certificates of approval to, individuals who:  
397 (i) survey mammography equipment; or  
398 (ii) oversee quality assurance practices at mammography facilities.

399 (3) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
400 following that are subject to the authority granted to the director under Section 19-3-108.1:

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

406 Section 6. Section 19-3-108.1 is enacted to read:

407 **19-3-108.1. Powers and duties of director.**

408 (1) The director shall, in connection with this chapter and rules of the board adopted  
409 under this part:

- 410 (a) develop programs to promote and protect the public from radiation sources in the  
411 state;
- 412 (b) advise, consult, cooperate with, and provide technical assistance to another agency,  
413 a state, the federal government, a political subdivision, an industry, or another person in  
414 carrying out this part;
- 415 (c) receive specifications or other information relating to a licensing application for  
416 radioactive material or registration of a radiation source for review, approval, disapproval, or  
417 termination;
- 418 (d) issue a permit, license, registration, certification, or other administrative  
419 authorization;
- 420 (e) review and approve a plan;
- 421 (f) assess a penalty in accordance with Section 19-3-109;

- 422 (g) impound radioactive material under Section 19-3-111;
- 423 (h) issue an order necessary to enforce this part;
- 424 (i) enforce an order by an appropriate administrative and judicial proceeding; and
- 425 (j) institute a judicial proceeding to secure compliance with this part.
- 426 (2) The director may:
- 427 (a) cooperate with any person in studies, research, or demonstration projects regarding
- 428 radioactive waste management or control of radiation sources;
- 429 (b) employ employees as may be reasonably necessary to carry out this part;
- 430 (c) subject to Subsection 19-3-103.1(2)(b), settle or compromise any administrative or
- 431 civil action initiated to compel compliance with this part and rules adopted under this part; and
- 432 (d) authorize employees or representatives of the department to enter, at reasonable
- 433 times and upon reasonable notice, in and upon public or private property for the purpose of
- 434 inspecting and investigating conditions and records concerning radiation sources and as
- 435 otherwise authorized by this part.

Section 7. Section 19-4-104 is amended to read:

**19-4-104. Powers of board.**

- 438 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah
- 439 Administrative Rulemaking Act:
- 440 (i) establishing standards that prescribe the maximum contaminant levels in ~~[any]~~ a
- 441 public water system and provide for monitoring, record-keeping, and reporting of water quality
- 442 related matters;
- 443 (ii) governing design, construction, operation, and maintenance of public water
- 444 systems;
- 445 (iii) granting variances and exemptions to the requirements established under this
- 446 chapter that are not less stringent than those allowed under federal law;
- 447 (iv) protecting watersheds and water sources used for public water systems;
- 448 (v) governing capacity development in compliance with Section 1420 of the federal
- 449 Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and



450 (vi) for a community water system failing to comply with the reporting requirements  
451 under Subsections (1)(c)(iv) and (v):

452 (A) establishing fines and penalties, including posting on the division's web page those  
453 community water systems that fail to comply with the reporting requirements; and

454 (B) allowing a community water system, in lieu of penalties established under  
455 Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the ~~[division]~~ director  
456 that requires compliance and establishes a compliance schedule approved by the director.

457 (b) The board may:

458 ~~[(i) order the director to:]~~

459 ~~[(A) issue orders necessary to enforce the provisions of this chapter;]~~

460 ~~[(B) enforce the orders by appropriate administrative and judicial proceedings; or]~~

461 ~~[(C) institute judicial proceedings to secure compliance with this chapter;]~~

462 ~~[(ii)(A)]~~ (i) hold a hearing that is not an adjudicative proceeding relating to an aspect  
463 of, or matter in, the administration of this chapter; ~~[or]~~

464 ~~[(B)]~~ (ii) appoint a hearing ~~[officers]~~ officer to conduct a hearing that is not an  
465 adjudicative proceeding; ~~[or]~~

466 (iii) recommend that the director:

467 (A) issue an order necessary to enforce this chapter;

468 (B) enforce an order by appropriate administrative and judicial proceedings;

469 (C) institute a judicial proceeding to secure compliance with this chapter; or

470 (D) advise, consult, contract, and cooperate with another agency of the state, a local  
471 government, an industry, another state, an interstate or interlocal agency, the federal  
472 government, or an interested person; or

473 ~~[(iii)]~~ (iv) request and accept financial assistance from other public agencies, private  
474 entities, and the federal government to carry out the purposes of this chapter.

475 (c) The board shall:

476 (i) require the submission to the director of plans and specifications for construction of,  
477 substantial addition to, or alteration of public water systems for review and approval by the

478 ~~[board]~~ director before that action begins and require any modifications or impose any  
479 conditions that may be necessary to carry out the purposes of this chapter;

480 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into  
481 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,  
482 municipalities, local health departments, educational institutions, and others necessary to carry  
483 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of  
484 local jurisdictions;

485 (iii) develop and implement an emergency plan to protect the public when declining  
486 drinking water quality or quantity creates a serious health risk and issue emergency orders if a  
487 health risk is imminent;

488 (iv) require a community water system serving a population of 500 or more to annually  
489 collect accurate water use data, described in Subsection ~~[(6)]~~(7), and annually report that data  
490 to the Division of Water Rights;

491 (v) require a certified operator, or a professional engineer performing the duties of a  
492 certified water operator, to verify by certification or license number the accuracy of water use  
493 data reported by a public water system, including the data required from a community water  
494 system under Subsection (1)(c)(iv); ~~[and]~~

495 (vi) meet the requirements of federal law related or pertaining to drinking water~~[-];~~ and

496 (vii) to ensure compliance with applicable statutes and rules:

497 (A) review a settlement negotiated by the director in accordance with Subsection  
498 19-4-109(3) that requires a civil penalty equal to or greater than \$25,000; and

499 (B) approve or disapprove the settlement described in Subsection (1)(c)(vii)(A).

500 (2) (a) The board may adopt ~~[and enforce]~~ standards and establish fees for certification  
501 of operators of ~~[any]~~ a public water system.

502 (b) The board may not require certification of operators for a water system serving a  
503 population of 800 or less except:

504 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking  
505 Water Act, 42 U.S.C. Sec. 300f et seq.; and

506 (ii) for a system that is required to treat its drinking water.

507 (c) The certification program shall be funded from certification and renewal fees.

508 (3) Routine extensions or repairs of existing public water systems that comply with the  
509 rules and do not alter the public water system's ability to provide an adequate supply of water  
510 are exempt from [~~the provisions of~~] Subsection (1)(c)(i).

511 (4) (a) The board may adopt [~~and enforce~~] standards and establish fees for certification  
512 of persons engaged in administering cross connection control programs or backflow prevention  
513 assembly training, repair, and maintenance testing.

514 (b) The certification program shall be funded from certification and renewal fees.

515 (5) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
516 following that are subject to the authority granted to the director under this chapter:

517 (a) a permit;

518 (b) a license;

519 (c) a registration;

520 (d) a certificate; or

521 (e) another administrative authorization made by the director.

522 [~~(5)~~] (6) A board member may not speak or act for the board unless the board member  
523 is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

524 [~~(6)~~] (7) (a) The water use data required to be collected in Subsection (1)(c)(iv) shall  
525 include peak day source demand, average annual demand, the number of equivalent residential  
526 connections for retail service, and the quantity of non-revenue water.

527 (b) The division may, by rule, establish:

528 (i) other types of water use data required to be collected in addition to that listed in  
529 Subsection [~~(6)~~] (7)(a); and

530 (ii) alternative methods for calculating the water use data listed in Subsection [~~(6)~~]  
531 (7)(a).

532 Section 8. Section **19-4-106** is amended to read:

533 **19-4-106. Director -- Appointment -- Authority.**

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

536 (2) The director shall:

537 (a) develop programs to promote and protect the quality of the public drinking water  
538 supplies of the state;

539 (b) advise, consult, and cooperate with other agencies of this and other states, the  
540 federal government, and with other groups, political subdivisions, and industries in furtherance  
541 of the purpose of this chapter;

542 (c) review plans, specifications, and other data pertinent to proposed or expanded water  
543 supply systems to ensure proper design and construction; and

544 (d) subject to the provisions of this chapter, enforce rules made by the board through  
545 the issuance of orders [~~which~~] that may be subsequently revoked, which [~~rules~~] orders may  
546 require:

547 (i) discontinuance of use of unsatisfactory sources of drinking water;

548 (ii) suppliers to notify the public concerning the need to boil water; or

549 (iii) suppliers in accordance with existing rules, to take remedial actions necessary to  
550 protect or improve an existing water system; and

551 (e) as authorized by the board and subject to the provisions of this chapter, act as  
552 executive secretary of the board under the direction of the [~~chairman~~] chair of the board.

553 (3) The director may authorize employees or agents of the department, after reasonable  
554 notice and presentation of credentials, to enter any part of a public water system at reasonable  
555 times to inspect the facilities and water quality records required by board rules, conduct  
556 sanitary surveys, take samples, and investigate the standard of operation and service delivered  
557 by public water systems.

558 (4) As provided in this chapter and in accordance with rules made by the board:

559 (a) the director may issue and enforce a notice of violation and an administrative order;  
560 and

561 (b) the director may assess and make a demand for payment of an administrative

562 penalty arising from a violation of this chapter, a rule or order issued under the authority of this  
563 chapter, or the terms of a permit or other administrative authorization issued under the  
564 authority of this chapter.

565 Section 9. Section **19-4-107** is amended to read:

566 **19-4-107. Notice of violation -- Action by attorney general.**

567 (1) Upon discovery of any violation of this chapter or a rule [or order] of the board,  
568 ~~[the board or]~~ the director shall promptly notify the supplier of the violation, state the nature of  
569 the violation, and issue an order requiring correction of that violation or the filing of a request  
570 for variance or exemption by a specific date.

571 (2) The attorney general shall, upon request of the director, commence an action for an  
572 injunction or other relief relative to the order.

573 Section 10. Section **19-4-109** is amended to read:

574 **19-4-109. Violations -- Penalties -- Reimbursement for expenses.**

575 ~~[(1) Any person that violates any rule or order made or issued pursuant to this chapter~~  
576 ~~is subject to a civil penalty of not more than \$1,000 per day for each day of violation. The~~  
577 ~~board may assess and make a demand for payment of a penalty under this section by directing~~  
578 ~~the director to issue a notice of agency action under Title 63G, Chapter 4, Administrative~~  
579 ~~Procedures Act.]~~

580 (1) As used in this section, "criminal negligence" means the same as that term is  
581 defined in Section 76-2-103.

582 (2) (a) A person who violates this chapter, a rule or order issued under the authority of  
583 this chapter, or the terms of a permit or other administrative authorization issued under the  
584 authority of this chapter is subject to an administrative penalty:

585 (i) not to exceed \$1,000 per day per violation, with respect to a public water system  
586 serving a population of less than 10,000 individuals; or

587 (ii) exactly \$1,000 per day per violation, with respect to a public water system serving  
588 a population of more than 10,000 individuals.

589 (b) In all cases, each day of violation is considered a separate violation.

590 (3) The director may assess and make a demand for payment of an administrative  
591 penalty under this section and may compromise or settle that penalty.

592 (4) To make a demand for payment of an administrative penalty assessed under this  
593 section, the director shall issue a notice of agency action, specifying, in addition to the  
594 requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative  
595 Procedures Act:

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

597 (b) the provision of the statute, rule, order, permit, or administrative authorization that  
598 is alleged to have been violated;

599 (c) each penalty that the director proposes to assess, together with the amount and date  
600 of effect of that penalty; and

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

602 (5) A person notified according to Subsection (4) may request an adjudicative  
603 proceeding.

604 (6) Upon request by the director, the attorney general may institute a civil action to  
605 collect a penalty assessed under this section.

606 ~~[(2)]~~ (7) (a) [Any] A person [that willfully] who, with criminal negligence, violates any  
607 rule or order made or issued pursuant to this chapter, or [that willfully] with criminal  
608 negligence fails to take [any] corrective action required by [such] an order, is guilty of a class B  
609 misdemeanor and subject to a fine of not more than \$5,000 per day for each day of violation.

610 (b) In addition, the person is subject, in a civil proceeding, to a penalty of not more  
611 than \$5,000 per day for each day of violation.

612 (8) (a) The director may bring a civil action for appropriate relief, including a  
613 permanent or temporary injunction, for a violation for which the director is authorized to issue  
614 a compliance order under Section [19-4-107](#).

615 (b) The director shall bring an action under this Subsection (8) in the district court  
616 where the violation occurs.

617 (9) (a) The attorney general is the legal advisor for the board and the director and shall

618 defend them in an action or proceeding brought against the board or director.

619 (b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or  
 620 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or  
 621 criminal, requested by the director, to abate a condition that exists in violation of, or to  
 622 prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the  
 623 board or the director issued under this chapter.

624 (c) The director may initiate action under this section and be represented by the  
 625 attorney general.

626 (10) If a person fails to comply with a cease and desist order that is not subject to a stay  
 627 pending administrative or judicial review, the director may initiate an action for and be entitled  
 628 to injunctive relief to prevent further or continued violation of the order.

629 (11) A bond may not be required for injunctive relief under this chapter.

630 ~~(12)~~ (12) (a) Except as provided in Subsection ~~(12)~~ (12)(b), [all penalties] a penalty  
 631 assessed and collected under the authority of this section shall be deposited [in] into the  
 632 General Fund.

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

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

637 (i) ~~[define]~~ qualifying environmental enforcement activities; and

638 (ii) ~~[define]~~ qualifying extraordinary expenses.

639 Section 11. Section **19-4-114** is amended to read:

640 **19-4-114. Source and storage minimum sizing requirements for public water**  
 641 **systems.**

642 (1) (a) Except as provided in Subsection (1)(b) [and], upon submission of plans for a  
 643 substantial addition to or alteration of a community water system, the director shall establish  
 644 system-specific source and storage minimum sizing requirements for a community water  
 645 system serving a population of more than 3,300 based on at least the most recent three years of

646 a community water system's actual water use data submitted in accordance with Subsections  
647 19-4-104(1)(c)(iv) and (v).

648 (b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available  
649 to the division, or if the community water system determines that the data submitted does not  
650 represent future system use, the director may establish source and storage minimum sizing  
651 requirements for the community water system based on:

652 (i) an engineering study submitted by the community water system and accepted by the  
653 director; or

654 (ii) at least three years of historical water use data that is:

655 (A) submitted by the community water system; and

656 (B) accepted by the director.

657 (c) A community water system serving a population of more than 3,300 shall provide  
658 the information necessary to establish the system-specific standards described in this  
659 Subsection (1) by no later than March 1, 2019.

660 (2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b),  
661 the director shall establish system-specific source and storage minimum sizing requirements for  
662 a community water system serving a population of between 500 and no more than 3,300 based  
663 on at least the most recent three years of a community water system's actual water use data  
664 submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

665 (b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available  
666 to the division, or if the community water system determines that the data submitted does not  
667 represent future system use, the director may establish source and storage minimum sizing  
668 requirements for the community water system based on:

669 (i) an engineering study submitted by the community water system and accepted by the  
670 director; or

671 (ii) at least three years of historical water use data that is:

672 (A) submitted by the community water system; and

673 (B) accepted by the director.



674 (c) A community water system serving a population of between 500 and no more than  
675 3,300 shall provide the information necessary to establish system-specific standards described  
676 in this Subsection (2) by no later than March 1, 2023.

677 (3) The director shall establish system-specific source and storage minimum sizing  
678 requirements for a community water system serving a population of fewer than 500 based on:

679 (a) at least the most recent three years of a community water system's actual water use  
680 data submitted to the division and accepted by the director;

681 (b) an engineering study submitted by the community water system and accepted by the  
682 director;

683 (c) standards, comparable to those of established community water systems, as  
684 determined by the director; or

685 (d) relevant information, as determined by the director.

686 (4) The director shall:

687 (a) for community water systems described in Subsection (3), establish a schedule to  
688 transition from statewide sizing standards to system-specific standards;

689 (b) establish minimum sizing standards for public water systems that are not  
690 community water systems;

691 (c) provide for the routine evaluation of changes to the system-specific standards; and

692 (d) include, as part of system-specific standards, necessary fire storage capacity in  
693 accordance with the state fire code adopted under Section [15A-1-403](#) and as determined by the  
694 local fire code official.

695 (5) The director may adjust system-specific sizing standards, established under this  
696 section for a public water system, based on information submitted by the public water system  
697 addressing the effect of any wholesale water deliveries or other system-specific conditions  
698 affecting infrastructure needs.

699 (6) A wholesale water supplier is exempt from this section if the wholesale water  
700 supplier serves:

701 (a) a total population of more than 10,000; and

702 (b) a wholesale population that is 75% or more of the total population served.

703 Section 12. Section **19-5-102** is amended to read:

704 **19-5-102. Definitions.**

705 As used in this chapter:

706 (1) "Agriculture discharge":

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

708 that:

709 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,

710 watercourse, waterway, river, ditch, and other water conveyance system of the state;

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

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

713 (b) does not include:

714 (i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land

715 that is not part of a body of water; or

716 (ii) a release into a normally dry water conveyance [~~to an active body of water~~], unless

717 the release reaches the water of a lake, pond, stream, marshland, river, or other active body of a

718 water.

719 (2) "Agriculture water" means:

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

721 (b) return flows from irrigated agriculture; and

722 (c) agricultural storm water runoff.

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

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

725 (5) "Contaminant" means [~~any~~] a physical, chemical, biological, or radiological

726 substance or matter in water.

727 (6) "Director" means the director of the Division of Water Quality or, for purposes of

728 groundwater quality at a facility licensed by and under the jurisdiction of the Division of

729 Waste Management and Radiation Control, the director of the Division of Waste Management

730 and Radiation Control.

731 (7) "Discharge" means the addition of [any] a pollutant to [any] waters of the state.

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

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

735 (b) generates or manages sewage sludge.

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

738 (10) "Division" means the Division of Water Quality, created in Subsection  
739 19-1-105(1)(e).

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

743 (12) "Point source":

744 (a) means [any] discernible, confined, and discrete conveyance, including [any] a pipe,  
745 ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated  
746 animal feeding operation, or vessel or other floating craft, from which pollutants are or may be  
747 discharged; and

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

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

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

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

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

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

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

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

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

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

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

775 (23) "Waters of the state":

776 (a) means [aH] streams, lakes, ponds, marshes, watercourses, waterways, wells,  
777 springs, irrigation systems, drainage systems, and all other bodies or accumulations of water,  
778 surface and underground, natural or artificial, public or private, [which] that are contained  
779 within, flow through, or border upon this state or any portion of the state; and

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

783 Section 13. Section **19-5-104** is amended to read:

784 **19-5-104. Powers and duties of board.**

785 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

786 board may make rules that:

787 (a) taking into account Subsection (6):

788 (i) implement the awarding of construction loans to political subdivisions and  
789 municipal authorities under Section 11-8-2, including:

790 (A) requirements pertaining to applications for ~~[loans]~~ a loan;

791 (B) requirements for determination of an eligible ~~[projects]~~ project;

792 (C) requirements for determination of the costs upon which ~~[loans are]~~ a loan is based,  
793 which costs may include engineering, financial, legal, and administrative expenses necessary  
794 for the construction, reconstruction, and improvement of a sewage treatment ~~[plants]~~ plant,  
795 including a major ~~[interceptors, collection systems, and other facilities]~~ interceptor, collection  
796 system, or other facility appurtenant to the plant;

797 (D) a priority schedule for awarding loans, in which the board may consider, in  
798 addition to water pollution control needs, any financial needs relevant, including per capita  
799 cost, in making a determination of priority; and

800 (E) requirements for determination of the amount of the loan;

801 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section  
802 73-10c-4.5;

803 (iii) set effluent limitations and standards subject to Section 19-5-116;

804 (iv) implement or effectuate the powers and duties of the board; and

805 (v) protect the public health for the design, construction, operation, and maintenance of  
806 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen  
807 pit privies;

808 (b) govern inspection, monitoring, recordkeeping, and reporting requirements for  
809 underground injections and require permits for underground injections, to protect drinking  
810 water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and  
811 oil, recognizing that underground injection endangers drinking water sources if:

812 (i) injection may result in the presence of ~~[any]~~ a contaminant in underground water  
813 that supplies or can reasonably be expected to supply ~~[any]~~ a public water system, as defined in

814 Section 19-4-102; and

815 (ii) the presence of the contaminant may:

816 (A) result in the public water system not complying with any national primary drinking  
817 water standards; or

818 (B) otherwise adversely affect the health of persons;

819 (c) govern sewage sludge management, including permitting, inspecting, monitoring,  
820 recordkeeping, and reporting requirements; and

821 (d) notwithstanding ~~the provisions of~~ Section 19-4-112, govern design and  
822 construction of irrigation systems that:

823 (i) convey sewage treatment facility effluent of human origin in pipelines under  
824 pressure, unless contained in surface pipes wholly on private property and for agricultural  
825 purposes; and

826 (ii) are constructed after May 4, 1998.

827 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
828 the board shall adopt and enforce rules and establish fees to cover the costs of:

829 (i) managing the certification and testing program; and

830 (ii) testing for certification of operators of treatment works and sewerage systems  
831 operated by political subdivisions.

832 (b) In establishing certification rules under Subsection (2)(a), the board shall:

833 (i) base the requirements for certification on the size, treatment process type, and  
834 complexity of the treatment works and sewerage systems operated by political subdivisions;

835 (ii) allow operators until three years after the date of adoption of the rules to obtain  
836 initial certification;

837 (iii) allow a new operator one year from the date the operator is hired by a treatment  
838 plant or sewerage system or three years after the date of adoption of the rules, whichever occurs  
839 later, to obtain certification;

840 (iv) issue certification upon application and without testing, at a grade level

841 comparable to the grade of current certification to operators who are currently certified under

842 the voluntary certification plan for wastewater works operators as recognized by the board; and

843 (v) issue a certification upon application and without testing that is valid only at the  
844 treatment works or sewerage system where that operator is currently employed if the operator:

845 (A) is in charge of and responsible for the treatment works or sewerage system on  
846 March 16, 1991;

847 (B) has been employed at least 10 years in the operation of that treatment works or  
848 sewerage system before March 16, 1991; and

849 (C) demonstrates to the board the operator's capability to operate the treatment works  
850 or sewerage system at which the operator is currently employed by providing employment  
851 history and references as required by the board.

852 (3) The board shall:

853 (a) develop programs for the prevention, control, and abatement of new or existing  
854 pollution of the waters of the state;

855 (b) adopt, modify, or repeal standards of quality of the waters of the state and classify  
856 those waters according to their reasonable uses in the interest of the public under conditions the  
857 board may prescribe for the prevention, control, and abatement of pollution;

858 (c) give reasonable consideration in the exercise of its powers and duties to the  
859 economic impact of water pollution control on industry and agriculture;

860 (d) meet the requirements of federal law related to water pollution;

861 (e) establish and conduct a continuing planning process for control of water pollution,  
862 including the specification and implementation of maximum daily loads of pollutants;

863 (f) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
864 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

865 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
866 Reuse Act;

867 (g) (i) review [aH] total daily maximum load reports and recommendations for water  
868 quality end points and implementation strategies developed by the division before submission  
869 of the report, recommendation, or implementation strategy to the EPA;

- 870 (ii) disapprove, approve, or approve with conditions ~~[all]~~ the staff total daily maximum  
871 load recommendations; and
- 872 (iii) provide suggestions for further consideration to the Division of Water Quality in  
873 the event a total daily maximum load strategy is rejected; and
- 874 (h) to ensure compliance with applicable statutes and regulations:
- 875 (i) review a settlement negotiated by the director in accordance with Subsection  
876 [19-5-106\(2\)\(k\)](#) that requires a civil penalty of \$25,000 or more; and
- 877 (ii) approve or disapprove the settlement described in Subsection (3)(h)(i).
- 878 (4) The board may:
- 879 (a) order the director to issue, modify, or revoke ~~[orders]~~ an order:
- 880 (i) prohibiting or abating discharges;
- 881 (ii) (A) requiring the construction of new treatment works or any parts of ~~[them, or]~~ the  
882 new treatment works;
- 883 (B) requiring the modification, extension, or alteration of existing treatment works as  
884 specified by board rule or any parts of ~~[them,]~~ existing treatment works; or
- 885 (C) the adoption of other remedial measures to prevent, control, or abate pollution;
- 886 (iii) setting standards of water quality, classifying waters or evidencing any other  
887 determination by the board under this chapter; or
- 888 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 889 (b) advise, consult, and cooperate with ~~[other agencies]~~ another agency of the state, the  
890 federal government, ~~[other states, or interstate agencies, or with affected groups, political~~  
891 ~~subdivisions, or industries]~~ another state, an interstate agency, an affected group, an affected  
892 political subdivision, or affected industry to further the purposes of this chapter; or
- 893 (c) delegate the authority to issue an operating permit to a local health department.
- 894 (5) In performing the duties listed in Subsections (1) through (4), the board shall give  
895 priority to pollution that results in a hazard to the public health.
- 896 (6) The board shall take into consideration the availability of federal grants:
- 897 (a) in determining eligible project costs; and



898 (b) in establishing priorities pursuant to Subsection (1)(a)(i).  
899 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
900 following that are subject to the authority granted to the director under Section 19-5-106:

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

906 (8) A board member may not speak or act for the board unless the board member is  
907 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

908 Section 14. Section 19-5-104.5 is amended to read:

909 **19-5-104.5. Legislative review and approval.**

910 (1) Before sending a [~~board-approved report, strategy, or recommendation that will~~  
911 ~~recommend~~a] total maximum daily load [~~end point~~] and implementation strategy to the EPA  
912 for review and approval, the Water Quality Board shall submit the [~~report, strategy, or~~  
913 ~~recommendation~~] total maximum daily load:

914 (a) for review to the Natural Resources, Agriculture, and Environment Interim  
915 Committee if the [~~report, strategy, or recommendation~~] total maximum daily load will require a  
916 public or private expenditure in excess of \$10,000,000 but less than \$100,000,000 for  
917 compliance; or

918 (b) for approval to the Legislature if the [~~strategy~~] total maximum daily load will  
919 require a public or private expenditure of \$100,000,000 or more.

920 (2) (a) As used in this Subsection (2):

921 (i) "Expenditure" means the act of expending funds:

922 (A) by an individual public facility with a Utah Pollutant Discharge Elimination  
923 System permit, or by a group of private agricultural facilities; and

924 (B) through an initial capital investment, or through operational costs over a three-year  
925 period.

926           (ii) "Utah Pollutant Discharge Elimination System" means the state permit system  
927 created in accordance with 33 U.S.C. Sec. 1342.

928           (b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall  
929 submit the rule or standard as directed in Subsections (2)(c) and (d).

930           (c) (i) If compliance with the rule or standard requires an expenditure in excess of  
931 \$250,000, but less than \$10,000,000, the board shall submit the rule or standard for review to  
932 the Natural Resources, Agriculture, and Environment Interim Committee.

933           (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources,  
934 Agriculture, and Environment Interim Committee shall review a rule or standard the board  
935 submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment  
936 Interim Committee's committee meeting immediately following the day on which the board  
937 submits the rule or standard.

938           (B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days  
939 after the day on which the board submits the rule or standard for review, the Natural Resources,  
940 Agriculture, and Environment Interim Committee shall review the rule or standard during the  
941 committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting  
942 immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

943           (d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or  
944 more, the board shall submit the rule or standard for approval to the Legislature.

945           (e) (i) A facility shall estimate the cost of compliance with a board-proposed rule or  
946 standard described in Subsection (2)(b) using:

947           (A) an independent, licensed engineer; and

948           (B) industry-accepted project cost estimate methods.

949           (ii) The board may evaluate and report on a compliance estimate described in  
950 Subsection (2)(e)(i).

951           (f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the  
952 Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply with the  
953 rule or standard.

954 (3) In reviewing a [~~report, strategy, rule, standard, or recommendation~~] rule or  
955 standard, the Natural Resources, Agriculture, and Environment Interim Committee may:

956 (a) consider the impact of the [~~report, strategy, rule, standard, or recommendation~~] rule  
957 or standard on:

958 (i) economic costs and benefit;

959 (ii) public health; and

960 (iii) the environment;

961 (b) suggest additional areas of consideration; or

962 (c) recommend the [~~report, strategy, rule, standard, or recommendation~~] rule or  
963 standard to the board for:

964 (i) adoption; or

965 (ii) re-evaluation followed by further review by the [~~committee~~] Natural Resources,  
966 Agriculture, and Environment Interim Committee.

967 (4) When the Natural Resources, Agriculture, and Environment Interim Committee  
968 sets the review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the  
969 committee shall:

970 (a) before the review, directly inform the chairs of the Administrative Rules Review  
971 Committee of the coming review, including the date, time, and place of the review; and

972 (b) after the review, directly inform the chairs of the Administrative Rules Review  
973 Committee of the outcome of the review, including any recommendation.

974 Section 15. Section **19-5-105.5** is amended to read:

975 **19-5-105.5. Agriculture water.**

976 (1) (a) The board shall draft any rules relating to agriculture water in cooperation with  
977 the commission.

978 (b) The commission shall advise the board before the board may adopt [~~rules~~] a rule  
979 relating to agriculture water.

980 (2) A program or rule adopted by the board for agriculture production or irrigation  
981 water shall:

982 (a) be consistent with the federal Clean Water Act; and

983 (b) if possible, be developed in a voluntary cooperative program with the agriculture  
984 producer associations and the commission.

985 (3) (a) The board's authority to regulate a discharge is subject to Subsection (3)(b)  
986 relating to an agriculture discharge.

987 (b) (i) A person responsible for an agriculture discharge shall mitigate the resulting  
988 damage in a reasonable manner, as approved by the director after consulting with the  
989 commission chair.

990 (ii) A penalty imposed on an agriculture discharge shall be [~~proportionate to the~~  
991 ~~seriousness of the resulting harm~~] consistent with the penalty policy described in Section  
992 19-5-115 and associated rules, as determined by the director in consultation with the  
993 commission chair.

994 (iii) An agriculture producer may not be held liable for an agriculture discharge  
995 resulting from a large weather event if the agriculture producer has taken reasonable measures,  
996 as the board defines by rule, to prevent an agriculture discharge.

997 Section 16. Section **19-5-108** is amended to read:

998 **19-5-108. Discharge permits -- Requirements and procedure for issuance.**

999 (1) The board may make rules, in accordance with Title 63G, Chapter 3, Utah  
1000 Administrative Rulemaking Act, for and require the submission of plans, specifications, and  
1001 other information to the director in connection with the issuance of discharge permits.

1002 (2) [~~Each~~] A discharge permit shall have a fixed term not exceeding five years. Upon  
1003 expiration of a discharge permit, the permit may be renewed or a new permit may be issued by  
1004 the director as authorized by the board after notice and an opportunity for public hearing and  
1005 upon condition that the applicant meets or will meet [~~all~~] the applicable requirements of this  
1006 chapter, including the conditions of [~~any~~] a permit granted by the board.

1007 (3) The board may require notice to the director of the introduction of pollutants into  
1008 publicly-owned treatment works and identification to the director of the character and volume  
1009 of any pollutant of any significant source subject to pretreatment standards under Subsection

1010 307(b) of the federal Clean Water Act. The director shall provide in the permit for compliance  
1011 with pretreatment standards.

1012 (4) The director may impose as conditions in permits for the discharge of pollutants  
1013 from publicly-owned treatment works appropriate measures to establish and [~~insure~~] ensure  
1014 compliance by industrial users with any system of user charges required under this chapter or  
1015 the rules adopted under [~~it~~] this chapter.

1016 (5) The director may apply and enforce against industrial users of publicly-owned  
1017 treatment works, toxic effluent standards and pretreatment standards for the introduction into  
1018 the treatment works of pollutants [~~which~~] that interfere with, pass through, or otherwise are  
1019 incompatible with the treatment works.

1020 Section 17. Section **19-5-116** is amended to read:

1021 **19-5-116. Limitation on effluent limitation standards for BOD, Total Suspended**  
1022 **Solids, Bacteria, and pH for domestic or municipal sewage.**

1023 Unless required to meet instream water quality standards or federal requirements  
1024 established under the federal [~~Water Pollution Control Act~~] Clean Water Act, the board may  
1025 not establish, under Section **19-5-104**, effluent limitation standards for Biochemical Oxygen  
1026 Demand (BOD), Total Suspended Solids (SS), [~~Coliforms~~] Bacteria, and pH for domestic or  
1027 municipal sewage [~~which~~] that are more stringent than the following:

1028 (1) Biochemical Oxygen Demand (BOD): The arithmetic mean of BOD values  
1029 determined on effluent samples collected during any 30-day period may not exceed 25 mg/l,  
1030 nor shall the arithmetic mean exceed 35 mg/l during any seven-day period.

1031 (2) Total Suspended Solids (SS): The arithmetic mean of SS values determined on  
1032 effluent samples collected during any 30-day period may not exceed 25 mg/l, nor shall the  
1033 arithmetic mean exceed 35 mg/l during any seven-day period.

1034 (3) [~~Coliform~~] Bacteria:

1035 (a) The geometric mean of total coliforms and fecal coliform bacteria in effluent  
1036 samples collected during any 30-day period may not exceed either 2000/100 ml for total  
1037 coliforms or 200/100 ml for fecal coliforms. The geometric mean during any seven-day period

1038 may not exceed 2500/100 ml for total coliforms or 250/100 for fecal coliforms.

1039 (b) The geometric mean of E. coli bacteria in effluent samples collected during any  
1040 30-day period shall not exceed 126 per 100 mL nor shall the geometric mean exceed 158 per  
1041 100 mL respectively during any 7-day period.

1042 (4) pH: The pH level shall be maintained at a level not less than 6.5 or greater than 9.0.

1043 Section 18. Section **19-6-102** is amended to read:

1044 **19-6-102. Definitions.**

1045 As used in this part:

1046 (1) "Board" means the Waste Management and Radiation Control Board created in  
1047 Section [19-1-106](#).

1048 (2) "Closure plan" means a plan under Section [19-6-108](#) to close a facility or site at  
1049 which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or  
1050 disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the  
1051 facility or site.

1052 (3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"  
1053 means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or  
1054 disposal.

1055 (b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"  
1056 does not include a facility that:

1057 (i) receives waste for recycling;

1058 (ii) receives waste to be used as fuel, in compliance with federal and state  
1059 requirements; or

1060 (iii) is solely under contract with a local government within the state to dispose of  
1061 nonhazardous solid waste generated within the boundaries of the local government.

1062 (4) "Construction waste or demolition waste":

1063 (a) means waste from building materials, packaging, and rubble resulting from  
1064 construction, demolition, remodeling, and repair of pavements, houses, commercial buildings,  
1065 and other structures, and from road building and land clearing; and

- 1066 (b) does not include:
- 1067 (i) asbestos;
- 1068 (ii) contaminated soils or tanks resulting from remediation or cleanup at a release or  
1069 spill;
- 1070 (iii) waste paints;
- 1071 (iv) solvents;
- 1072 (v) sealers;
- 1073 (vi) adhesives; or
- 1074 (vii) hazardous or potentially hazardous materials similar to that described in  
1075 Subsections (4)(b)(i) through (vi).
- 1076 (5) "Director" means the director of the Division of Waste Management and Radiation  
1077 Control.
- 1078 (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or  
1079 placing of any solid or hazardous waste into or on land or water so that the waste or any  
1080 constituent of the waste may enter the environment, be emitted into the air, or discharged into  
1081 any waters, including groundwaters.
- 1082 (7) "Division" means the Division of Waste Management and Radiation Control,  
1083 created in Subsection [19-1-105\(1\)\(d\)](#).
- 1084 (8) "Generation" or "generated" means the act or process of producing nonhazardous  
1085 solid or hazardous waste.
- 1086 (9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other  
1087 than household waste that, because of its quantity, concentration, or physical, chemical, or  
1088 infectious characteristics may cause or significantly contribute to an increase in mortality or an  
1089 increase in serious irreversible or incapacitating reversible illness or may pose a substantial  
1090 present or potential hazard to human health or the environment when improperly treated,  
1091 stored, transported, disposed of, or otherwise managed.
- 1092 (b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).
- 1093 (10) "Health facility" means a:

- 1094 (a) hospital;
  - 1095 (b) psychiatric hospital;
  - 1096 (c) home health agency;
  - 1097 (d) hospice;
  - 1098 (e) skilled nursing facility;
  - 1099 (f) intermediate care facility;
  - 1100 (g) intermediate care facility for people with an intellectual disability;
  - 1101 (h) residential health care facility;
  - 1102 (i) maternity home or birthing center;
  - 1103 (j) free standing ambulatory surgical center;
  - 1104 (k) facility owned or operated by a health maintenance organization;
  - 1105 (l) state renal disease treatment center, including a free standing hemodialysis unit;
  - 1106 (m) the office of a private physician or dentist whether for individual or private  
1107 practice;
  - 1108 (n) veterinary clinic; or
  - 1109 (o) mortuary.
- 1110 (11) "Household waste" means any waste material, including garbage, trash, and  
1111 sanitary wastes in septic tanks, derived from households, including single-family and  
1112 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,  
1113 campgrounds, picnic grounds, and day-use recreation areas.
- 1114 (12) "Infectious waste" means a solid waste that contains or may reasonably be  
1115 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by  
1116 a susceptible host could result in an infectious disease.
- 1117 (13) "Manifest" means the form used for identifying the quantity, composition, origin,  
1118 routing, and destination of hazardous waste during its transportation from the point of  
1119 generation to the point of disposal, treatment, or storage.
- 1120 (14) "Mixed waste" means material that is a hazardous waste as defined in this chapter  
1121 and is also radioactive as defined in Section [19-3-102](#).



1122 (15) "Modification [~~plan~~] request" means a [~~plan~~] request under Section 19-6-108 to  
1123 modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or  
1124 treating, storing, or disposing of hazardous waste.

1125 (16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan"  
1126 means a plan or approval under Section 19-6-108, including:

1127 (a) a plan to own, construct, or operate a facility or site for the purpose of transferring,  
1128 treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of  
1129 hazardous waste;

1130 (b) a closure plan;

1131 (c) a modification [~~plan~~] request; or

1132 (d) an approval that the director is authorized to issue.

1133 (17) "Permit" includes an operation plan.

1134 [~~(17)~~] (18) "Permittee" means a person who is obligated under an operation plan.

1135 [~~(18)~~] (19) (a) "Solid waste" means [~~any~~] garbage, refuse, sludge, including sludge  
1136 from a waste treatment plant, water supply treatment plant, or air pollution control facility, or  
1137 other discarded material, including solid, liquid, semi-solid, or contained gaseous material  
1138 resulting from industrial, commercial, mining, or agricultural operations and from community  
1139 activities [~~but~~].

1140 (b) "Solid waste" does not include solid or dissolved materials in domestic sewage or  
1141 in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5,  
1142 Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

1143 [~~(b)~~] (c) "Solid waste" does not include metal that is:

1144 (i) purchased as a valuable commercial commodity; and

1145 (ii) not otherwise hazardous waste or subject to conditions of the federal hazardous  
1146 waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

1147 [~~(19)~~] (20) "Solid waste management facility" means the same as that term is defined  
1148 in Section 19-6-502.

1149 [~~(20)~~] (21) "Storage" means the actual or intended containment of solid or hazardous

1150 waste either on a temporary basis or for a period of years in such a manner as not to constitute  
1151 disposal of the waste.

1152 ~~[(21)]~~ (22) (a) "Transfer" means the collection of nonhazardous solid waste from a  
1153 permanent, fixed, supplemental collection facility for movement to a vehicle for movement to  
1154 an offsite nonhazardous solid waste storage or disposal facility.

1155 (b) "Transfer" does not mean:

1156 (i) the act of moving nonhazardous solid waste from one location to another location  
1157 on the site where the nonhazardous solid waste is generated; or

1158 (ii) placement of nonhazardous solid waste on the site where the nonhazardous solid  
1159 waste is generated in preparation for movement off that site.

1160 ~~[(22)]~~ (23) "Transportation" means the off-site movement of solid or hazardous waste  
1161 to any intermediate point or to any point of storage, treatment, or disposal.

1162 ~~[(23)]~~ (24) "Treatment" means a method, technique, or process designed to change the  
1163 physical, chemical, or biological character or composition of any solid or hazardous waste so as  
1164 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for  
1165 recovery, amenable to storage, or reduced in volume.

1166 ~~[(24)]~~ (25) "Underground storage tank" means a tank that is regulated under Subtitle I  
1167 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

1168 Section 19. Section **19-6-102.1** is amended to read:

1169 **19-6-102.1. Treatment or disposal -- Exclusions.**

1170 As used in Subsections ~~[19-6-104(3)(e)(ii)(B);~~ 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B),  
1171 and 19-6-119(1)(a), the term "treatment ~~[and]~~ or disposal" specifically excludes the recycling,  
1172 use, reuse, or reprocessing of:

1173 (1) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste  
1174 generated primarily from the combustion of coal or other fossil fuels;

1175 (2) waste from the extraction, beneficiation, and processing of ores and minerals; or

1176 (3) cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding,  
1177 sand blasting, road construction, railway ballast, construction fill, aggregate, and other

1178 construction-related purposes.

1179 Section 20. Section **19-6-104** is amended to read:

1180 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

1181 [~~(1) The board may:~~]

1182 [~~(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative~~  
 1183 ~~Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;]~~

1184 [~~(b) recommend that the director:~~]

1185 [~~(i) issue orders necessary to enforce the provisions of the Radiation Control Act;]~~

1186 [~~(ii) enforce the orders by appropriate administrative and judicial proceedings; or]~~

1187 [~~(iii) institute judicial proceedings to secure compliance with this part;]~~

1188 [~~(c) (i) hold a hearing that is not an adjudicative proceeding; or]~~

1189 [~~(ii) appoint hearing officers to conduct a hearing that is not an adjudicative~~  
 1190 ~~proceeding;]~~

1191 [~~(d) accept, receive, and administer grants or other funds or gifts from public and~~  
 1192 ~~private agencies, including the federal government, for the purpose of carrying out any of the~~  
 1193 ~~functions of the Radiation Control Act; or]~~

1194 [~~(e) order the director to impound radioactive material in accordance with Section~~  
 1195 ~~19-3-111;]~~

1196 [(2) (a) ~~The board shall promote the planning and application of pollution prevention~~  
 1197 ~~and radioactive waste minimization measures to prevent the unnecessary waste and depletion~~  
 1198 ~~of natural resources; and]~~

1199 [~~(b) review the qualifications of, and issue certificates of approval to, individuals who:]~~

1200 [~~(i) survey mammography equipment; or]~~

1201 [~~(ii) oversee quality assurance practices at mammography facilities;]~~

1202 [~~(3)] (1) The board shall:~~

1203 (a) survey solid and hazardous waste generation and management practices within this  
 1204 state and, after public hearing and after providing opportunities for comment by local  
 1205 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a

1206 waste management plan for the state;

1207 ~~[(b) order the director to:]~~

1208 ~~[(i) issue orders necessary to effectuate the provisions of this part and rules made under~~

1209 ~~this part;]~~

1210 ~~[(ii) enforce the orders by administrative and judicial proceedings; or]~~

1211 ~~[(iii) initiate judicial proceedings to secure compliance with this part;]~~

1212 ~~[(e)]~~ (b) promote the planning and application of resource recovery systems to prevent

1213 the unnecessary waste and depletion of natural resources;

1214 ~~[(d)]~~ (c) meet the requirements of federal law related to solid and hazardous wastes to

1215 ~~[insure]~~ ensure that the solid and hazardous wastes program provided for in this part is

1216 qualified to assume primacy from the federal government in control over solid and hazardous

1217 waste;

1218 ~~[(e)]~~ (d) (i) require ~~[any]~~ a facility, including ~~[those]~~ a facility listed in Subsection

1219 ~~[(3)(e)(ii)]~~ ~~(1)(d)(ii)~~, to submit plans, specifications, and other information required by the

1220 board to the director ~~[prior to]~~ before construction, modification, installation, or establishment

1221 of a facility to allow the director to determine whether the proposed construction, modification,

1222 installation, or establishment of the facility will be in accordance with rules made under this

1223 part;

1224 (ii) ~~[facilities]~~ consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ ~~(1)(d)(i)~~ ~~[include~~

1225 ~~any]~~ to include an incinerator that is intended for disposing of nonhazardous solid waste; ~~[and]~~

1226 (iii) consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ ~~(1)(d)(i)~~ ~~[does]~~ to not

1227 include a commercial facility that is solely for the purpose of recycling, reuse, or reprocessing

1228 the following waste:

1229 (A) fly ash waste;

1230 (B) bottom ash waste;

1231 (C) slag waste; or

1232 (D) flue gas emission control waste generated primarily from the combustion of coal or

1233 other fossil fuels; and

1234 (iv) consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ (1)(d)(i) [does] to not  
1235 include a facility when the following waste is generated and the disposal occurs at an on-site  
1236 location owned and operated by the generator of the waste:

1237 (A) waste from the extraction, beneficiation, and processing of ores and minerals listed  
1238 in 40 C.F.R. 261.4(b)(7)(ii); or

1239 (B) cement kiln dust; and  
1240 ~~[(f)]~~ (e) to ensure compliance with applicable statutes and ~~[regulations]~~ rules:

1241 (i) review a settlement negotiated by the director in accordance with Subsection  
1242 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

1243 (ii) approve or disapprove the settlement described in Subsection (1)(e)(i).

1244 ~~[(4)]~~ (2) The board may:

1245 (a) (i) hold a hearing that is not an adjudicative proceeding; or

1246 (ii) appoint a hearing ~~[officers]~~ officer to conduct a hearing that is not an adjudicative  
1247 proceeding; or

1248 (b) advise, consult, cooperate with, or provide technical assistance to ~~[other agencies]~~  
1249 another agency of the state or federal government, ~~[other states, interstate agencies, or affected~~  
1250 ~~groups, political subdivisions, industries, or other persons]~~ another state, an interstate agency,  
1251 an affected group, an affected political subdivision, an affected industry, or other person in  
1252 carrying out the purposes of this part.

1253 ~~[(5)]~~ (3) (a) The board shall establish a comprehensive statewide waste management  
1254 plan.

1255 (b) The plan shall:

1256 (i) incorporate the solid waste management plans submitted by the counties;

1257 (ii) provide an estimate of solid waste capacity needed in the state for the next 20  
1258 years;

1259 (iii) assess the state's ability to minimize waste and recycle;

1260 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste  
1261 needs and existing capacity;

1262 (v) evaluate facility siting, design, and operation;  
1263 (vi) review funding alternatives for solid waste management; and  
1264 (vii) address other solid waste management concerns that the board finds appropriate  
1265 for the preservation of the public health and the environment.

1266 (c) The board shall consider the economic viability of solid waste management  
1267 strategies [~~prior to~~] before incorporating [~~them~~] the solid waste management strategies into the  
1268 plan and shall consider the needs of population centers.

1269 (d) The board shall review and modify the comprehensive statewide solid waste  
1270 management plan no less frequently than every five years.

1271 [~~(6)~~] (4) (a) The board shall determine the type of solid waste generated in the state and  
1272 tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid  
1273 waste management plan.

1274 (b) The board shall review and modify the inventory no less frequently than once every  
1275 five years.

1276 [~~(7)~~] (5) Subject to the limitations contained in Subsection 19-6-102[~~(18)(b)~~](19)(c),  
1277 the board shall establish siting criteria for nonhazardous solid waste disposal facilities,  
1278 including incinerators.

1279 [~~(8)~~] (6) The board may not issue, amend, renew, modify, revoke, or terminate any of  
1280 the following that are subject to the authority granted to the director under Section 19-6-107:

- 1281 (a) a permit;
- 1282 (b) a license;
- 1283 (c) a registration;
- 1284 (d) a certification; or
- 1285 (e) another administrative authorization made by the director.

1286 [~~(9)~~] (7) A board member may not speak or act for the board unless the board member  
1287 is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

1288 Section 21. Section **19-6-105** is amended to read:

1289 **19-6-105. Rules of board.**

1290 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah  
1291 Administrative Rulemaking Act:

1292 (a) establishing minimum standards for protection of human health and the  
1293 environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of  
1294 solid waste, including requirements for the approval by the director of plans for the  
1295 construction, extension, operation, and closure of solid waste disposal sites;

1296 (b) identifying wastes [~~which~~] that are determined to be hazardous, including wastes  
1297 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of  
1298 1976, 42 U.S.C., Sec. 6921, et seq.;

1299 (c) governing generators and transporters of hazardous wastes and owners and  
1300 operators of hazardous waste treatment, storage, and disposal facilities, including requirements  
1301 for keeping records, monitoring, submitting reports, and using a manifest, without treating  
1302 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling  
1303 muds, and oil production brines in a manner more stringent than they are treated under federal  
1304 standards;

1305 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is  
1306 subject to a plan approval under Section 19-6-108 or [~~which~~] that received waste after July 26,  
1307 1982, to take appropriate corrective action or other response measures for releases of hazardous  
1308 waste or hazardous waste constituents from the facility, including releases beyond the  
1309 boundaries of the facility;

1310 (e) specifying the terms and conditions under which the director shall approve,  
1311 disapprove, revoke, or review hazardous wastes operation plans;

1312 (f) governing public hearings and participation under this part;

1313 (g) establishing standards governing underground storage tanks, in accordance with  
1314 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

1315 (h) relating to the collection, transportation, processing, treatment, storage, and  
1316 disposal of infectious waste in health facilities in accordance with the requirements of Section  
1317 19-6-106;

1318 (i) defining closure plans [~~as major or minor~~], modification requests, or both for  
1319 hazardous waste, as class I, class I with prior director approval, class II, or class III;  
1320 [~~(j) defining modification plans as major or minor;~~] and  
1321 [~~(k)~~] (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or  
1322 organic waste substance of any kind to be thrown, or remain upon or in [~~any~~] a street, road,  
1323 ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring,  
1324 or well.

1325 (2) If any of the following are determined to be hazardous waste and are therefore  
1326 subjected to the provisions of this part, the board shall, in the case of landfills or surface  
1327 impoundments that receive the solid wastes, take into account the special characteristics of the  
1328 wastes, the practical difficulties associated with applying requirements for other wastes to the  
1329 wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil  
1330 chemistry at the site, if the modified requirements assure protection of human health and the  
1331 environment and are no more stringent than federal standards applicable to waste:

1332 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,  
1333 including phosphate rock and overburden from the mining of uranium;

1334 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste  
1335 generated primarily from the combustion of coal or other fossil fuels; and

1336 (c) cement kiln dust waste.

1337 (3) The board shall establish criteria for siting commercial hazardous waste treatment,  
1338 storage, and disposal facilities, including commercial hazardous waste incinerators. Those  
1339 criteria shall apply to any facility or incinerator for which plan approval is required under  
1340 Section [19-6-108](#).

1341 Section 22. Section **19-6-107** is amended to read:

1342 **19-6-107. Director -- Appointment -- Powers.**

1343 (1) The executive director shall appoint the director. The director shall serve under the  
1344 administrative direction of the executive director.

1345 (2) The director shall:



- 1346           ~~[(a) develop programs to promote and protect the public from radiation sources in the~~  
1347 ~~state;]~~
- 1348           ~~[(b) advise, consult, cooperate with, and provide technical assistance to other agencies,~~  
1349 ~~states, the federal government, political subdivisions, industries, and other persons in carrying~~  
1350 ~~out the provisions of the Radiation Control Act;]~~
- 1351           ~~[(c) receive specifications or other information relating to licensing applications for~~  
1352 ~~radioactive materials or registration of radiation sources for review, approval, disapproval, or~~  
1353 ~~termination;]~~
- 1354           ~~[(d) issue permits, licenses, registrations, certifications, and other administrative~~  
1355 ~~authorizations;]~~
- 1356           ~~[(e) review and approve plans;]~~
- 1357           ~~[(f) assess penalties in accordance with Section [19-3-109](#);~~
- 1358           ~~[(g) impound radioactive material under Section [19-3-111](#);~~
- 1359           ~~[(h)]~~ (a) issue ~~[orders]~~ an order necessary to enforce ~~[the provisions of]~~ this part~~[, to]~~;
- 1360           (b) enforce ~~[the orders]~~ an order by appropriate administrative and judicial  
1361 proceedings~~[, or to]~~;
- 1362           (c) institute judicial proceedings to secure compliance with this part;
- 1363           ~~[(i)]~~ (d) carry out inspections pursuant to Section [19-6-109](#);
- 1364           ~~[(j)]~~ (e) require submittal of specifications or other information relating to hazardous  
1365 waste plans for review, and approve, disapprove, revoke, or review the plans;
- 1366           ~~[(k)]~~ (f) develop programs for solid waste and hazardous waste management and  
1367 control within the state;
- 1368           ~~[(l)]~~ (g) advise, consult, and cooperate with ~~[other agencies]~~ another agency of the  
1369 state, the federal government, ~~[other states and interstate agencies, and with]~~ another state, an  
1370 interstate agency, an affected [groups] group, an affected political [subdivisions, and  
1371 industries] subdivision, an affected industry, or other affected person in furtherance of the  
1372 purposes of this part;
- 1373           ~~[(m)]~~ (h) subject to the provisions of this part, enforce rules made or revised by the

1374 board through the issuance of orders;

1375 ~~[(n)]~~ (i) review plans, specifications or other data relative to solid waste and hazardous  
1376 waste control systems or any part of the systems as provided in this part;

1377 ~~[(o)]~~ (j) under the direction of the executive director, represent the state in ~~[aff]~~ matters  
1378 pertaining to interstate solid waste and hazardous waste management and control including,  
1379 under the direction of the board, entering into interstate compacts and other similar agreements;  
1380 and

1381 ~~[(p)]~~ (k) as authorized by the board and subject to the provisions of this part, act as  
1382 executive secretary of the board under the direction of the ~~[chairman]~~ chair of the board.

1383 (3) The director may:

1384 (a) subject to Subsection 19-6-104~~[(3)(f)]~~(1)(e), settle or compromise any  
1385 administrative or civil action initiated to compel compliance with this part and any rules  
1386 adopted under this part;

1387 (b) employ full-time employees necessary to carry out this part;

1388 (c) ~~[as authorized by the board pursuant to the provisions of this part,]~~ authorize any  
1389 employee or representative of the department to conduct inspections as permitted in this part;

1390 (d) encourage, participate in, or conduct studies, investigations, research, and  
1391 demonstrations relating to solid waste and hazardous waste management and control necessary  
1392 for the discharge of duties assigned under this part;

1393 (e) collect and disseminate information relating to solid waste and hazardous waste  
1394 management control; and

1395 (f) cooperate with any person in studies and research regarding solid waste and  
1396 hazardous waste management and control~~[;]~~;

1397 ~~[(g) cooperate with any person in studies, research, or demonstration projects regarding  
1398 radioactive waste management or control of radiation sources;]~~

1399 ~~[(h) settle or compromise any civil action initiated by the division to compel  
1400 compliance with this chapter or the rules made under this chapter; and]~~

1401 ~~[(i) authorize employees or representatives of the department to enter, at reasonable~~

1402 ~~times and upon reasonable notice, in and upon public or private property for the purpose of~~  
1403 ~~inspecting and investigating conditions and records concerning radiation sources.]~~

1404 Section 23. Section **19-6-108** is amended to read:

1405 **19-6-108. New nonhazardous solid or hazardous waste operation plans for**  
1406 **facility or site -- Administrative and legislative approval required -- Exemptions from**  
1407 **legislative and gubernatorial approval -- Time periods for review -- Information required**  
1408 **-- Other conditions -- Automatic revocation of approval -- Periodic review.**

1409 (1) For purposes of this section, the following items shall be treated as submission of a  
1410 new operation plan:

1411 (a) the submission of a revised operation plan specifying a different geographic site  
1412 than a previously submitted plan;

1413 (b) an application for modification of a commercial hazardous waste incinerator if the  
1414 construction or the modification would increase the hazardous waste incinerator capacity above  
1415 the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in  
1416 the operation plan application as of January 1, 1990, if no operation plan approval has been  
1417 issued as of January 1, 1990;

1418 (c) an application for modification of a commercial nonhazardous solid waste  
1419 incinerator if the construction of the modification would cost 50% or more of the cost of  
1420 construction of the original incinerator or the modification would result in an increase in the  
1421 capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity  
1422 or throughput that was approved in the operation plan as of January 1, 1990, or the initial  
1423 approved operation plan if the initial approval is subsequent to January 1, 1990;

1424 (d) an application for modification of a commercial nonhazardous solid or hazardous  
1425 waste treatment, storage, or disposal facility, other than an incinerator, if the modification  
1426 would be outside the boundaries of the property owned or controlled by the applicant, as shown  
1427 in the application or approved operation plan as of January 1, 1990, or the initial approved  
1428 operation plan if the initial approval is subsequent to January 1, 1990; or

1429 (e) a submission of an operation plan to construct a facility, if previous approvals of the

1430 operation plan to construct the facility have been revoked pursuant to Subsection  
1431 (3)(c)[~~(iii)~~](iv).

1432 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput  
1433 tonnage specified for the trial burn in the operation plan or the operation plan application if no  
1434 operation plan approval has been issued as of January 1, 1990, and on annual operations of  
1435 7,000 hours.

1436 (3) (a) (i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own,  
1437 construct, modify, or operate [~~any~~] a facility or site for the purpose of transferring, treating, or  
1438 disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste  
1439 without first submitting and receiving the approval of the director for an operation plan for that  
1440 facility or site.

1441 (ii) (A) A permittee who is the current owner of a facility or site that is subject to an  
1442 operation plan may submit to the director information, a report, a plan, or other request for  
1443 approval for a proposed activity under an operation plan:

1444 (I) after obtaining the consent of any other permittee who is a current owner of the  
1445 facility or site; and

1446 (II) without obtaining the consent of any other permittee who is not a current owner of  
1447 the facility or site.

1448 (B) The director may not:

1449 (I) withhold an approval of an operation plan requested by a permittee who is a current  
1450 owner of the facility or site on the grounds that another permittee who is not a current owner of  
1451 the facility or site has not consented to the request; or

1452 (II) give an approval of an operation plan requested by a permittee who is not a current  
1453 owner before receiving consent of the current owner of the facility or site.

1454 (C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the  
1455 waste from the extraction, beneficiation, and processing of ores and minerals listed in 40  
1456 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an  
1457 on-site location owned and operated by the generator of the waste.

1458 (b) (i) Except for [~~facilities that receive~~] a facility that receives the following wastes  
1459 solely for the purpose of recycling, reuse, or reprocessing, a person may not own, construct,  
1460 modify, or operate any commercial facility that accepts for treatment or disposal, with the  
1461 intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting  
1462 a request to and receiving the approval of the director for an operation plan for that facility site.

1463 (ii) Wastes referred to in Subsection (3)(b)(i) are:

1464 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste  
1465 generated primarily from the combustion of coal or other fossil fuels;

1466 (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

1467 (C) cement kiln dust wastes.

1468 (c) (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the  
1469 person receives:

1470 (A) local government approval and the approval described in Subsection (3)(a);

1471 (B) approval from the Legislature; and

1472 (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B),  
1473 approval from the governor.

1474 (ii) A facility referred to in Subsection (3)(c)(i) is:

1475 (A) a commercial nonhazardous solid waste disposal facility;

1476 (B) ~~except for [facilities that receive the following wastes]~~ a facility that receives a  
1477 waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing,  
1478 any commercial facility that accepts for treatment or disposal, with the intent to make a profit[:

1479 ~~fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated~~

1480 ~~primarily from the combustion of coal or other fossil fuels; wastes from the extraction,~~

1481 ~~beneficiation, and processing of ores and minerals; or cement kiln dust wastes];~~ or

1482 (C) a commercial hazardous waste treatment, storage, or disposal facility.

1483 (iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

1484 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste  
1485 generated primarily from the combustion of coal or other fossil fuels;

1486 (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

1487 (C) cement kiln dust wastes.

1488 ~~[(iii)]~~ (iv) The required approvals described in Subsection (3)(c)(i) for a facility  
1489 described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

1490 (A) the governor's approval is received on or after May 10, 2011, and the facility is not  
1491 operational within five years after the day on which the governor's approval is received; or

1492 (B) the governor's approval is received before May 10, 2011, and the facility is not  
1493 operational on or before May 10, 2016.

1494 ~~[(iv)]~~ (v) The required approvals described in Subsection (3)(c)(i) for a facility  
1495 described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not  
1496 transferrable to another person for five years after the day on which the governor's approval is  
1497 received.

1498 (d) A person need not obtain gubernatorial or legislative approval for the construction  
1499 of a hazardous waste facility for which an operating plan has been approved by or submitted  
1500 for approval to the executive secretary of the board under this section before April 24, 1989,  
1501 and which has been determined, on or before December 31, 1990, by the executive secretary of  
1502 the board to be complete, in accordance with state and federal requirements for operating plans  
1503 for hazardous waste facilities even if a different geographic site is subsequently submitted.

1504 (e) A person need not obtain gubernatorial and legislative approval for the construction  
1505 of a commercial nonhazardous solid waste disposal facility for which an operation plan has  
1506 been approved by or submitted for approval to the executive secretary of the board under this  
1507 section on or before January 1, 1990, and which, on or before December 31, 1990, the  
1508 executive secretary of the board determines to be complete, in accordance with state and  
1509 federal requirements applicable to operation plans for nonhazardous solid waste facilities.

1510 (f) ~~[Any]~~ A person owning or operating a facility or site on or before November 19,  
1511 1980, who has given timely notification as required by Section 3010 of the Resource  
1512 Conservation and Recovery Act of 1976, 42 U.S.C. ~~[Section]~~ Sec. 6921, et seq., and who has  
1513 submitted a proposed hazardous waste plan under this section for that facility or site, may

1514 continue to operate that facility or site without violating this section until the plan is approved  
1515 or disapproved under this section.

1516 (g) (i) The director shall suspend acceptance of further applications for a commercial  
1517 nonhazardous solid or hazardous waste facility upon a finding that the director cannot  
1518 adequately oversee existing and additional facilities for permit compliance, monitoring, and  
1519 enforcement.

1520 (ii) The director shall report any suspension to the Natural Resources, Agriculture, and  
1521 Environment Interim Committee.

1522 (4) The director shall review [~~each~~] a proposed nonhazardous solid or hazardous waste  
1523 operation plan to determine whether that plan complies with [~~the provisions of~~] this part and  
1524 the applicable rules of the board.

1525 (5) (a) If the facility is a class I or class II facility, the director shall approve or  
1526 disapprove that plan within 270 days from the date [~~it~~] the plan is submitted.

1527 (b) Within 60 days after receipt of the plans, specifications, or other information  
1528 required by this section for a class I or II facility, the director shall determine whether the plan  
1529 is complete and contains [~~all~~] the information necessary to process the plan for approval.

1530 (c) (i) If the plan for a class I or II facility is determined to be complete, the director  
1531 shall issue a notice of completeness.

1532 (ii) If the plan is determined by the director to be incomplete, the director shall issue a  
1533 notice of deficiency, listing the additional information to be provided by the owner or operator  
1534 to complete the plan.

1535 (d) The director shall review information submitted in response to a notice of  
1536 deficiency within 30 days after receipt.

1537 (e) The following time periods may not be included in the 270 day plan review period  
1538 for a class I or II facility:

1539 (i) time awaiting response from the owner or operator to requests for information  
1540 issued by the director;

1541 (ii) time required for public participation and hearings for issuance of plan approvals;

1542 and

1543 (iii) time for review of the permit by other federal or state government agencies.

1544 (6) (a) If the facility is a class III or class IV facility, the director shall approve or  
1545 disapprove that plan within 365 days from the date [it] the plan is submitted.

1546 (b) The following time periods may not be included in the 365 day review period:

1547 (i) time awaiting response from the owner or operator to requests for information  
1548 issued by the director;

1549 (ii) time required for public participation and hearings for issuance of plan approvals;

1550 and

1551 (iii) time for review of the permit by other federal or state government agencies.

1552 (7) If, within 365 days after receipt of a modification [~~plan~~] request or closure plan for  
1553 any facility, the director determines that the proposed plan or request, or any part of [it] the  
1554 proposed plan or request, will not comply with applicable rules, the director shall issue an order  
1555 prohibiting any action under the proposed plan or request for modification or closure in whole  
1556 or in part.

1557 (8) [~~Any~~] A person who owns or operates a facility or site required to have an  
1558 approved hazardous waste operation plan under this section and who has pending a permit  
1559 application before the United States Environmental Protection Agency shall be treated as  
1560 having an approved plan until final administrative disposition of the permit application is made  
1561 under this section, unless the director determines that final administrative disposition of the  
1562 application has not been made because of the failure of the owner or operator to furnish any  
1563 information requested, or the facility's interim status has terminated under Section 3005 (e) of  
1564 the Resource Conservation and Recovery Act, 42 U.S.C. [~~Section~~] Sec. 6925 (e).

1565 (9) The director may not approve a proposed nonhazardous solid or hazardous waste  
1566 operation plan unless the plan contains the information that the board requires, including:

1567 (a) estimates of the composition, quantities, and concentrations of any hazardous waste  
1568 identified under this part and the proposed treatment, storage, or disposal of [it] the hazardous  
1569 waste;



1570 (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or  
1571 treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause  
1572 or significantly contribute to an increase in mortality, an increase in serious irreversible or  
1573 incapacitating reversible illness, or pose a substantial present or potential hazard to human  
1574 health or the environment;

1575 (c) consistent with the degree and duration of risks associated with the transfer,  
1576 treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of  
1577 specified hazardous waste, evidence of financial responsibility in whatever form and amount  
1578 that the director determines is necessary to [~~insure~~] ensure continuity of operation and that  
1579 upon abandonment, cessation, or interruption of the operation of the facility or site, [~~at~~] the  
1580 reasonable measures consistent with the available knowledge will be taken to [~~insure~~] ensure  
1581 that the waste subsequent to being treated, stored, or disposed of at the site or facility will not  
1582 present a hazard to the public or the environment;

1583 (d) evidence that the personnel employed at the facility or site have education and  
1584 training for the safe and adequate handling of nonhazardous solid or hazardous waste;

1585 (e) plans, specifications, and other information that the director considers relevant to  
1586 determine whether the proposed nonhazardous solid or hazardous waste operation plan will  
1587 comply with this part and the rules of the board;

1588 (f) compliance schedules, [~~where~~] when applicable, including schedules for corrective  
1589 action or other response measures for releases from [~~any~~] a solid waste management unit at the  
1590 facility, regardless of the time the waste was placed in the unit;

1591 (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or  
1592 hazardous waste facility other than a water treatment facility that treats, stores, or disposes  
1593 site-generated solid or hazardous waste onsite, a traffic impact study that:

1594 (i) takes into consideration the safety, operation, and condition of roadways serving the  
1595 proposed facility; and

1596 (ii) is reviewed and approved by the Department of Transportation or a local highway  
1597 authority, whichever has jurisdiction over each road serving the proposed facility, with the cost

1598 of the review paid by the person who submits the proposed operation plan; and  
1599 (h) for a proposed operation plan submitted on or after July 1, 2013, for a new  
1600 nonhazardous solid waste facility owned or operated by a local government, financial  
1601 information that discloses [~~att~~] the costs of establishing and operating the facility, including:

- 1602 (i) land acquisition and leasing;
- 1603 (ii) construction;
- 1604 (iii) estimated annual operation;
- 1605 (iv) equipment;
- 1606 (v) ancillary structures;
- 1607 (vi) roads;
- 1608 (vii) transfer stations; and
- 1609 (viii) using other operations that are not contiguous to the proposed facility but are  
1610 necessary to support the facility's construction and operation.

1611 (10) The director may not approve a commercial nonhazardous solid or hazardous  
1612 waste operation plan that meets the requirements of Subsection (9) unless [~~it~~] the operation  
1613 plan contains the information required by the board, including:

- 1614 (a) evidence that the proposed commercial facility has a proven market of  
1615 nonhazardous solid or hazardous waste, including:
  - 1616 (i) information on the source, quantity, and price charged for treating, storing, and  
1617 disposing of potential nonhazardous solid or hazardous waste in the state and regionally;
  - 1618 (ii) a market analysis of the need for a commercial facility given existing and potential  
1619 generation of nonhazardous solid or hazardous waste in the state and regionally; and
  - 1620 (iii) a review of other existing and proposed commercial nonhazardous solid or  
1621 hazardous waste facilities regionally and nationally that would compete for the treatment,  
1622 storage, or disposal of the nonhazardous solid or hazardous waste;
- 1623 (b) a description of the public benefits of the proposed facility, including:
  - 1624 (i) the need in the state for the additional capacity for the management of nonhazardous  
1625 solid or hazardous waste;

1626 (ii) the energy and resources recoverable by the proposed facility;  
1627 (iii) the reduction of nonhazardous solid or hazardous waste management methods,  
1628 [~~which~~] that are less suitable for the environment, that would be made possible by the proposed  
1629 facility; and

1630 (iv) whether any other available site or method for the management of hazardous waste  
1631 would be less detrimental to the public health or safety or to the quality of the environment;  
1632 and

1633 (c) compliance history of an owner or operator of a proposed commercial  
1634 nonhazardous solid or hazardous waste treatment, storage, or disposal facility, [~~which~~] that  
1635 may be applied by the director in a nonhazardous solid or hazardous waste operation plan  
1636 decision, including any plan conditions.

1637 (11) The director may not approve a commercial nonhazardous solid or hazardous  
1638 waste facility operation plan unless based on the application, and in addition to the  
1639 determination required in Subsections (9) and (10), the director determines that:

1640 (a) the probable beneficial environmental effect of the facility to the state outweighs  
1641 the probable adverse environmental effect; and

1642 (b) there is a need for the facility to serve industry within the state.

1643 (12) Approval of a nonhazardous solid or hazardous waste operation plan may be  
1644 revoked, in whole or in part, if the person to whom approval of the plan has been given fails to  
1645 comply with that plan.

1646 (13) The director shall review [~~all~~] approved nonhazardous solid and hazardous waste  
1647 operation plans at least once every five years.

1648 (14) [~~The provisions of~~] Subsections (10) and (11) do not apply to a hazardous waste  
1649 [~~facilities~~] facility in existence or to [~~applications~~] an application filed or pending in the  
1650 department [~~prior to~~] before April 24, 1989, that are determined by the executive secretary of  
1651 the board on or before December 31, 1990, to be complete, in accordance with state and federal  
1652 requirements applicable to operation plans for hazardous waste facilities.

1653 (15) [~~The provisions of~~] Subsections (9), (10), and (11) do not apply to a nonhazardous

1654 solid waste facility in existence or to an application filed or pending in the department [~~prior~~  
1655 ~~to~~] before January 1, 1990, that is determined by the director, on or before December 31, 1990,  
1656 to be complete in accordance with state and federal requirements applicable to operation plans  
1657 for nonhazardous solid waste facilities.

1658 (16) Nonhazardous solid waste generated outside of this state that is defined as  
1659 hazardous waste in the state where [~~it~~] the nonhazardous solid waste is generated and [~~which~~]  
1660 that is received for disposal in this state may not be disposed of at a nonhazardous waste  
1661 disposal facility owned and operated by local government or a facility under contract with a  
1662 local government solely for disposal of nonhazardous solid waste generated within the  
1663 boundaries of the local government, unless disposal is approved by the director.

1664 (17) This section may not be construed to exempt [~~any~~] a facility from applicable  
1665 regulation under the federal Atomic Energy Act, 42 U.S.C. [~~Sections~~] Sec. 2014 and 2021  
1666 through 2114.

1667 Section 24. Section **19-6-114** is amended to read:

1668 **19-6-114. Service of notice, order, or other document.**

1669 [~~Proof of~~] In accordance with procedural rules adopted by the department, service of  
1670 any notice, order, or other document issued by, or under the authority of, the [~~board~~] director  
1671 may be made [~~in the same manner as in the service of a summons in a civil action. Proof of~~  
1672 ~~service shall be filed with the board or may be made~~] by forwarding a copy of that notice,  
1673 order, or other document by registered mail, directed to the [~~person at his last known~~] person's  
1674 designated address[~~, with an affidavit to that effect being filed with the board~~].

1675 Section 25. Section **19-6-120** is amended to read:

1676 **19-6-120. New hazardous waste operation plans -- Designation of hazardous**  
1677 **waste facilities -- Fees for filing and plan review.**

1678 (1) For purposes of this section, the following items shall be treated as submission of a  
1679 new hazardous waste operation plan:

1680 (a) the submission of a revised hazardous waste operation plan specifying a different  
1681 geographic site than a previously submitted plan;

1682 (b) an application for modification of a commercial hazardous waste incinerator if the  
1683 construction or the modification would increase the commercial hazardous waste incinerator  
1684 capacity above the capacity specified in the operation plan as of January 1, 1990, or the  
1685 capacity specified in the operation plan application as of January 1, 1990, if no operation plan  
1686 approval has been issued as of January 1, 1990; or

1687 (c) an application for modification of a commercial hazardous waste treatment, storage,  
1688 or disposal facility, other than an incinerator, if the modification would be outside the  
1689 boundaries of the property owned or controlled by the applicant, as shown in the application or  
1690 approved operation plan as of January 1, 1990, or the initial approved operation plan if initial  
1691 approval is subsequent to January 1, 1990.

1692 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput  
1693 tonnage specified for the trial burn in the operation plan or the operation plan application if no  
1694 operation plan approval has been issued as of January 1, 1990, and on annual operations of  
1695 7,000 hours.

1696 (3) (a) ~~[Hazardous waste facilities that are]~~ A hazardous waste facility that is subject to  
1697 payment of fees under this section or Section 19-1-201 for plan reviews under Section  
1698 19-6-108 shall be designated by the department as either class I, class II, class III, or class IV  
1699 ~~[facilities]~~ facility.

1700 (b) The department shall designate a commercial hazardous waste ~~[facilities]~~ facility  
1701 containing either landfills, surface impoundments, land treatment units, thermal treatment  
1702 units, incinerators, or underground injection wells, which primarily receive wastes generated by  
1703 off-site sources not owned, controlled, or operated by the facility owner or operator, as a class I  
1704 ~~[facilities]~~ facility.

1705 (4) The maximum fee for filing and review of ~~[each]~~ a class I facility operation plan is  
1706 \$200,000, and is due and payable as follows:

1707 (a) ~~[The]~~ the owner or operator of a class I facility shall, at the time of filing for plan  
1708 review, pay to the department the nonrefundable sum of \$50,000~~[-]~~;

1709 (b) ~~[Upon]~~ upon issuance by the director of a notice of completeness under Section

1710 19-6-108, the owner or operator of the facility shall pay to the department an additional  
1711 nonrefundable sum of \$50,000[-]; and

1712 (c) ~~[The]~~ the department shall bill the owner or operator of the facility for any  
1713 additional actual costs of plan review, up to an additional \$100,000.

1714 (5) (a) The department shall designate a hazardous waste ~~[incinerators]~~ incinerator that  
1715 primarily receive wastes generated by sources owned, controlled, or operated by the facility  
1716 owner or operator as a class II ~~[facilities]~~ facility.

1717 (b) The maximum fee for filing and review of ~~[each]~~ a class II facility operation plan is  
1718 \$150,000, and shall be due and payable as follows:

1719 (i) ~~[The]~~ the owner or operator of a class II facility shall, at the time of filing for plan  
1720 review under Section 19-6-108, pay to the department the nonrefundable sum of \$50,000[-];  
1721 and

1722 (ii) ~~[The]~~ the department shall bill the owner or operator of the facility for any  
1723 additional actual costs of plan review, up to an additional \$100,000.

1724 (6) (a) The department shall designate a hazardous waste ~~[facilities]~~ facility containing  
1725 either landfills, surface impoundments, land treatment units, thermal treatment units, or  
1726 underground injection wells, that primarily receive wastes generated by sources owned,  
1727 controlled, or operated by the facility owner or operator, as a class III ~~[facilities]~~ facility.

1728 (b) The maximum fee for filing and review of ~~[each]~~ a class III facility operation plan  
1729 is \$100,000 and is due and payable as follows:

1730 (i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the  
1731 department the nonrefundable sum of \$1,000[-]; and

1732 (ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class III facility for  
1733 actual costs of operation plan review, up to an additional \$99,000.

1734 (7) (a) ~~[All other hazardous waste facilities are]~~ A hazardous waste facility not  
1735 described in Subsections (3) through (6) is designated as a class IV ~~[facilities]~~ facility.

1736 (b) The maximum fee for filing and review of ~~[each]~~ a class IV facility operation plan  
1737 is \$50,000 and is due and payable as follows:

1738 (i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the  
1739 department the nonrefundable sum of \$1,000[-]; and

1740 (ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class IV facility for  
1741 actual costs of operation plan review, up to an additional \$49,000.

1742 (8) (a) The maximum fee for filing and review of ~~[each major modification plan and~~  
1743 ~~major closure plan]~~ a temporary authorization request, class II or class III modification request,  
1744 or for a class I, class II, or class III facility is \$50,000 and is due and payable as follows:

1745 (i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the  
1746 department the nonrefundable sum of \$1,000[-]; and

1747 (ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility  
1748 for actual costs of the review, up to an additional \$49,000.

1749 (b) The maximum fee for filing and review of ~~[each minor modification and minor~~  
1750 ~~closure plan]~~ a class I modification request, for a class I, class II, or class III facility, and of  
1751 ~~[any]~~ a modification ~~[or closure plan]~~ request for a class IV facility, is \$20,000, and is due and  
1752 payable as follows:

1753 (i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the  
1754 department the nonrefundable sum of \$1,000[-]; and

1755 (ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility  
1756 for actual costs of review up to an additional \$19,000.

1757 (c) The owner or operator of a thermal treatment unit shall submit a trial or test burn  
1758 schedule 90 days ~~[prior]~~ before to any planned trial or test burn. At the time the schedule is  
1759 submitted, the owner or operator shall pay to the department the nonrefundable fee of \$25,000.  
1760 The department shall apply the fee to the costs of the review and processing of each trial or test  
1761 burn plan, trial or test burn, and trial or test burn data report. The department shall bill the  
1762 owner or operator of the facility for any additional actual costs of review and preparation.

1763 (9) (a) The owner or operator of a class III facility may obtain a plan review within the  
1764 time periods for a class II facility operation plan by paying, at the time of filing for plan review,  
1765 the maximum fee for a class II facility operation plan.

1766 (b) The owner or operator of a class IV facility may obtain a plan review within the  
1767 time periods for a class II facility operation plan by paying, at the time of filing for plan review,  
1768 the maximum fee for a class III facility operation plan.

1769 (c) An owner or operator of a class I, class II, or class III facility who submits a [~~major~~  
1770 ~~modification plan or a major closure plan~~] class II or class III modification request may obtain  
1771 a plan review within the time periods for a class II facility operation plan by paying, at the time  
1772 of filing for plan review, the maximum fee for a class II facility operation plan.

1773 (d) An owner or operator of a class I, class II, or class III facility who submits a [~~minor~~  
1774 ~~modification plan or a minor closure plan~~] class I modification request, and an owner or  
1775 operator of a class IV facility who submits a modification [~~plan~~] request or a closure plan, may  
1776 obtain a plan review within the time periods for a class II facility operation plan by paying, at  
1777 the time of filing for plan review, the maximum fee for a class III facility operation plan.

1778 (10) [~~All fees~~] Fees received by the department under this section shall be deposited  
1779 [~~in~~] into the General Fund as dedicated credits for hazardous waste plan reviews in accordance  
1780 with Subsection (12) and Section 19-6-108.

1781 (11) (a) (i) The director shall establish an accounting procedure that separately  
1782 accounts for fees paid by each owner or operator who submits a hazardous waste operation  
1783 plan for approval under Section 19-6-108 and pays fees for hazardous waste plan reviews under  
1784 this section or Section 19-1-201.

1785 (ii) The director shall credit [~~all~~] fees paid by the owner or operator to that owner or  
1786 operator.

1787 (iii) The director shall account for costs actually incurred in reviewing each operation  
1788 plan and may only use the fees of each owner or operator for review of that owner or operator's  
1789 plan.

1790 (b) If the costs actually incurred by the department in reviewing a hazardous waste  
1791 operation plan of any facility are less than the nonrefundable fee paid by the owner or operator  
1792 under this section, the department may, upon approval or disapproval of the plan by the board  
1793 or upon withdrawal of the plan by the owner or operator, use any remaining funds that have



1794 been credited to that owner or operator for the purposes of administering provisions of the  
1795 hazardous waste programs and activities authorized by this part.

1796 (12) (a) With regard to any review of a hazardous waste operation plan, modification  
1797 [~~plan~~] request, or closure plan that is pending on April 25, 1988, the director may assess fees  
1798 for that plan review.

1799 (b) The total amount of fees paid by an owner or operator of a hazardous waste facility  
1800 whose plan review is affected by this [~~subsection~~] Subsection (12) may not exceed the  
1801 maximum fees allowable under this section for the appropriate class of facility.

1802 (13) (a) The department shall maintain accurate records of [~~its~~] the department's actual  
1803 costs for each plan review under this section.

1804 (b) [~~Those records~~] A record described in Subsection (13)(a) shall be available for  
1805 public inspection.

1806 Section 26. Section **19-6-326** is amended to read:

1807 **19-6-326. Written assurances.**

1808 (1) Based upon risk to human health or the environment from potential exposure to  
1809 hazardous substances or materials, the executive director, or the executive director's designee,  
1810 may issue enforceable written assurances to a bona fide prospective purchaser, contiguous  
1811 property owner, or innocent landowner of real property that no enforcement action under this  
1812 part may be initiated regarding that real property against the person to whom the assurances are  
1813 issued.

1814 (2) An assurance granted under Subsection (1) grants the person to whom the  
1815 assurance is issued protection from imposition of any state law cost recovery and contribution  
1816 actions under this part.

1817 (3) The executive director may make rules in accordance with Title 63G, Chapter 3,  
1818 Utah Administrative Rulemaking Act, as necessary for the administration of this section.

1819 Section 27. Section **19-6-502** is amended to read:

1820 **19-6-502. Definitions.**

1821 As used in this part:

1822 (1) "Governing body" means the governing board, commission, or council of a public  
1823 entity.

1824 (2) "Jurisdiction" means the area within the incorporated limits of:

1825 (a) a municipality;

1826 (b) a special service district;

1827 (c) a municipal-type service district;

1828 (d) a service area; or

1829 (e) the territorial area of a county not lying within a municipality.

1830 (3) "Long-term agreement" means an agreement or contract having a term of more than  
1831 five years but less than 50 years.

1832 (4) "Municipal residential waste" means solid waste that is:

1833 (a) discarded or rejected at a residence within the public entity's jurisdiction; and

1834 (b) collected at or near the residence by:

1835 (i) a public entity; or

1836 (ii) a person with whom the public entity has as an agreement to provide solid waste  
1837 management.

1838 (5) "Public entity" means:

1839 (a) a county;

1840 (b) a municipality;

1841 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;

1842 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

1843 (e) a municipal-type service district created under Title 17, Chapter 34,

1844 Municipal-Type Services to Unincorporated Areas.

1845 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that  
1846 imposes a legal duty on a person.

1847 (7) "Residence" means an improvement to real property used or occupied as a primary  
1848 or secondary detached single-family dwelling.

1849 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of

1850 usable material, energy, fuel, or heat from solid waste and the disposition of it.

1851 (9) "Short-term agreement" means a contract or agreement having a term of five years  
1852 or less.

1853 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance  
1854 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the  
1855 time of discard or rejection, including:

- 1856 (i) garbage;
- 1857 (ii) refuse;
- 1858 (iii) industrial and commercial waste;
- 1859 (iv) sludge from an air or water control facility;
- 1860 (v) rubbish;
- 1861 (vi) ash;
- 1862 (vii) contained gaseous material;
- 1863 (viii) incinerator residue;
- 1864 (ix) demolition and construction debris;
- 1865 (x) a discarded automobile; and
- 1866 (xi) offal.

1867 (b) "Solid waste" does not include sewage or another highly diluted water carried  
1868 material or substance and those in gaseous form.

1869 (11) "Solid waste management" means the purposeful and systematic collection,  
1870 transportation, storage, processing, recovery, or disposal of solid waste.

1871 (12) (a) "Solid waste management facility" means a facility employed for solid waste  
1872 management, including:

- 1873 (i) a transfer station;
- 1874 (ii) a transport system;
- 1875 (iii) a baling facility;
- 1876 (iv) a landfill; and
- 1877 (v) a processing system, including:

- 1878 (A) a resource recovery facility;
- 1879 (B) a facility for reducing solid waste volume;
- 1880 (C) a plant or facility for compacting, or composting, of solid waste;
- 1881 (D) an incinerator;
- 1882 (E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;
- 1883 (F) a facility for resource recovery of energy consisting of:
- 1884 (I) a facility for the production, transmission, distribution, and sale of heat and steam;
- 1885 (II) a facility for the generation and sale of electric energy to a public utility,
- 1886 municipality, or other public entity that owns and operates an electric power system on March
- 1887 15, 1982; and
- 1888 (III) a facility for the generation, sale, and transmission of electric energy on an
- 1889 emergency basis only to a military installation of the United States; and
- 1890 (G) an auxiliary energy facility that is connected to a facility for resource recovery of
- 1891 energy as described in Subsection (12)(a)(v)(F), that:
- 1892 (I) is fueled by natural gas, landfill gas, or both;
- 1893 (II) consists of a facility for the production, transmission, distribution, and sale of
- 1894 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
- 1895 military installation of the United States; and
- 1896 (III) consists of a facility for the generation, transmission, distribution, and sale of
- 1897 electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a
- 1898 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.
- 1899 (b) "Solid waste management facility" does not mean a facility that:
- 1900 (i) accepts and processes metal, as described in Subsection ~~19-6-102~~(19)(b), by
- 1901 separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a
- 1902 principle commodity grade product of prepared scrap metal for sale or use for remelting
- 1903 purposes provided that any byproduct or residual that would qualify as solid waste is managed
- 1904 at a solid waste management facility; or
- 1905 (ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

1906 (A) have been source-separated or otherwise diverted from the solid waste stream  
1907 before acceptance at the facility and that are not otherwise hazardous waste or subject to  
1908 conditions of federal hazardous waste regulations; and

1909 (B) are reused or recycled as a valuable commercial commodity by separating,  
1910 shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle  
1911 commodity grade product, provided that any byproduct or residual that would qualify as solid  
1912 waste is managed at a solid waste management facility.

1913 Section 28. Section **19-6-721.1** is enacted to read:

1914 **19-6-721.1. Notice of violations -- Order for correction -- Civil action to enforce.**

1915 (1) Whenever the director determines that a person is in violation of an applicable  
1916 approved used oil operation permit, the requirements of this part, or any of the board's rules,  
1917 the director may cause written notice of that violation to be served upon the alleged violator.  
1918 The notice shall specify the provisions of the permit, this part, or rule alleged to have been  
1919 violated, and the facts alleged to constitute the violation.

1920 (2) The director may:

1921 (a) issue an order requiring that necessary corrective action be taken within a  
1922 reasonable time; or

1923 (b) request the attorney general or the county attorney in the county in which the  
1924 violation is taking place to bring a civil action for injunctive relief and enforcement of this part.