

**WASTE FEE AND RELATED AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ronda Rudd Menlove**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses various waste fees and the Environmental Quality Restricted Account.

**Highlighted Provisions:**

This bill:

- ▶ addresses provisions related to the Environmental Quality Restricted Account;
- ▶ provides for a supplementary fee to be charged by the Department of Environment Quality for certain services;
- ▶ changes the fee amounts related to commercial radioactive waste disposal or treatment;
- ▶ provides for review of costs by the department;
- ▶ changes the fee amounts related to hazardous waste and treated hazardous waste disposal;
- ▶ provides for a special assessment should fee amounts not cover costs related to the regulation of hazardous waste;
- ▶ changes the fee amounts for the PCB disposal fee; and
- ▶ makes technical and conforming amendments.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



28 This bill takes effect on July 1, 2010.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **19-1-108**, as last amended by Laws of Utah 2006, Chapter 251

32 **19-1-201**, as last amended by Laws of Utah 2009, Chapter 183

33 **19-3-106**, as last amended by Laws of Utah 2005, Chapter 10

34 **19-6-118**, as last amended by Laws of Utah 2005, Chapter 10

35 **19-6-118.5**, as last amended by Laws of Utah 2006, Chapter 251



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

38 Section 1. Section **19-1-108** is amended to read:

39 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**  
40 **restricted account -- Sources of funds -- Uses of funds.**

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

42 (2) The sources of [~~monies~~] money for the restricted account are:

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

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

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

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

48 (e) [~~all~~] the investment income derived from money in the [~~restricted account created~~  
49 ~~in this section~~] Environmental Quality Restricted Account.

50 (3) In each fiscal year, the first \$400,000 collected from [~~all~~] the waste disposal fees  
51 listed in Subsection (2), collectively, shall be deposited in the General Fund as free revenue.

52 The balance shall be deposited in the [~~restricted account created in this section~~] Environmental  
53 Quality Restricted Account.

54 (4) The Legislature may annually appropriate [~~monies~~] money from the Environmental  
55 Quality Restricted Account to:

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

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

58 and

59 (c) subject to Subsection (5), the Hazardous Substances Mitigation Fund, up to  
60 \$400,000, [for purposes set forth in Title 19, Chapter 6, Part 3, Hazardous Substances  
61 Mitigation Act.] to provide monies to:

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

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

66 (5) An annual request for money to be appropriated from the Environmental Quality  
67 Restricted Account to the Hazardous Substances Mitigation Fund may be made by the  
68 department only after the executive director's review of the Hazardous Substances Mitigation  
69 Fund's balance as of the end of the fiscal year immediately before the general session for which  
70 the request is made.

71 [~~(5)~~] (6) In order to stabilize funding for the radiation control program and the solid  
72 and hazardous waste program, the Legislature shall in years of excess revenues reserve in the  
73 [restricted account] Environmental Quality Restricted Account sufficient monies to meet  
74 departmental needs in years of projected shortages.

75 [~~(6)~~] (7) The Legislature may not appropriate money from the General Fund to the  
76 department as a supplemental appropriation to cover the costs of the radiation control program  
77 and the solid and hazardous waste program in an amount exceeding 25% of the amount of  
78 waste disposal fees collected during the most recent prior fiscal year.

79 [~~(7)~~] The Legislature may annually appropriate not more than \$200,000 from this  
80 account to the Department of Public Safety, created in Section 53-1-103, to be used by that  
81 department solely for hazardous materials:]

82 [~~(a)~~] management training; and]

83 [~~(b)~~] response preparation and emergency response training:]

84 (8) [~~All funds~~] Money appropriated under this part that [are] is not expended at the end  
85 of the fiscal year [hapse] lapses into the [account created in Subsection (1)] Environmental  
86 Quality Restricted Account.

87 (9) The balance in the Environmental Quality Restricted Account may not exceed  
88 \$4,000,000 above the anticipated revenue need for the money in the restricted account for the  
89 fiscal year.

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

91 **19-1-201. Powers of department.**

92 (1) The department shall:

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

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

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

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

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

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

111 (iv) is reviewed and updated annually.

112 (2) The department may:

113 (a) investigate matters affecting the environment;

114 (b) investigate and control matters affecting the public health when caused by  
115 environmental hazards;

116 (c) prepare, publish, and disseminate information to inform the public concerning  
117 issues involving environmental quality;

118 (d) establish and operate programs, as authorized by this title, necessary for protection  
119 of the environment and public health from environmental hazards;

120 (e) use local health departments in the delivery of environmental health programs to

121 the extent provided by law;

122 (f) enter into contracts with local health departments or others to meet responsibilities  
123 established under this title;

124 (g) acquire real and personal property by purchase, gift, devise, and other lawful  
125 means;

126 (h) prepare and submit to the governor a proposed budget to be included in the budget  
127 submitted by the governor to the Legislature;

128 (i) (i) establish a schedule of fees that may be assessed for actions and services of the  
129 department according to the procedures and requirements of Section 63J-1-504; and

130 (ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect  
131 the cost of services provided;

132 (j) prescribe by rule reasonable requirements not inconsistent with law relating to  
133 environmental quality for local health departments;

134 (k) perform the administrative functions of the boards established by Section 19-1-106,  
135 including the acceptance and administration of grants from the federal government and from  
136 other sources, public or private, to carry out the board's functions; [~~and~~]

137 (l) upon the request of any board or the executive secretary, provide professional,  
138 technical, and clerical staff and field and laboratory services, the extent of which are limited by  
139 the funds available to the department for the staff and services[~~]; and~~

140 (m) establish a supplementary fee, not subject to Section 63J-1-504, for newly  
141 provided service not otherwise addressed in this title, or for expedited service, that the person  
142 paying the fee agrees by contract to be charged for the new or expedited service.

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

144 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

145 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal  
146 facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

147 [~~(b) (i) On and after July 1, 2003 through June 30, 2005, the fee is equal to the sum of~~  
148 ~~the following amounts:]~~

149 [~~(A) 15 cents per cubic foot, or fraction of a cubic foot, of radioactive waste, other than~~  
150 ~~byproduct material, received at the facility for disposal or treatment; and]~~

151 [~~(B) \$1 per curie, or fraction of a curie, of radioactive waste, other than byproduct~~

152 ~~material, received at the facility for disposal or treatment.]~~

153 ~~[(ii)]~~ (b) (i) On ~~[and] or after [July 1, 2005]~~ July 1, 2010, but on or before June 30,  
154 2012, the fee is equal to the sum of the following amounts:

155 (A) ~~[15]~~ 30 cents per cubic foot of radioactive waste, other than 11e.(2) byproduct  
156 material, received at the facility for disposal or treatment; and

157 (B) \$1 per curie of radioactive waste, other than 11e.(2) byproduct material, received at  
158 the facility for disposal or treatment.

159 (ii) On or after July 1, 2012, the fee shall be established by the department in  
160 accordance with Section 63J-1-504.

161 (iii) In the development of a fee schedule prepared under Subsection (1)(b)(ii), the  
162 department may conduct by no later than July 1, 2011, a review of the program costs and  
163 indirect costs of regulating radioactive waste in the state.

164 (2) (a) The portion of the fee required under Subsection (1)(b)~~[(ii)]~~(i)(A) shall be  
165 calculated by multiplying the total cubic feet of waste, computed to the first decimal place,  
166 received during the calendar month by ~~[15]~~ 30 cents.

167 (b) The portion of the fee required in Subsection (1)(b)~~[(ii)]~~(i)(B) shall be calculated by  
168 multiplying the total curies of waste, computed to the first decimal place, received during the  
169 calendar month by \$1.

170 (3) (a) The owner or operator shall remit the fees imposed under this section to the  
171 department on or before the 15th day of the month following the month in which the fee  
172 accrued.

173 (b) The department shall deposit ~~[aH]~~ the fees received under this section into the  
174 Environmental Quality Restricted Account created in Section 19-1-108.

175 (c) The owner or operator shall submit to the department with the payment of the fee  
176 under this Subsection (3) a completed form as prescribed by the department that provides  
177 information the department requires to verify the amount of waste received and the fee amount  
178 for which the owner or operator is liable.

179 (4) The Legislature shall appropriate to the department ~~[funds]~~ money to cover the cost  
180 of radioactive waste disposal supervision.

181 (5) Radioactive waste that is subject to a fee under this section is not subject to a fee  
182 under Section 19-6-119.

183 Section 4. Section **19-6-118** is amended to read:

184 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

185 (1) (a) An owner or operator of any commercial hazardous waste or mixed waste  
186 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by  
187 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and  
188 that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection (2).

189 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or  
190 industrial furnace that receives for burning hazardous waste generated by off-site sources not  
191 owned, controlled, or operated by the owner or operator shall pay the fee under Subsection (2).

192 [~~(2) (a) Through June 30, 2005, the owner or operator of each facility under Subsection~~  
193 ~~(1) shall collect from the generators of hazardous waste and mixed waste a fee of \$28 per ton~~  
194 ~~or fraction of a ton on all hazardous waste and mixed waste received at the facility or site for~~  
195 ~~disposal, treatment, or both.]~~

196 [~~(b) On and after July 1, 2005, the owner or operator of each facility under Subsection~~  
197 ~~(1) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received at the~~  
198 ~~facility for disposal, treatment, or both.]~~

199 [~~(c) The fee required under Subsection (2)(b) shall be calculated by multiplying the~~  
200 ~~total tonnage of waste, computed to the first decimal place, received during the calendar month~~  
201 ~~by \$28 .]~~

202 [~~(d) When hazardous waste or mixed waste is received at a facility for treatment or~~  
203 ~~disposal and the fee required under this Subsection (2) is paid for that treatment or disposal,~~  
204 ~~any subsequent treatment or disposal of the waste is not subject to additional fees under this~~  
205 ~~Subsection (2).]~~

206 [~~(e) (i) On and after July 1, 1997 through June 30, 2003, and on and after April 1, 2004~~  
207 ~~through June 30, 2005, hazardous waste received at a land disposal facility is subject to a fee of~~  
208 ~~\$14 per ton or fraction of a ton, rather than the \$28 fee under Subsection (2)(a), if the waste is~~  
209 ~~treated so that it:]~~

210 [~~(A) meets the state treatment standards required for land disposal at the facility; or]~~

211 [~~(B) is no longer a hazardous waste at the time of disposal at that facility.]~~

212 [~~(ii) On and after July 1, 2003, through March 31, 2004, hazardous waste received at a~~  
213 ~~land disposal facility for treatment and disposal is subject to the \$28 fee imposed under~~

214 Subsection (2)(a):]

215 ~~[(f) (i) On and after July 1, 2005, hazardous waste received at a land disposal facility is~~  
216 ~~subject to a fee of \$14 per ton if the waste is treated so that it:]~~

217 ~~[(A) meets the state treatment standards required for land disposal at the facility; or]~~

218 ~~[(B) is no longer a hazardous waste at the time of disposal at that facility.]~~

219 ~~[(ii) The fee required under Subsection (2)(f)(i) shall be calculated by multiplying the~~  
220 ~~tonnage of waste, computed to the first decimal place, received during the calendar month by~~  
221 ~~\$14.]~~

222 (2) (a) On or after July 1, 2010, hazardous waste received at a land disposal facility is  
223 subject to a fee in the following amounts:

<u>Amount of Hazardous Waste Received in a Month</u>	<u>Fee Amount</u>
<u>More than 0, but less than 1,000 tons</u>	<u>\$28 per ton</u>
<u>Equal to or greater than 1,000, but less than 12,500 tons</u>	<u>\$10 per ton</u>
<u>Equal to or greater than 12,500 tons, but less than 25,000 tons</u>	<u>\$5 per ton</u>
<u>Equal to or greater than 25,000 tons</u>	<u>\$2.50 per ton</u>

229 (b) (i) On or after July 1, 2010, but on or before June 30, 2011, the department may in  
230 accordance with this Subsection (2)(b) assess a person required to pay a fee under Subsection  
231 (2)(a) a special assessment if the department determines that the aggregate of the following fees  
232 to be received by the department in fiscal year 2010-11 will not equal or exceed \$3,500,000:

233 (A) a fee imposed under this section; and

234 (B) a fee imposed under Section 19-6-118.5 that is paid by a person who is also  
235 required to pay a fee under this section.

236 (ii) Notwithstanding Section 63J-1-504, the department shall determine the amount of  
237 a special assessment under this Subsection (2)(b):

238 (A) so that the amount of the special assessment is reasonable, fair, and reflects the  
239 \$3,500,000 fiscal objective described in Subsection (2)(b)(i); and

240 (B) after the amount of the special assessment is:

241 (I) presented at a public hearing that is subject to Title 52, Chapter 4, Open and Public  
242 Meetings Act; and

243 (II) modified on the basis of the results of the public hearing.

244 (iii) The department may not set a special assessment amount that would reasonably be



245 expected to result in the department receiving in excess of \$3,500,000 in fiscal year 2010-11  
 246 from the aggregate of fees described in Subsection (2)(b)(i).

247 (iv) The department shall deposit a special assessment collected under this Subsection  
 248 (2)(b) into the Environmental Quality Restricted Account created in Section 19-1-108.

249 ~~[(g)-(i)]~~ (3) (a) The department shall allocate at least 10% of the fees received from a  
 250 facility under this section to the county in which the facility is located.

251 ~~[(ii)]~~ (b) The county may use fees allocated under ~~[Subsections (2)(e) and (f)]~~ this  
 252 Subsection (3) to carry out its hazardous waste monitoring and response programs.

253 ~~[(h)]~~ (4) The department shall deposit the state portion of the fees received under this  
 254 section into the ~~[restricted account]~~ Environmental Quality Restricted Account created in  
 255 Section 19-1-108.

256 ~~[(3)]~~ (5) (a) The owner or operator shall pay the fees imposed under this section to the  
 257 department on or before the 15th day of the month following the month in which the fee  
 258 accrued.

259 (b) With the monthly fee, the owner or operator shall submit a completed form, as  
 260 prescribed by the department, specifying information required by the department to verify the  
 261 amount of waste received and the fee amount for which the owner or operator is liable.

262 ~~[(4)]~~ (6) (a) The department shall oversee and monitor hazardous waste treatment,  
 263 disposal, and incineration facilities, including federal government facilities located within the  
 264 state.

265 (b) The department may determine facility oversight priorities.

266 ~~[(5)]~~ (7) (a) The department, in preparing its budget for the governor and the  
 267 Legislature, shall separately indicate the amount necessary to administer the hazardous waste  
 268 program established by this part.

269 (b) The Legislature shall appropriate the costs of administering this program.

270 ~~[(6)]~~ (8) The Office of Legislative Fiscal Analyst shall monitor the fees collected under  
 271 this part.

272 ~~[(7)]~~ (9) Mixed waste subject to a fee under this section is not subject to a fee under  
 273 Section 19-3-106.

274 Section 5. Section **19-6-118.5** is amended to read:

275 **19-6-118.5. PCB disposal fee.**

276 (1) [~~The~~] (a) On or after July 1, 2010, but on or before June 30, 2011, the owner or  
277 operator of a waste facility shall pay a fee of [~~\$4.75~~] \$14.75 per ton on all wastes containing  
278 polychlorinated biphenyls (PCBs) that are:

279 [~~(a)~~] (i) regulated under 15 U.S.C. Sec. 2605; and

280 [~~(b)~~] (ii) received at [~~the~~] a facility for disposal or treatment.

281 (b) On and after July 1, 2011, the department shall establish a fee for disposal or  
282 treatment of wastes containing polychlorinated biphenyls in accordance with Section  
283 63J-1-504.

284 (2) The owner or operator of a facility receiving PCBs for disposal or treatment shall:

285 (a) calculate the fees imposed under Subsection (1)(a) by multiplying the total tonnage  
286 of waste received during the calendar month, computed to the first decimal place, by the  
287 required fee rate of [~~\$4.75~~] \$14.75 per ton;

288 (b) pay the fees imposed by this section to the department by the 15th day of the month  
289 following the month in which the fees accrued; and

290 (c) with the fees required under this section, submit to the department, on a form  
291 prescribed by the department, information that verifies the amount of waste received and the  
292 fees that the owner or operator is required to pay.

293 (3) The department shall deposit [~~all~~] the fees received under this section into the  
294 Environmental Quality Restricted Account created in Section 19-1-108.

295 (4) The owner or operator of a waste facility that is subject to a fee under this section is  
296 not subject to a fee for the same waste under Section 19-3-106, even if the waste contains  
297 radioactive materials.

298 **Section 6. Effective date.**

299 This bill takes effect on July 1, 2010.

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**Legislative Review Note**  
**as of 2-16-10 11:42 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 331 - Waste Fee and Related Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Provisions of this bill increases the fees collected from hazardous waste and radioactive waste disposal facilities by and estimated \$2,533,300 to the General Fund Restricted - Environmental Quality Restricted Fund for FY 2011 and FY 2012.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
Restricted Funds	\$0	\$0	\$0	\$0	\$2,533,300	\$2,533,300
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,533,300</b>	<b>\$2,533,300</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses related to the hazardous waste and radioactive waste disposal will be required to pay more fees.