# Part 1
# General Provisions

**19-3-101 Short title.**

This chapter is known as the "Radiation Control Act."

Enacted by Chapter 112, 1991 General Session

**19-3-102 Definitions.**

As used in this chapter:

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

(2)
- (a) "Broker" means a person who performs one or more of the following functions for a generator:
  - (i) arranges for transportation of the radioactive waste;
  - (ii) collects or consolidates shipments of radioactive waste; or
  - (iii) processes radioactive waste in some manner.
- (b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

(3) "Byproduct material" means the same as that term is defined in 42 U.S.C. Sec. 2014(e)(2).

(4) "Class B and class C low-level radioactive waste" means the same as that term is defined in 10 C.F.R. Sec. 61.55.

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

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

(7) "Generator" means a person who:
- (a) possesses any material or component:
  - (i) that contains radioactivity or is radioactively contaminated; and
  - (ii) for which the person foresees no further use; and
- (b) transfers the material or component to:
  - (i) a commercial radioactive waste treatment or disposal facility; or
  - (ii) a broker.

(8)
- (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.
- (b) "High-level nuclear waste" does not include medical or institutional wastes, naturally occurring radioactive materials, or uranium mill tailings.

(9)
- (a) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release.
- (b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

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

(11) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.
(12) "Unlicensed facility" means a structure, road, or property:
(a) adjacent to, but outside of, a licensed or permitted area; and
(b) that is not used for waste disposal or waste management.

Amended by Chapter 360, 2017 General Session

**19-3-103.1 Board authority and duties under this part.**
(1) The board may:
(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this part;
(b)
(i) hold a hearing that is not an adjudicative proceeding; or
(ii) appoint a hearing officer to conduct a hearing that is not an adjudicative proceeding;
(c) accept, receive, and administer grants or other money or gifts from public and private agencies, including the federal government, for the purpose of carrying out any function of this chapter;
(d) order the director to impound radioactive material in accordance with Section 19-3-111; or
(e) advise, consult, cooperate with, or provide technical assistance to another agency of the state or federal government, another state, an interstate agency, an affected group, an affected political subdivision, an affected industry, or other person in carrying out the purposes of this part.
(2) The board shall:
(a) promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources;
(b) to ensure compliance with applicable statutes and rules:
(i) review a settlement negotiated by the director in accordance with Subsection 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than $25,000; and
(ii) approve or disapprove the settlement described in Subsection (2)(b)(i); and
(c) review the qualifications of, and issue certificates of approval to, individuals who:
(i) survey mammography equipment; or
(ii) oversee quality assurance practices at mammography facilities.
(3) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-3-108.1:
(a) a permit;
(b) a license;
(c) a registration;
(d) a certification; or
(e) another administrative authorization made by the director.

Amended by Chapter 4, 2020 Special Session 5

**19-3-103.7 Prohibition of certain radioactive wastes -- Alternative classification -- Concentrated depleted uranium.**
(1) Except as provided in Subsection (2), an entity may not accept in the state or apply for a license to accept in the state for commercial storage, decay in storage, treatment, incineration, or disposal waste, that at the time of acceptance is:

(a) class B or class C low-level radioactive waste; or
(b) radioactive waste having a higher radionuclide concentration than the highest radionuclide concentration allowed under licenses existing on February 25, 2005, that have met all the requirements of Section 19-3-105.

(2)
(a) Subject to the other provisions of this Subsection (2), at the request of a licensee or applicant, the director may authorize provisions for the classification and characteristics of waste for land disposal within the state on a specific basis, if after evaluation of the specific characteristics of the waste, disposal site, and method of disposal, the director finds that:
(i) when considering the characteristics of the waste and the site-specific applicable method of disposal, there is reasonable assurance of compliance with the performance objectives, dose limits, and other applicable requirements set forth in rules made by the board that govern the type of issues addressed in 10 C.F.R. Part 61, Licensing Requirements for Land Disposal of Radioactive Waste, Subpart C, Performance Objectives; and
(ii) the dose limits of the waste are equal to or less than that of:
(A) class A low-level radioactive waste; and
(B) waste described under Subsection (1)(b).
(b) The prohibition of accepting waste or applying for accepting waste described in Subsection (1) does not apply to waste that is classified in compliance with the requirements of this Subsection (2).
(c) Within five business days of the day on which the director makes findings to authorize the classification and characteristics of waste on a specific basis under Subsection (2)(a), the director shall notify:
(i) the chairs of the Natural Resources, Agriculture, and Environment Interim Committee; or
(ii) if the findings are issued during a general legislative session, the chair of the House Natural Resources, Agriculture, and Environment Standing Committee and the chair of the Senate Natural Resources, Agriculture, and Environment Standing Committee.
(d) The director's authorization for the classification and characteristics of waste on a specific basis under this Subsection (2) does not take effect until 90 days from the day on which the director makes the findings under Subsection (2)(a) to authorize the classification and characteristics of the waste.
(e) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (2).

(3) The director shall require as a condition to the disposal by a radioactive waste facility of a total aggregate quantity of more than one metric ton of concentrated depleted uranium:
(a) an approved performance assessment;
(b) designation of a federal cell by the director; and
(c) pursuant to an agreement acceptable to the director, that the United States Department of Energy accepts perpetual management of the federal cell, title to the land on which the federal cell is located, title to the waste in the federal cell, and financial stewardship for the federal cell and waste in the federal cell.

Amended by Chapter 18, 2019 General Session

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

(1) As used in this section:
(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" mean the same as those terms are defined in the Atomic Energy Act of 1954, 42 U.S.C. Sec. 2014, as amended.

(2) The division may require the registration or licensing of radiation sources that constitute a significant health hazard.

(3) A source of ionizing radiation, including an ionizing radiation producing machine, shall be registered or licensed by the department.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the radiation control programs under this part are qualified to maintain primacy from the federal government;

(c) to establish certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material to establish requirements for:

(i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and

(ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).

(5)

(a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).

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

(i) October 1, 2003; or

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

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

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

(6)

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

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

(c) The division shall deposit fees the division receives under this Subsection (6) into the Environmental Quality Restricted Account created in Section 19-1-108.

(7)

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

(b) In adopting rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may incorporate corresponding federal regulations by reference.

(8)

(a) The board may adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are more stringent than corresponding federal regulations for the purpose described in Subsection (7) only if the board makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) The findings described in Subsection (8)(a) shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record that form the basis for the board's conclusion.

(9)

(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall by rule:

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

(ii) establish qualifications and certification procedures necessary for independent experts to conduct the inspections described in Subsection (9)(a)(i).

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

(10)

(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.

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

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

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities; and

(b) establish financial assurance requirements for closure and postclosure care of an unlicensed facility.

(12) The rules described in Subsection (11) shall include the following provisions:

(a) the financial assurance shall be based on an annual estimate and shall include closure and postclosure costs in areas subject to the licensed or permitted portions of the facility;

(b) financial assurance for an unlicensed facility that supports the operation of a licensed or permitted facility shall include the estimated cost of:

(i) the removal of structures;

(ii) the testing of structures, roads, and property to ensure no radiological contamination has occurred outside of the licensed area; and

(iii) stabilization and water infiltration control;

(c) financial assurance cost estimates for a single approved waste disposal unit for which the volume of waste already placed and proposed to be placed in the unit within the surety period is less than the full waste capacity of the unit shall reflect the closure and postclosure costs

for a waste disposal unit smaller than the approved waste disposal unit, if the unit could be reduced in size, meet closure requirements, and reduce closure costs;

(d) financial assurance cost estimates for two approved adjacent waste disposal units that have been approved to be combined into a single unit and for which the combined volume of waste already placed and proposed to be placed in the units within the surety period is less than the combined waste capacity for the two separate units shall reflect either two separate waste disposal units or a single combined unit, whichever has the lowest closure and postclosure costs;

(e) the licensee or permittee shall annually propose closure and postclosure costs upon which financial assurance amounts are based, including costs of potential remediation at the licensed or permitted facility and, notwithstanding the obligations described in Subsection (12)(b), any unlicensed facility;

(f) to provide the information in Subsection (12)(e), the licensee or permittee shall provide:

(i) a proposed annual cost estimate using the current edition of RS Means Facilities Construction Cost Data or using a process, including an indirect cost multiplier, previously agreed to between the licensee or permittee and the director; or

(ii)

(A) for an initial financial assurance determination and for each financial assurance determination every five years thereafter, a proposed competitive site-specific estimate for closure and postclosure care of the facility at least once every five years; and

(B) for each year between a financial assurance determination described in Subsection (12)(f)(ii)(A), a proposed financial assurance estimate that accounts for current site conditions and that includes an annual inflation adjustment to the financial assurance determination using the Gross Domestic Product Implicit Price Deflator of the Bureau of Economic Analysis, United States Department of Commerce, calculated by dividing the latest annual deflator by the deflator for the previous year; and

(g) the director shall:

(i) annually review the licensee's or permittee's proposed closure and postclosure estimate; and

(ii) approve the estimate if the director determines that the estimate would be sufficient to provide for closure and postclosure costs.

(13) Subject to the financial assurance requirements described in Subsections (11) and (12), if the director and the licensee or permittee do not agree on a final financial assurance determination made by the director, the licensee or permittee may appeal the determination in:

(a) an arbitration proceeding governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, with the costs of the arbitration to be split equally between the licensee or permittee and the division, if both the licensee or permittee and the director agree in writing to arbitration; or

(b) a special adjudicative proceeding under Section 19-1-301.5.

Amended by Chapter 336, 2022 General Session

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

(1) As used in this section:

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

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

(c)

(i) "Class A low-level radioactive waste" means:
(A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and
(B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.
(ii) "Class A low-level radioactive waste" does not include:
(A) uranium mill tailings;
(B) naturally occurring radioactive materials; or
(C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:
(I) uranium-233; and
(II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:
(Aa) to ensure criticality safety for a radioactive waste facility in the state; and
(Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.
(d)
(i) "Radioactive waste facility" or "facility" means a facility that decays radioactive waste in storage, treats radioactive waste, or disposes of radioactive waste:
(A) commercially for profit; or
(B) generated at locations other than the radioactive waste facility.
(ii) "Radioactive waste facility" does not include a facility that receives:
(A) alternate feed material for reprocessing; or
(B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).
(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director to own, construct, modify, or operate a radioactive waste facility.
(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.
(3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:
(a) having received a radioactive waste license for the facility;
(b) meeting the requirements established by rule under Section 19-3-104;
(c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and
(d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.
(4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:
(a) specifies a different geographic site than a previously submitted application;
(b) would cost 50% or more of the cost of construction of the original radioactive waste facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or
(c) requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an

existing approved license held by the facility, for the specific type of waste to be decayed in storage, treated, or disposed of.

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

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

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

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

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

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

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

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

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

(9)

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

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

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

(ii)

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

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

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

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

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

(ii) approval applications that:
(A) require substantial scrutiny by the director;
(B) require public input; and
(C) are not described in Subsection (10)(a)(iii); and
(iii) approval applications for:
(A) the granting or renewal of a radioactive waste license;
(B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;
(C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;
(D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and
(E) a radioactive waste facility closure plan;
(b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:
(i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application;
(ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;
(iii) for applications categorized under Subsection (10)(a)(iii), as follows:
(A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;
(B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after the day on which the director receives the application;
(C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;
(D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which the director receives the application;
(E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;
(F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and
(G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;
(c) toll the time periods described in Subsection (10)(b):
(i) while an owner or operator of a facility responds to the director's request for information;
(ii) during a public comment period; or
(iii) while the federal government reviews the application; and
(d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Amended by Chapter 281, 2018 General Session

**19-3-106 Fee for commercial radioactive waste disposal or treatment.**
(1)

(a) An owner or operator of a commercial radioactive waste treatment or disposal facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).
(b)
(i) On or after July 1, 2011, the fee shall be established by the department in accordance with Section 63J-1-504.
(ii) In the development of a fee schedule prepared under Subsection (1)(b)(i), the department may conduct by no later than July 1, 2011, a review of the program costs and indirect costs of regulating radioactive waste in the state.
(iii) In addition to the process required by Section 63J-1-504, the department shall establish a fee that:
(A) is a flat fee, not based on the amount of waste treated or disposed of;
(B) provides for reasonable and timely oversight of radioactive waste by the department; and
(C) adequately meets the needs of industry and the department, including allowing for the department to employ qualified personnel to appropriately oversee industry regulation.
(2)
(a) The owner or operator shall remit the fees imposed under this section to the department on or before the 15th day of the month following the month in which the fee accrued.
(b) The department shall deposit the fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.
(3)
(a) The annual fee required under Subsection (1)(a) shall be reduced by the amount paid in tax annually by the owner or operator under Section 59-24-103.5.
(b) Beginning June 2018, the State Tax Commission shall provide annually on or before June 1 the tax information described in Subsection 59-1-403(4)(v) indicating the amount of tax paid for the previous calendar year under Section 59-24-103.5.
(c) The department shall apply the tax amount established in Subsection (3)(b) to reduce the fee paid during the upcoming fiscal year, beginning fiscal year 2019, by the owner or operator under Subsection (1)(a).
(4) The Legislature shall appropriate the fully burdened cost as determined by the annual fee set under Subsection (1)(b) to the Environmental Quality Restricted Account created in Section 19-1-108 from the General Fund for the regulation of radioactive waste treatment and disposal.
(5) If the Legislature fails to appropriate adequate funds to cover the fully burdened cost as determined by the annual fee set under Subsection (1)(b), the owner or operator shall pay the balance.
(6) Radioactive waste that is subject to a fee under this section is not subject to a fee under Section 19-6-119.

Amended by Chapter 367, 2021 General Session

**19-3-106.2 Perpetual care and maintenance of commercial radioactive waste disposal facilities -- Radioactive Waste Perpetual Care and Maintenance Account created -- Contents -- Use of restricted account money -- Evaluation.**

(1) As used in this section, "perpetual care and maintenance" means perpetual care and maintenance of a commercial radioactive waste treatment or disposal facility, excluding sites within the facility used for the disposal of byproduct material, as required by applicable laws, rules, and license requirements beginning 100 years after the date of final closure of the facility.
(2)

(a) There is created a restricted account within the General Fund known as the "Radioactive Waste Perpetual Care and Maintenance Account" to finance perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities, excluding sites within those facilities used for the disposal of byproduct material.
(b) The sources of revenue for the restricted account are:
(i) fees paid into the account by the owner or operator of a commercial radioactive waste treatment or disposal facility; and
(ii) investment income derived from money in the restricted account.
(c)
(i) The revenues for the restricted account shall be segregated into subaccounts for each commercial radioactive waste treatment or disposal facility covered by the restricted account.
(ii) Each subaccount shall contain:
(A) the fees paid by each owner or operator of a commercial radioactive waste treatment or disposal facility; and
(B) the associated investment income.
(3)
(a) The state treasurer shall invest money in the account with the primary goal of providing for the stability, income, and growth of the principal.
(b) The state treasurer shall seek account growth that is designed to achieve a minimum target account balance of $414,838,740 in the year 2141.
(c) Nothing in this section requires a specific outcome in investing.
(d) The state treasurer may deduct administrative costs incurred in managing account assets from earnings before distributing them.
(e)
(i) The state treasurer may employ professional asset managers to assist in the investment of assets of the account.
(ii) The state treasurer may only provide compensation to asset managers from earnings generated by the account's investments.
(f) The state treasurer shall invest and manage the account assets as a prudent investor would, by:
(i) considering the purposes, terms, distribution requirements, and other circumstances of the account; and
(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
(g) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
(ii) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in the context of an account portfolio as a whole and as a part of an overall investment strategy that has risk and return objectives reasonably suited to the account.
(h)
(i) Beginning in 2021, the state treasurer shall report every five years to the Legislative Management Committee the following information about the account's investments at the sub-account level:
(A) market value of investments;

(B) asset allocation targets;
(C) investment performance measured against appropriate benchmarks, at the portfolio and individual investment level;
(D) projected investment returns;
(E) actual contributions;
(F) projected 10 and 20 year market values; and
(G) whether account growth is progressing adequately to reasonably achieve the minimum target account balance established in Subsection (3)(b).
(ii) The Legislative Management Committee shall:
(A) review and evaluate the report; and
(B) determine whether to recommend further action, including whether to impose a fee on an owner or operator of a commercial radioactive waste treatment or disposal facility for the perpetual care and maintenance of the facility.
(4) The Legislature may appropriate money from the Radioactive Waste Perpetual Care and Maintenance Account for:
(a) perpetual care and maintenance of a commercial radioactive waste treatment or disposal facility, excluding sites within the facility used for the disposal of byproduct material, beginning 100 years after the date of final closure of the facility; or
(b) maintenance or monitoring of, or implementing corrective action at, a commercial radioactive waste treatment or disposal facility, excluding sites within the facility used for the disposal of byproduct material, before the end of 100 years after the date of final closure of the facility, if:
(i) the owner or operator is unwilling or unable to carry out postclosure maintenance, monitoring, or corrective action; and
(ii) the financial surety arrangements made by the owner or operator, including any required under applicable law, are insufficient to cover the costs of postclosure maintenance, monitoring, or corrective action.
(5) The money appropriated from the Radioactive Waste Perpetual Care and Maintenance Account for the purposes specified in Subsection (4)(a) or (b) at a particular commercial radioactive waste treatment or disposal facility may be appropriated only from the subaccount established under Subsection (2)(c) for the facility.
(6) The attorney general shall bring legal action against the owner or operator or take other steps to secure the recovery or reimbursement of the costs of maintenance, monitoring, or corrective action, including legal costs, incurred pursuant to Subsection (4)(b).
(7) This section does not apply to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

Amended by Chapter 343, 2017 General Session

**19-3-106.4 Generator site access permits.**
(1) A generator or broker may not transfer radioactive waste to a commercial radioactive waste treatment or disposal facility in the state without first obtaining a generator site access permit from the director.
(2) The director may grant a generator site access permit to a generator or broker if:
(a) the Nuclear Regulatory Commission or the agreement state where the generator's or broker's facility is located has the jurisdiction to regulate the generator's or broker's handling, packaging, or transporting of radioactive materials; or

(b) the generator or broker agrees to grant the division reasonable access to its facilities for the inspection and verification of radioactive waste using Nuclear Regulatory Commission approved accountability guidelines.

(3) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing a generator site access permit program.

(4)

(a) Except as provided in Subsection (4)(b), the division shall establish fees for generator site access permits in accordance with Section 63J-1-504.

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

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

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

(iii) $5,000 for brokers.

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

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

Amended by Chapter 58, 2015 General Session

**19-3-107 State radioactive waste plan.**

(1) The board shall prepare a state plan for management of radioactive waste by July 1, 1993.

(2) The plan shall:

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

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

(c) evaluate radioactive waste treatment and disposal options, as well as radioactive waste needs and existing capacity;

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

(e) review funding alternatives for radioactive waste management; and

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

Renumbered and Amended by Chapter 112, 1991 General Session

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

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

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

(b) advise, consult, cooperate with, and provide technical assistance to another agency, a state, the federal government, a political subdivision, an industry, or another person in carrying out this part;

(c) receive specifications or other information relating to a licensing application for radioactive material or registration of a radiation source for review, approval, disapproval, or termination;

(d) issue a permit, license, registration, certification, or other administrative authorization;

(e) review and approve a plan;

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

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

(h) issue an order necessary to enforce this part;

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

Enacted by Chapter 256, 2020 General Session

**19-3-109 Civil penalties -- Appeals.**
(1) A person who violates a provision of this part, a rule or order issued under the authority of this part, or the terms of a license, permit, or registration certificate issued under the authority of this part is subject to a civil penalty not to exceed $10,000 for each violation.
(2) The director may assess and make a demand for payment of a penalty under this section and may compromise or remit that penalty.
(3) In order to make demand for payment of a penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:
(a) the date, facts, and nature of each act or omission charged;
(b) the provision of the statute, rule, order, license, permit, or registration certificate that is alleged to have been violated;
(c) each penalty that the director proposes to impose, together with the amount and date of effect of that penalty; and
(d) that failure to pay the penalty or respond may result in a civil action for collection.
(4) A person notified according to Subsection (3) may request an adjudicative proceeding.
(5) Upon request by the director, the attorney general may institute a civil action to collect a penalty imposed under this section.
(6)
(a) Except as provided in Subsection (6)(b), the department shall deposit all money collected from civil penalties imposed under this section into the General Fund.
(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.
(c) The department shall regulate reimbursements by making rules that:
(i) define qualifying environmental enforcement activities; and
(ii) define qualifying extraordinary expenses.

Amended by Chapter 330, 2013 General Session

**19-3-110 Criminal penalties.**
(1) Any person who knowingly violates any provision of Sections 19-3-104 through 19-3-113 or lawful orders or rules adopted by the department under those sections shall in a criminal proceeding:

(a) for the first violation, be guilty of a class B misdemeanor; and
(b) for a subsequent similar violation within two years, be guilty of a third degree felony.
(2) In addition, a person is liable for any expense incurred by the department in removing or abating any violation.
(3) Conviction under Sections 19-3-104 through 19-3-113 does not relieve the person convicted from civil liability for any act which was also a violation of the public health laws.

Amended by Chapter 271, 1998 General Session

**19-3-111 Impounding of radioactive material.**
(1) The director may impound the radioactive material of any person if:
(a) the material poses an imminent threat or danger to the public health or safety; or
(b) that person is violating:
(i) any provision of Sections 19-3-104 through 19-3-113;
(ii) any rules or orders enacted or issued under the authority of those sections; or
(iii) the terms of a license, permit, or registration certificate issued under the authority of those sections.
(2) Before any dispositive action may be taken with regard to impounded radioactive materials, the director shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act and Section 19-1-301.

Amended by Chapter 360, 2012 General Session

**19-3-112 Notification by the department to certain persons of release of radiation from Nevada Test Site -- Notification to certain news outlets.**
(1) When informed by the United States Department of Energy of any release of radiation exceeding the Nuclear Regulatory Commission's limits for unrestricted use in air or water from the Nevada Test Site which is detected outside its boundaries, the department shall, unless prohibited by federal law, immediately convey to the persons specified in Subsection (2) all information that is made available to it, including:
(a) the date;
(b) the time and duration of each release of radiation;
(c) estimates of total amounts of radiation released;
(d) the types and amounts of each isotope detected off-site;
(e) the locations of monitoring stations detecting off-site radiation; and
(f) current and projected wind direction, wind velocity, and precipitation for the region.
(2) Unless prohibited by federal law, the department shall provide the information required under Subsection (1) to the following:
(a) members of the Utah congressional delegation or their designated representatives;
(b) the director of the Division of Emergency Management;
(c) the attorney general;
(d) the regional director of the Federal Emergency Management Agency;
(e) the regional director of the National Oceanic and Atmospheric Administration;
(f) the executive director of the Utah League of Cities and Towns;
(g) the executive director of the Department of Health; and
(h) the chairpersons of the county commissions of affected counties.
(3) If the state is informed by the United States Department of Energy that any radiation released from the Nevada Test Site has been detected by the United States Department of Energy or

United States Environmental Protection Agency or the department within the boundaries of the state of Utah, the department shall, unless prohibited by federal law, immediately provide all information available to it as specified in Subsection (1) to the Associated Press and United Press International outlets in the state.

Amended by Chapter 55, 2011 General Session

**19-3-113 Federal-state agreement regarding radiation control.**

(1) The governor, on behalf of the state, may enter into agreements with the federal government providing for discontinuation of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the state, pursuant to Section 19-3-104.

(2) Any person who, on the effective date of an agreement under Subsection (1), possesses a license issued by the federal government is considered to possess a federal license pursuant to a license issued by the department which shall expire either 90 days after receipt from the department of a notice of expiration of the license, or on the date of expiration specified in the federal license, whichever is earlier.

Renumbered and Amended by Chapter 112, 1991 General Session