

ENVIRONMENTAL QUALITY REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions related to environmental quality.

Highlighted Provisions:

This bill:

- ▶ addresses fees throughout the Environmental Quality Code;
- ▶ addresses a dedicated credit;
- ▶ requires that a person that operates a source of air pollution to have a permit under certain circumstances;
- ▶ provides for authority and duties of the Waste Management and Radiation Control Board;
- ▶ provides for the powers and duties of the director of the Division of Waste Management and Radiation Control;
- ▶ amends provisions related to powers of the Drinking Water Board;
- ▶ amends provisions related to the authority of the director of the Division of Drinking Water;
- ▶ addresses violations of the Safe Drinking Water Act or rules or orders issued under that act;
- ▶ addresses source and storage minimum sizing requirements for public water systems;
- ▶ 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 the procedure for the Water Quality Board to make rules;
- 31 ▶ modifies rules related to a penalty imposed on an agriculture discharge;
- 32 ▶ allows for discharge permits to be renewed;
- 33 ▶ addresses limitations on effluent limitations standards;
- 34 ▶ modifies definitions related to the Solid and Hazardous Waste Act;
- 35 ▶ addresses the powers of the Waste Management and Radiation Control Board,
- 36 including rulemaking;
- 37 ▶ modifies provisions related to the director of the Division of Waste Management
- 38 and Radiation Control;
- 39 ▶ addresses proof of service;
- 40 ▶ allows a designee of the executive director to issue enforceable written assurances;
- 41 ▶ addresses violations related to used oil management; and
- 42 ▶ makes technical and conforming amendments.

43 **Money Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 None

47 **Utah Code Sections Affected:**

48 AMENDS:

- 49 **19-1-106**, as last amended by Laws of Utah 2015, Chapter 451
- 50 **19-1-201**, as last amended by Laws of Utah 2019, Chapter 338
- 51 **19-2-108**, as last amended by Laws of Utah 2015, Chapters 154 and 441
- 52 **19-2-109.1**, as last amended by Laws of Utah 2015, Chapter 154
- 53 **19-4-104**, as repealed and reenacted by Laws of Utah 2018, Second Special Session,
- 54 Chapter 5
- 55 **19-4-106**, as last amended by Laws of Utah 2012, Chapter 360
- 56 **19-4-107**, as last amended by Laws of Utah 2012, Chapter 360
- 57 **19-4-109**, as last amended by Laws of Utah 2012, Chapter 360
- 58 **19-4-114**, as repealed and reenacted by Laws of Utah 2018, Second Special Session,

59 Chapter 5

60 19-5-102, as last amended by Laws of Utah 2015, Chapter 451

61 19-5-104, as last amended by Laws of Utah 2012, Chapter 360

62 19-5-104.5, as last amended by Laws of Utah 2019, Chapter 454

63 19-5-105, as last amended by Laws of Utah 2011, Chapter 155

64 19-5-105.5, as last amended by Laws of Utah 2012, Chapter 360

65 19-5-108, as last amended by Laws of Utah 2012, Chapter 360

66 19-5-116, as last amended by Laws of Utah 2011, Chapter 297

67 19-6-102, as last amended by Laws of Utah 2019, Chapter 152

68 19-6-102.1, as last amended by Laws of Utah 2018, Chapter 281

69 19-6-104, as last amended by Laws of Utah 2019, Chapter 152

70 19-6-105, as last amended by Laws of Utah 2018, Chapter 281

71 19-6-107, as last amended by Laws of Utah 2015, Chapter 451

72 19-6-108, as last amended by Laws of Utah 2019, Chapter 152

73 19-6-114, as renumbered and amended by Laws of Utah 1991, Chapter 112

74 19-6-120, as last amended by Laws of Utah 2012, Chapter 360

75 19-6-326, as last amended by Laws of Utah 2008, Chapter 382

76 19-6-502, as last amended by Laws of Utah 2019, Chapter 152

77 ENACTS:

78 19-3-103.1, Utah Code Annotated 1953

79 19-3-108.1, Utah Code Annotated 1953

80 19-6-721.1, Utah Code Annotated 1953

81

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

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

84 **19-1-106. Boards within department.**

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

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

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

88 (c) the Water Quality Board, appointed under Section 19-5-103; and

89 (d) the Waste Management and Radiation Control Board, appointed under Section

90 [~~19-6-104~~] [19-6-103](#).

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

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

94 **19-1-201. Powers and duties of department -- Rulemaking authority --**
95 **Committee -- Monitoring environmental impacts of inland port.**

96 (1) The department shall:

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

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

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

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

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

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

115 (iv) is reviewed and updated annually;

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

118 (i) for a board created in Section [19-1-106](#), rules regarding:

119 (A) board meeting attendance; and

120 (B) conflicts of interest procedures; and

- 121 (ii) procedural rules that govern:
- 122 (A) an adjudicative proceeding, consistent with Section 19-1-301; and
- 123 (B) a special adjudicative proceeding, consistent with Section 19-1-301.5; ~~and~~
- 124 (e) ensure that ~~any~~ training or certification required of a public official or public
- 125 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
- 126 22, State Training and Certification Requirements, if the training or certification is required:
- 127 (i) under this title;
- 128 (ii) by the department; or
- 129 (iii) by an agency or division within the department~~[-]; and~~
- 130 (f) subject to Subsection (2), establish annual fees that conform with Title V of the
- 131 Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a
- 132 source subject to the Title V program.
- 133 (2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under
- 134 Subsection (6)(i) for issuance of an approval order.
- 135 (b) In establishing a fee under Subsection (1)(f), the department shall comply with
- 136 Section 63J-1-504 that requires a public hearing and requires the established fee to be
- 137 submitted to the Legislature for the Legislature's approval as part of the department's annual
- 138 appropriations request.
- 139 (c) A fee established under this section shall cover the reasonable direct and indirect
- 140 costs required to develop and administer the Title V program and the small business assistance
- 141 program established under Section 19-2-109.2.
- 142 (d) A fee established under Subsection (1)(f) shall be established for all sources subject
- 143 to the Title V program and for all regulated pollutants.
- 144 (e) An emission fee may not be assessed for a regulated pollutant if the emissions are
- 145 already accounted for within the emissions of another regulated pollutant.
- 146 (f) An emission fee may not be assessed for any amount of a regulated pollutant
- 147 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.
- 148 (g) An emission fee shall be based on actual emissions for a regulated pollutant unless
- 149 a source elects, before the issuance or renewal of a permit, to base the fee during the period of
- 150 the permit on allowable emissions for that regulated pollutant.
- 151 (h) The fees collected by the department under Subsection (1)(f) and penalties

152 collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air
153 Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable
154 direct and indirect costs incurred by the department in developing and administering the
155 program and the small business assistance program under Section 19-2-109.2.

156 ~~[(2)]~~ (3) The department shall establish a committee that consists of:
157 (a) the executive director or the executive director's designee;
158 (b) two representatives of the department appointed by the executive director; and
159 (c) three representatives of local health departments appointed by a group of all the
160 local health departments in the state.

161 ~~[(3)]~~ (4) The committee established in Subsection ~~[(2)]~~ (3) shall:
162 (a) review the allocation of environmental quality resources between the department
163 and the local health departments;
164 (b) evaluate department policies that affect local health departments;
165 (c) consider policy changes proposed by the department or by local health departments;
166 (d) coordinate the implementation of environmental quality programs to maximize
167 environmental quality resources; and
168 (e) review each department application for any grant from the federal government that
169 affects a local health department before the department submits the application.

170 ~~[(4)]~~ (5) The committee shall create bylaws to govern the committee's operations.

171 ~~[(5)]~~ (6) The department may:
172 (a) investigate matters affecting the environment;
173 (b) investigate and control matters affecting the public health when caused by
174 environmental hazards;
175 (c) prepare, publish, and disseminate information to inform the public concerning
176 issues involving environmental quality;
177 (d) establish and operate programs, as authorized by this title, necessary for protection
178 of the environment and public health from environmental hazards;
179 (e) use local health departments in the delivery of environmental health programs to
180 the extent provided by law;
181 (f) enter into contracts with local health departments or others to meet responsibilities
182 established under this title;

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

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

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

189 ~~[(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect~~
190 ~~the cost of services provided;]~~

191 (i) in accordance with Section 63J-1-504, establish a schedule of fees that may be
192 assessed for actions and services of the department that are reasonable, fair, and reflect the cost
193 of services provided;

194 (j) for an owner or operator of a source subject to a fee established by Subsection (6)(i)
195 who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to
196 the fee, plus interest on the fee computed at 12% annually;

197 ~~[(j)] (k)~~ prescribe by rule reasonable requirements not inconsistent with law relating to
198 environmental quality for local health departments;

199 ~~[(k)] (l)~~ perform the administrative functions of the boards established by Section
200 19-1-106, including the acceptance and administration of grants from the federal government
201 and from other sources, public or private, to carry out the board's functions;

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

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

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

213 ~~[(7)] (8)~~ (a) As used in this Subsection ~~[(7)] (8)~~:

- 214 (i) "Environmental impacts" means:
- 215 (A) impacts on air quality, including impacts associated with air emissions; and
- 216 (B) impacts on water quality, including impacts associated with storm water runoff.
- 217 (ii) "Inland port" means the same as that term is defined in Section [11-58-102](#).
- 218 (iii) "Inland port area" means the area in and around the inland port that bears the
- 219 environmental impacts of destruction, construction, development, and operational activities
- 220 within the inland port.
- 221 (iv) "Monitoring facilities" means:
- 222 (A) for monitoring air quality, a sensor system consisting of monitors to measure levels
- 223 of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment
- 224 with internal data storage [~~which~~] that are interconnected at all times to capture air quality
- 225 readings and store data; and
- 226 (B) for monitoring water quality, facilities to collect groundwater samples, including in
- 227 existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to
- 228 storm water.
- 229 (b) The department shall:
- 230 (i) develop and implement a sampling and analysis plan to:
- 231 (A) characterize the environmental baseline for air quality and water quality in the
- 232 inland port area;
- 233 (B) characterize the environmental baseline for only air quality for the Salt Lake
- 234 International Airport; and
- 235 (C) define the frequency, parameters, and locations for monitoring;
- 236 (ii) establish and maintain monitoring facilities to measure the environmental impacts
- 237 in the inland port area arising from destruction, construction, development, and operational
- 238 activities within the inland port;
- 239 (iii) publish the monitoring data on the department's website; and
- 240 (iv) provide at least annually before November 30 a written report summarizing the
- 241 monitoring data to:
- 242 (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part
- 243 3, Port Authority Board; and
- 244 (B) the Legislative Management Committee.

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

246 **19-2-108. Notice of construction or modification of installations required --**
247 **Authority of director to prohibit construction -- Hearings -- Limitations on authority of**
248 **director -- Inspections authorized.**

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

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

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

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

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

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

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

275 [~~(3)~~] (4) In addition to any other remedies but [~~prior to~~] before invoking any [~~such~~]

276 other remedies, a person aggrieved by the issuance of an order either granting or denying a
 277 request for the construction of a new installation, [~~shall,~~] upon request, in accordance with the
 278 rules of the department, [~~be~~] is entitled to a special adjudicative proceeding conducted by an
 279 administrative law judge as provided by Section 19-1-301.5.

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

283 [~~(5)~~] (6) This section does not authorize the director to require the use of machinery,
 284 devices, or equipment from a particular supplier or produced by a particular manufacturer if the
 285 required performance standards may be met by machinery, devices, or equipment otherwise
 286 available.

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

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

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

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

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

299 **19-2-109.1. Operating permit required -- Emissions fee -- Implementation.**

300 (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

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

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

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

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

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

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

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

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

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

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

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

328 ~~[(b) In establishing the fee the board shall comply with the provisions of Section
329 63J-1-504 that require a public hearing and require the established fee to be submitted to the
330 Legislature for its approval as part of the department's annual appropriations request.]~~

331 ~~[(c) The fee shall cover all reasonable direct and indirect costs required to develop and
332 administer the program and the small business assistance program established under Section
333 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the
334 costs covered by those fees under this Subsection (4).]~~

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

337 ~~[(e) The fee may not be assessed for emissions of any regulated pollutant if the~~

338 ~~emissions are already accounted for within the emissions of another regulated pollutant.]~~

339 ~~[(f) An emissions fee may not be assessed for any amount of a regulated pollutant~~
340 ~~emitted by any source in excess of 4,000 tons per year of that regulated pollutant.]~~

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

344 ~~[(6)] (4)~~ If the owner or operator of a source subject to this section fails to timely pay
345 ~~[an annual emissions]~~ a fee established under Subsection [19-1-201\(1\)\(f\)](#), the director may:

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

348 (b) revoke the operating permit.

349 ~~[(7)] (5)~~ The owner or operator of a source subject to this section may contest ~~[an~~
350 ~~emissions]~~ a fee assessment or associated penalty in an adjudicative hearing under the Title
351 63G, Chapter 4, Administrative Procedures Act, and Section [19-1-301](#), as provided in this
352 Subsection ~~[(7)] (5)~~.

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

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

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

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

367 ~~[(10)] (7)~~ Failure of the director to act on an operating permit application or renewal is
368 a final administrative action only for the purpose of obtaining judicial review by any of the

369 following persons to require the director to take action on the permit or [its] the permit's
370 renewal without additional delay:

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

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

375 **19-3-103.1. Board authority and duties under this part.**

376 (1) The board may:

377 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
378 Rulemaking Act, that are necessary to implement this part;

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

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

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

385 (d) order the director to impound radioactive material in accordance with Section
386 19-3-111; or

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

391 (2) The board shall:

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

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

395 (i) review a settlement negotiated by the director in accordance with Subsection
396 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than \$25,000; and

397 (ii) approve or disapprove the settlement described in Subsection (2)(b)(i);

398 (c) review the qualifications of, and issue certificates of approval to, individuals who:

399 (i) survey mammography equipment; or

400 (ii) oversee quality assurance practices at mammography facilities.

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

403 (a) a permit;

404 (b) a license;

405 (c) a registration;

406 (d) a certification; or

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

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

409 **19-3-108.1. Powers and duties of director.**

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

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

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

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

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

422 (e) review and approve a plan;

423 (f) assess a penalty in accordance with Section [19-3-109](#);

424 (g) impound radioactive material under Section [19-3-111](#);

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

426 (i) enforce an order by an appropriate administrative and judicial proceeding; and

427 (j) institute a judicial proceeding to secure compliance with this part.

428 (2) The director may:

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

- 431 (b) employ employees as may be reasonably necessary to carry out this part;
432 (c) subject to Subsection 19-3-103.1(2)(b), settle or compromise any administrative or
433 civil action initiated to compel compliance with this part and rules adopted under this part; and
434 (d) authorize employees or representatives of the department to enter, at reasonable
435 times and upon reasonable notice, in and upon public or private property for the purpose of
436 inspecting and investigating conditions and records concerning radiation sources and as
437 otherwise authorized by this part.

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

439 **19-4-104. Powers of board.**

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

442 (i) establishing standards that prescribe the maximum contaminant levels in [any] a
443 public water system and provide for monitoring, record-keeping, and reporting of water quality
444 related matters;

445 (ii) governing design, construction, operation, and maintenance of public water
446 systems;

447 (iii) granting variances and exemptions to the requirements established under this
448 chapter that are not less stringent than those allowed under federal law;

449 (iv) protecting watersheds and water sources used for public water systems;

450 (v) governing capacity development in compliance with Section 1420 of the federal
451 Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

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

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

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

459 (b) The board may:

460 [~~i) order the director to:~~]

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

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

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

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

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

468 (iii) recommend that the director:

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

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

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

472 (D) advise, consult, contract, and cooperate with another agency of the state, a local

473 government, an industry, another state, an interstate or interlocal agency, the federal

474 government, or an interested person; or

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

477 (c) The board shall:

478 (i) require the submission to the director of plans and specifications for construction of,
479 substantial addition to, or alteration of public water systems for review and approval by the
480 ~~[board]~~ director before that action begins and require any modifications or impose any
481 conditions that may be necessary to carry out the purposes of this chapter;

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

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

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

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

497 (vi) meet the requirements of federal law related or pertaining to drinking water[-]; and
498 (vii) to ensure compliance with applicable statutes and rules:

499 (A) review a settlement negotiated by the director in accordance with Subsection
500 19-4-109(3) that requires a civil penalty equal to or greater than \$25,000; and

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

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

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

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

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

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

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

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

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

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

519 (a) a permit;

520 (b) a license;

521 (c) a registration;

522 (d) a certificate; or

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

524 ~~[(5)]~~ (6) A board member may not speak or act for the board unless the board member
525 is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

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

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

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

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

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

535 **19-4-106. Director -- Appointment -- Authority.**

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

538 (2) The director shall:

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

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

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

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

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

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

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

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

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

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

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

563 (b) the director may assess and make a demand for payment of an administrative
 564 penalty arising from a violation of this chapter, a rule or order issued under the authority of this
 565 chapter, or the terms of a permit or other administrative authorization issued under the
 566 authority of this chapter.

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

568 **19-4-107. Notice of violation -- Action by attorney general.**

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

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

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

576 **19-4-109. Violations -- Penalties -- Reimbursement for expenses.**

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

582 (1) As used in this section, "criminal negligence" means the same as that term is
 583 defined in Section [76-2-103](#).

584 (2) (a) A person who violates this chapter, a rule or order issued under the authority of
 585 this chapter, or the terms of a permit or other administrative authorization issued under the

586 authority of this chapter is subject to an administrative penalty:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

619 (9) (a) The attorney general is the legal advisor for the board and the director and shall
 620 defend them in an action or proceeding brought against the board or director.

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

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

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

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

632 ~~[(3)]~~ (12) (a) Except as provided in Subsection ~~[(3)]~~ (12)(b), ~~[all penalties]~~ a penalty
 633 assessed and collected under the authority of this section shall be deposited ~~[in]~~ into the
 634 General Fund.

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

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

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

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

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

642 **19-4-114. Source and storage minimum sizing requirements for public water**
 643 **systems.**

644 (1) (a) Except as provided in Subsection (1)(b) ~~[and]~~₂, upon submission of plans for a
 645 substantial addition to or alteration of a community water system, the director shall establish
 646 system-specific source and storage minimum sizing requirements for a community water
 647 system serving a population of more than 3,300 based on at least the most recent three years of

648 a community water system's actual water use data submitted in accordance with Subsections
649 19-4-104(1)(c)(iv) and (v).

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

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

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

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

658 (B) accepted by the director.

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

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

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

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

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

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

675 (B) accepted by the director.

676 (c) A community water system serving a population of between 500 and no more than
677 3,300 shall provide the information necessary to establish system-specific standards described
678 in this Subsection (2) by no later than March 1, 2023.

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

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

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

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

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

688 (4) The director shall:

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

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

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

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

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

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

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

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

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

706 **19-5-102. Definitions.**

707 As used in this chapter:

708 (1) "Agriculture discharge":

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

710 that:

711 (i) pollutes a [~~surface body of water, including a stream, lake, pond, marshland,~~
712 ~~watercourse, waterway, river, ditch, and other water conveyance system of the state;~~ (ii)
713 ~~pollutes the ground water of the state]~~ water of the state; or

714 [(iii)] (ii) constitutes a significant nuisance on urban land; and

715 (b) does not include:

716 (i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land
717 that is not part of a [~~body of~~] water of the state; or

718 (ii) a release into a normally dry water conveyance [~~to an active body of water~~], unless
719 the release reaches [~~the water of a lake, pond, stream, marshland, river, or other active body of~~]
720 a water of the state.

721 (2) "Agriculture water" means:

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

723 (b) return flows from irrigated agriculture; and

724 (c) agricultural storm water runoff.

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

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

727 (5) "Contaminant" means [~~any~~] a physical, chemical, biological, or radiological
728 substance or matter in water.

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

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

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

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

737 (b) generates or manages sewage sludge.

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

740 (10) "Division" means the Division of Water Quality, created in Subsection

741 19-1-105(1)(e).

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

745 (12) "Point source":

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

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

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

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

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

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

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

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

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

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

770 (21) "Underground wastewater disposal system" means a system for [~~disposing~~]
771 underground disposal of domestic wastewater discharges as defined by the board and the

772 executive director.

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

777 (23) "Waters of the state":

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

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

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

786 **19-5-104. Powers and duties of board.**

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

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

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

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

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

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

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

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

- 803 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
804 73-10c-4.5;
- 805 (iii) set effluent limitations and standards subject to Section 19-5-116;
- 806 (iv) implement or effectuate the powers and duties of the board; and
- 807 (v) protect the public health for the design, construction, operation, and maintenance of
808 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen
809 pit privies;
- 810 (b) govern inspection, monitoring, recordkeeping, and reporting requirements for
811 underground injections and require permits for underground injections, to protect drinking
812 water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and
813 oil, recognizing that underground injection endangers drinking water sources if:
- 814 (i) injection may result in the presence of ~~any~~ a contaminant in underground water
815 that supplies or can reasonably be expected to supply ~~any~~ a public water system, as defined in
816 Section 19-4-102; and
- 817 (ii) the presence of the contaminant may:
- 818 (A) result in the public water system not complying with any national primary drinking
819 water standards; or
- 820 (B) otherwise adversely affect the health of persons;
- 821 (c) govern sewage sludge management, including permitting, inspecting, monitoring,
822 recordkeeping, and reporting requirements; and
- 823 (d) notwithstanding ~~the provisions of~~ Section 19-4-112, govern design and
824 construction of irrigation systems that:
- 825 (i) convey sewage treatment facility effluent of human origin in pipelines under
826 pressure, unless contained in surface pipes wholly on private property and for agricultural
827 purposes; and
- 828 (ii) are constructed after May 4, 1998.
- 829 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
830 the board shall adopt and enforce rules and establish fees to cover the costs of:
- 831 (i) managing the certification and testing program; and
- 832 (ii) testing for certification of operators of treatment works and sewerage systems
833 operated by political subdivisions.

834 (b) In establishing certification rules under Subsection (2)(a), the board shall:
835 (i) base the requirements for certification on the size, treatment process type, and
836 complexity of the treatment works and sewerage systems operated by political subdivisions;
837 (ii) allow operators until three years after the date of adoption of the rules to obtain
838 initial certification;
839 (iii) allow a new operator one year from the date the operator is hired by a treatment
840 plant or sewerage system or three years after the date of adoption of the rules, whichever occurs
841 later, to obtain certification;
842 (iv) issue certification upon application and without testing, at a grade level
843 comparable to the grade of current certification to operators who are currently certified under
844 the voluntary certification plan for wastewater works operators as recognized by the board; and
845 (v) issue a certification upon application and without testing that is valid only at the
846 treatment works or sewerage system where that operator is currently employed if the operator:
847 (A) is in charge of and responsible for the treatment works or sewerage system on
848 March 16, 1991;
849 (B) has been employed at least 10 years in the operation of that treatment works or
850 sewerage system before March 16, 1991; and
851 (C) demonstrates to the board the operator's capability to operate the treatment works
852 or sewerage system at which the operator is currently employed by providing employment
853 history and references as required by the board.
854 (3) The board shall:
855 (a) develop programs for the prevention, control, and abatement of new or existing
856 pollution of the waters of the state;
857 (b) adopt, modify, or repeal standards of quality of the waters of the state and classify
858 those waters according to their reasonable uses in the interest of the public under conditions the
859 board may prescribe for the prevention, control, and abatement of pollution;
860 (c) give reasonable consideration in the exercise of its powers and duties to the
861 economic impact of water pollution control on industry and agriculture;
862 (d) meet the requirements of federal law related to water pollution;
863 (e) establish and conduct a continuing planning process for control of water pollution,
864 including the specification and implementation of maximum daily loads of pollutants;

- 865 (f) (i) approve, approve in part, approve with conditions, or deny, in writing, an
866 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and
- 867 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater
868 Reuse Act;
- 869 (g) (i) review [aH] total daily maximum load reports and recommendations for water
870 quality end points and implementation strategies developed by the division before submission
871 of the report, recommendation, or implementation strategy to the EPA;
- 872 (ii) disapprove, approve, or approve with conditions [aH] the staff total daily maximum
873 load recommendations; and
- 874 (iii) provide suggestions for further consideration to the Division of Water Quality in
875 the event a total daily maximum load strategy is rejected; and
- 876 (h) to ensure compliance with applicable statutes and regulations:
- 877 (i) review a settlement negotiated by the director in accordance with Subsection
878 19-5-106(2)(k) that requires a civil penalty of \$25,000 or more; and
- 879 (ii) approve or disapprove the settlement described in Subsection (3)(h)(i).
- 880 (4) The board may:
- 881 (a) order the director to issue, modify, or revoke [~~orders~~] an order:
- 882 (i) prohibiting or abating discharges;
- 883 (ii) (A) requiring the construction of new treatment works or any parts of [~~them, or~~] the
884 new treatment works;
- 885 (B) requiring the modification, extension, or alteration of existing treatment works as
886 specified by board rule or any parts of [~~them,~~] existing treatment works; or
- 887 (C) the adoption of other remedial measures to prevent, control, or abate pollution;
- 888 (iii) setting standards of water quality, classifying waters or evidencing any other
889 determination by the board under this chapter; or
- 890 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 891 (b) advise, consult, and cooperate with [~~other agencies~~] another agency of the state, the
892 federal government, [~~other states, or interstate agencies, or with affected groups, political~~
893 ~~subdivisions, or industries~~] another state, an interstate agency, an affected group, an affected
894 political subdivision, or affected industry to further the purposes of this chapter; or
- 895 (c) delegate the authority to issue an operating permit to a local health department.

896 (5) In performing the duties listed in Subsections (1) through (4), the board shall give
897 priority to pollution that results in a hazard to the public health.

898 (6) The board shall take into consideration the availability of federal grants:

899 (a) in determining eligible project costs; and

900 (b) in establishing priorities pursuant to Subsection (1)(a)(i).

901 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
902 following that are subject to the authority granted to the director under Section 19-5-106:

903 (a) a permit;

904 (b) a license;

905 (c) a registration;

906 (d) a certification; or

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

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

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

911 **19-5-104.5. Legislative review and approval.**

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

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

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

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

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

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

926 (B) through an initial capital investment, or through operational costs over a three-year

927 period.

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

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

932 (c) (i) If compliance with the rule or standard requires an expenditure in excess of
933 \$250,000, but less than \$10,000,000, the board shall submit the rule or standard for review to
934 the Natural Resources, Agriculture, and Environment Interim Committee.

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

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

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

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

949 (A) an independent, licensed engineer; and

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

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

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

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

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

960 (i) economic costs and benefit;

961 (ii) public health; and

962 (iii) the environment;

963 (b) suggest additional areas of consideration; or

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

966 (i) adoption; or

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

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

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

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

976 Section 15. Section **19-5-105** is amended to read:

977 **19-5-105. Rulemaking authority and procedure.**

978 (1) Except as provided in Subsections (2) and (3), [~~no~~] a rule that the board makes for
979 the purpose of the state administering a program under the federal Clean Water Act or the
980 federal Safe Drinking Water Act may not be more stringent than the corresponding federal
981 regulations [~~which~~] that address the same circumstances. In making rules, the board may
982 incorporate by reference corresponding federal regulations.

983 (2) The board may make rules more stringent than corresponding federal regulations
984 for the purpose described in Subsection (1), only if [~~it~~] the board makes a written finding after
985 public comment and hearing and based on evidence in the record that the corresponding federal
986 regulations are not adequate to protect public health and the environment of the state. Those
987 findings shall be accompanied by an opinion referring to and evaluating the public health and
988 environmental information and studies contained in the record which form the basis for the

989 board's conclusion.

990 (3) The board may make rules related to agriculture water more stringent than the
991 corresponding federal regulations [~~if the commission approves~~] after consulting with the
992 commission.

993 Section 16. Section **19-5-105.5** is amended to read:

994 **19-5-105.5. Agriculture water.**

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

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

999 (2) A program or rule adopted by the board for agriculture production or irrigation
1000 water shall:

1001 (a) be consistent with the federal Clean Water Act; and

1002 (b) if possible, be developed in a voluntary cooperative program with the agriculture
1003 producer associations and the commission.

1004 (3) (a) The board's authority to regulate a discharge is subject to Subsection (3)(b)
1005 relating to an agriculture discharge.

1006 (b) (i) A person responsible for an agriculture discharge shall mitigate the resulting
1007 damage in a reasonable manner, as approved by the director after consulting with the
1008 commission chair.

1009 (ii) A penalty imposed on an agriculture discharge shall be [~~proportionate to the~~
1010 ~~seriousness of the resulting harm~~] consistent with the penalty policy described in Section
1011 19-5-115 and associated rules, as determined by the director in consultation with the
1012 commission chair.

1013 (iii) An agriculture producer may not be held liable for an agriculture discharge
1014 resulting from a large weather event if the agriculture producer has taken reasonable measures,
1015 as the board defines by rule, to prevent an agriculture discharge.

1016 Section 17. Section **19-5-108** is amended to read:

1017 **19-5-108. Discharge permits -- Requirements and procedure for issuance.**

1018 (1) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
1019 Administrative Rulemaking Act, for and require the submission of plans, specifications, and

1020 other information to the director in connection with the issuance of discharge permits.

1021 (2) ~~[Each]~~ A discharge permit shall have a fixed term not exceeding five years. Upon
1022 expiration of a discharge permit, the permit may be renewed or a new permit may be issued by
1023 the director as authorized by the board after notice and an opportunity for public hearing and
1024 upon condition that the applicant meets or will meet ~~[at]~~ the applicable requirements of this
1025 chapter, including the conditions of ~~[any]~~ a permit granted by the board.

1026 (3) The board may require notice to the director of the introduction of pollutants into
1027 publicly-owned treatment works and identification to the director of the character and volume
1028 of any pollutant of any significant source subject to pretreatment standards under Subsection
1029 307(b) of the federal Clean Water Act. The director shall provide in the permit for compliance
1030 with pretreatment standards.

1031 (4) The director may impose as conditions in permits for the discharge of pollutants
1032 from publicly-owned treatment works appropriate measures to establish and ~~[insure]~~ ensure
1033 compliance by industrial users with any system of user charges required under this chapter or
1034 the rules adopted under ~~[it]~~ this chapter.

1035 (5) The director may apply and enforce against industrial users of publicly-owned
1036 treatment works, toxic effluent standards and pretreatment standards for the introduction into
1037 the treatment works of pollutants ~~[which]~~ that interfere with, pass through, or otherwise are
1038 incompatible with the treatment works.

1039 Section 18. Section **19-5-116** is amended to read:

1040 **19-5-116. Limitation on effluent limitation standards for BOD, Total Suspended**
1041 **Solids, Bacteria, and pH for domestic or municipal sewage.**

1042 Unless required to meet instream water quality standards or federal requirements
1043 established under the federal ~~[Water Pollution Control Act]~~ Clean Water Act, the board may
1044 not establish, under Section **19-5-104**, effluent limitation standards for Biochemical Oxygen
1045 Demand (BOD), Total Suspended Solids (SS), ~~[Coliforms]~~ Bacteria, and pH for domestic or
1046 municipal sewage ~~[which]~~ that are more stringent than the following:

1047 (1) Biochemical Oxygen Demand (BOD): The arithmetic mean of BOD values
1048 determined on effluent samples collected during any 30-day period may not exceed 25 mg/l,
1049 nor shall the arithmetic mean exceed 35 mg/l during any seven-day period.

1050 (2) Total Suspended Solids (SS): The arithmetic mean of SS values determined on

1051 effluent samples collected during any 30-day period may not exceed 25 mg/l, nor shall the
1052 arithmetic mean exceed 35 mg/l during any seven-day period.

1053 (3) [~~Coliform~~] Bacteria:

1054 (a) The geometric mean of total coliforms and fecal coliform bacteria in effluent
1055 samples collected during any 30-day period may not exceed either 2000/100 ml for total
1056 coliforms or 200/100 ml for fecal coliforms. The geometric mean during any seven-day period
1057 may not exceed 2500/100 ml for total coliforms or 250/100 for fecal coliforms.

1058 (b) The geometric mean of E. coli bacteria in effluent samples collected during any
1059 30-day period shall not exceed 126 per 100 mL nor shall the geometric mean exceed 158 per
1060 100 mL respectively during any 7-day period.

1061 (4) pH: The pH level shall be maintained at a level not less than 6.5 or greater than 9.0.

1062 Section 19. Section **19-6-102** is amended to read:

1063 **19-6-102. Definitions.**

1064 As used in this part:

1065 (1) "Board" means the Waste Management and Radiation Control Board created in
1066 Section [19-1-106](#).

1067 (2) "Closure plan" means a plan under Section [19-6-108](#) to close a facility or site at
1068 which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or
1069 disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the
1070 facility or site.

1071 (3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"
1072 means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or
1073 disposal.

1074 (b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"
1075 does not include a facility that:

1076 (i) receives waste for recycling;

1077 (ii) receives waste to be used as fuel, in compliance with federal and state
1078 requirements; or

1079 (iii) is solely under contract with a local government within the state to dispose of
1080 nonhazardous solid waste generated within the boundaries of the local government.

1081 (4) "Construction waste or demolition waste":

1082 (a) means waste from building materials, packaging, and rubble resulting from
1083 construction, demolition, remodeling, and repair of pavements, houses, commercial buildings,
1084 and other structures, and from road building and land clearing; and

1085 (b) does not include:

1086 (i) asbestos;

1087 (ii) contaminated soils or tanks resulting from remediation or cleanup at a release or
1088 spill;

1089 (iii) waste paints;

1090 (iv) solvents;

1091 (v) sealers;

1092 (vi) adhesives; or

1093 (vii) hazardous or potentially hazardous materials similar to that described in

1094 Subsections (4)(b)(i) through (vi).

1095 (5) "Director" means the director of the Division of Waste Management and Radiation
1096 Control.

1097 (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or
1098 placing of any solid or hazardous waste into or on land or water so that the waste or any
1099 constituent of the waste may enter the environment, be emitted into the air, or discharged into
1100 any waters, including groundwaters.

1101 (7) "Division" means the Division of Waste Management and Radiation Control,
1102 created in Subsection [19-1-105\(1\)\(d\)](#).

1103 (8) "Generation" or "generated" means the act or process of producing nonhazardous
1104 solid or hazardous waste.

1105 (9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other
1106 than household waste that, because of its quantity, concentration, or physical, chemical, or
1107 infectious characteristics may cause or significantly contribute to an increase in mortality or an
1108 increase in serious irreversible or incapacitating reversible illness or may pose a substantial
1109 present or potential hazard to human health or the environment when improperly treated,
1110 stored, transported, disposed of, or otherwise managed.

1111 (b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

1112 (10) "Health facility" means a:

- 1113 (a) hospital;
- 1114 (b) psychiatric hospital;
- 1115 (c) home health agency;
- 1116 (d) hospice;
- 1117 (e) skilled nursing facility;
- 1118 (f) intermediate care facility;
- 1119 (g) intermediate care facility for people with an intellectual disability;
- 1120 (h) residential health care facility;
- 1121 (i) maternity home or birthing center;
- 1122 (j) free standing ambulatory surgical center;
- 1123 (k) facility owned or operated by a health maintenance organization;
- 1124 (l) state renal disease treatment center, including a free standing hemodialysis unit;
- 1125 (m) the office of a private physician or dentist whether for individual or private
1126 practice;
- 1127 (n) veterinary clinic; or
- 1128 (o) mortuary.
- 1129 (11) "Household waste" means any waste material, including garbage, trash, and
1130 sanitary wastes in septic tanks, derived from households, including single-family and
1131 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,
1132 campgrounds, picnic grounds, and day-use recreation areas.
- 1133 (12) "Infectious waste" means a solid waste that contains or may reasonably be
1134 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by
1135 a susceptible host could result in an infectious disease.
- 1136 (13) "Manifest" means the form used for identifying the quantity, composition, origin,
1137 routing, and destination of hazardous waste during its transportation from the point of
1138 generation to the point of disposal, treatment, or storage.
- 1139 (14) "Mixed waste" means material that is a hazardous waste as defined in this chapter
1140 and is also radioactive as defined in Section 19-3-102.
- 1141 (15) "Modification [plan] request" means a [plan] request under Section 19-6-108 to
1142 modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or
1143 treating, storing, or disposing of hazardous waste.

1144 (16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan"

1145 means a plan or approval under Section 19-6-108, including:

1146 (a) a plan to own, construct, or operate a facility or site for the purpose of transferring,
1147 treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of
1148 hazardous waste;

1149 (b) a closure plan;

1150 (c) a modification [~~plan~~] request; or

1151 (d) an approval that the director is authorized to issue.

1152 (17) "Permit" includes an operation plan.

1153 [~~(17)~~] (18) "Permittee" means a person who is obligated under an operation plan.

1154 [~~(18)~~] (19) (a) "Solid waste" means [~~any~~] garbage, refuse, sludge, including sludge
1155 from a waste treatment plant, water supply treatment plant, or air pollution control facility, or
1156 other discarded material, including solid, liquid, semi-solid, or contained gaseous material
1157 resulting from industrial, commercial, mining, or agricultural operations and from community
1158 activities [~~but~~].

1159 (b) "Solid waste" does not include solid or dissolved materials in domestic sewage or
1160 in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5,
1161 Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

1162 [~~(b)~~] (c) "Solid waste" does not include metal that is:

1163 (i) purchased as a valuable commercial commodity; and

1164 (ii) not otherwise hazardous waste or subject to conditions of the federal hazardous
1165 waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

1166 [~~(19)~~] (20) "Solid waste management facility" means the same as that term is defined
1167 in Section 19-6-502.

1168 [~~(20)~~] (21) "Storage" means the actual or intended containment of solid or hazardous
1169 waste either on a temporary basis or for a period of years in such a manner as not to constitute
1170 disposal of the waste.

1171 [~~(21)~~] (22) (a) "Transfer" means the collection of nonhazardous solid waste from a
1172 permanent, fixed, supplemental collection facility for movement to a vehicle for movement to
1173 an offsite nonhazardous solid waste storage or disposal facility.

1174 (b) "Transfer" does not mean:

1175 (i) the act of moving nonhazardous solid waste from one location to another location
1176 on the site where the nonhazardous solid waste is generated; or

1177 (ii) placement of nonhazardous solid waste on the site where the nonhazardous solid
1178 waste is generated in preparation for movement off that site.

1179 ~~[(22)]~~ (23) "Transportation" means the off-site movement of solid or hazardous waste
1180 to any intermediate point or to any point of storage, treatment, or disposal.

1181 ~~[(23)]~~ (24) "Treatment" means a method, technique, or process designed to change the
1182 physical, chemical, or biological character or composition of any solid or hazardous waste so as
1183 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for
1184 recovery, amenable to storage, or reduced in volume.

1185 ~~[(24)]~~ (25) "Underground storage tank" means a tank that is regulated under Subtitle I
1186 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

1187 Section 20. Section **19-6-102.1** is amended to read:

1188 **19-6-102.1. Treatment or disposal -- Exclusions.**

1189 As used in Subsections ~~[19-6-104(3)(c)(ii)(B);]~~ 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B),
1190 and 19-6-119(1)(a), the term "treatment ~~[and]~~ or disposal" specifically excludes the recycling,
1191 use, reuse, or reprocessing of:

1192 (1) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
1193 generated primarily from the combustion of coal or other fossil fuels;

1194 (2) waste from the extraction, beneficiation, and processing of ores and minerals; or

1195 (3) cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding,
1196 sand blasting, road construction, railway ballast, construction fill, aggregate, and other
1197 construction-related purposes.

1198 Section 21. Section **19-6-104** is amended to read:

1199 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

1200 ~~[(1) The board may:]~~

1201 ~~[(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1202 Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;]~~

1203 ~~[(b) recommend that the director:]~~

1204 ~~[(i) issue orders necessary to enforce the provisions of the Radiation Control Act;]~~

1205 ~~[(ii) enforce the orders by appropriate administrative and judicial proceedings; or]~~

1206 ~~[(iii) institute judicial proceedings to secure compliance with this part;]~~
1207 ~~[(e) (i) hold a hearing that is not an adjudicative proceeding; or]~~
1208 ~~[(ii) appoint hearing officers to conduct a hearing that is not an adjudicative~~
1209 ~~proceeding;]~~
1210 ~~[(d) accept, receive, and administer grants or other funds or gifts from public and~~
1211 ~~private agencies, including the federal government, for the purpose of carrying out any of the~~
1212 ~~functions of the Radiation Control Act; or]~~
1213 ~~[(e) order the director to impound radioactive material in accordance with Section~~
1214 ~~19-3-111.]~~
1215 ~~[(2) (a) The board shall promote the planning and application of pollution prevention~~
1216 ~~and radioactive waste minimization measures to prevent the unnecessary waste and depletion~~
1217 ~~of natural resources; and]~~
1218 ~~[(b) review the qualifications of, and issue certificates of approval to, individuals who:]~~
1219 ~~[(i) survey mammography equipment; or]~~
1220 ~~[(ii) oversee quality assurance practices at mammography facilities.]~~
1221 ~~[(3)] (1) The board shall:~~
1222 (a) survey solid and hazardous waste generation and management practices within this
1223 state and, after public hearing and after providing opportunities for comment by local
1224 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a
1225 waste management plan for the state;
1226 ~~[(b) order the director to:]~~
1227 ~~[(i) issue orders necessary to effectuate the provisions of this part and rules made under~~
1228 ~~this part;]~~
1229 ~~[(ii) enforce the orders by administrative and judicial proceedings; or]~~
1230 ~~[(iii) initiate judicial proceedings to secure compliance with this part;]~~
1231 ~~[(e)] (b) promote the planning and application of resource recovery systems to prevent~~
1232 ~~the unnecessary waste and depletion of natural resources;~~
1233 ~~[(d)] (c) meet the requirements of federal law related to solid and hazardous wastes to~~
1234 ~~[insure] ensure that the solid and hazardous wastes program provided for in this part is~~
1235 ~~qualified to assume primacy from the federal government in control over solid and hazardous~~
1236 ~~waste;~~

1237 ~~[(e)]~~ (d) (i) require ~~[any]~~ a facility, including ~~[those]~~ a facility listed in Subsection
 1238 ~~[(3)(e)(ii)]~~ (1)(d)(ii), to submit plans, specifications, and other information required by the
 1239 board to the director ~~[prior to]~~ before construction, modification, installation, or establishment
 1240 of a facility to allow the director to determine whether the proposed construction, modification,
 1241 installation, or establishment of the facility will be in accordance with rules made under this
 1242 part;

1243 (ii) ~~[facilities]~~ consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ (1)(d)(i) ~~[include~~
 1244 ~~any]~~ to include an incinerator that is intended for disposing of nonhazardous solid waste; ~~[and]~~

1245 (iii) consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ (1)(d)(i) ~~[does]~~ to not
 1246 include a commercial facility that is solely for the purpose of recycling, reuse, or reprocessing
 1247 the following waste:

1248 (A) fly ash waste;

1249 (B) bottom ash waste;

1250 (C) slag waste; or

1251 (D) flue gas emission control waste generated primarily from the combustion of coal or
 1252 other fossil fuels; and

1253 (iv) consider a facility referred to in Subsection ~~[(3)(e)(i)]~~ (1)(d)(i) ~~[does]~~ to not
 1254 include a facility when the following waste is generated and the disposal occurs at an on-site
 1255 location owned and operated by the generator of the waste:

1256 (A) waste from the extraction, beneficiation, and processing of ores and minerals listed
 1257 in 40 C.F.R. 261.4(b)(7)(ii); or

1258 (B) cement kiln dust; and

1259 ~~[(f)]~~ (e) to ensure compliance with applicable statutes and ~~[regulations]~~ rules:

1260 (i) review a settlement negotiated by the director in accordance with Subsection

1261 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

1262 (ii) approve or disapprove the settlement described in Subsection (1)(e)(i).

1263 ~~[(4)]~~ (2) The board may:

1264 (a) (i) hold a hearing that is not an adjudicative proceeding; or

1265 (ii) appoint a hearing ~~[officers]~~ officer to conduct a hearing that is not an adjudicative
 1266 proceeding; or

1267 (b) advise, consult, cooperate with, or provide technical assistance to ~~[other agencies]~~

1268 another agency of the state or federal government, [~~other states, interstate agencies, or affected~~
1269 ~~groups, political subdivisions, industries, or other persons~~] another state, an interstate agency,
1270 an affected group, an affected political subdivision, an affected industry, or other person in
1271 carrying out the purposes of this part.

1272 [~~(5)~~] (3) (a) The board shall establish a comprehensive statewide waste management
1273 plan.

1274 (b) The plan shall:

1275 (i) incorporate the solid waste management plans submitted by the counties;

1276 (ii) provide an estimate of solid waste capacity needed in the state for the next 20
1277 years;

1278 (iii) assess the state's ability to minimize waste and recycle;

1279 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste
1280 needs and existing capacity;

1281 (v) evaluate facility siting, design, and operation;

1282 (vi) review funding alternatives for solid waste management; and

1283 (vii) address other solid waste management concerns that the board finds appropriate
1284 for the preservation of the public health and the environment.

1285 (c) The board shall consider the economic viability of solid waste management
1286 strategies [~~prior to~~] before incorporating [~~them~~] the solid waste management strategies into the
1287 plan and shall consider the needs of population centers.

1288 (d) The board shall review and modify the comprehensive statewide solid waste
1289 management plan no less frequently than every five years.

1290 [~~(6)~~] (4) (a) The board shall determine the type of solid waste generated in the state and
1291 tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid
1292 waste management plan.

1293 (b) The board shall review and modify the inventory no less frequently than once every
1294 five years.

1295 [~~(7)~~] (5) Subject to the limitations contained in Subsection [19-6-102](#)[~~(18)(b)~~](19)(c),
1296 the board shall establish siting criteria for nonhazardous solid waste disposal facilities,
1297 including incinerators.

1298 [~~(8)~~] (6) The board may not issue, amend, renew, modify, revoke, or terminate any of

1299 the following that are subject to the authority granted to the director under Section 19-6-107:

- 1300 (a) a permit;
- 1301 (b) a license;
- 1302 (c) a registration;
- 1303 (d) a certification; or
- 1304 (e) another administrative authorization made by the director.

1305 ~~[(9)]~~ (7) A board member may not speak or act for the board unless the board member
1306 is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

1307 Section 22. Section 19-6-105 is amended to read:

1308 **19-6-105. Rules of board.**

1309 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
1310 Administrative Rulemaking Act:

1311 (a) establishing minimum standards for protection of human health and the
1312 environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of
1313 solid waste, including requirements for the approval by the director of plans for the
1314 construction, extension, operation, and closure of solid waste disposal sites;

1315 (b) identifying wastes ~~[which]~~ that are determined to be hazardous, including wastes
1316 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
1317 1976, 42 U.S.C., Sec. 6921, et seq.;

1318 (c) governing generators and transporters of hazardous wastes and owners and
1319 operators of hazardous waste treatment, storage, and disposal facilities, including requirements
1320 for keeping records, monitoring, submitting reports, and using a manifest, without treating
1321 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling
1322 muds, and oil production brines in a manner more stringent than they are treated under federal
1323 standards;

1324 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is
1325 subject to a plan approval under Section 19-6-108 or ~~[which]~~ that received waste after July 26,
1326 1982, to take appropriate corrective action or other response measures for releases of hazardous
1327 waste or hazardous waste constituents from the facility, including releases beyond the
1328 boundaries of the facility;

1329 (e) specifying the terms and conditions under which the director shall approve,

- 1330 disapprove, revoke, or review hazardous wastes operation plans;
- 1331 (f) governing public hearings and participation under this part;
- 1332 (g) establishing standards governing underground storage tanks, in accordance with
- 1333 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;
- 1334 (h) relating to the collection, transportation, processing, treatment, storage, and
- 1335 disposal of infectious waste in health facilities in accordance with the requirements of Section
- 1336 [19-6-106](#);
- 1337 (i) defining closure plans ~~[as major or minor]~~, modification requests, or both for
- 1338 hazardous waste, as class I, class I with prior director approval, class II, or class III;
- 1339 ~~[(j) defining modification plans as major or minor;]~~ and
- 1340 ~~[(k)]~~ (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
- 1341 organic waste substance of any kind to be thrown, or remain upon or in ~~[any]~~ a street, road,
- 1342 ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring,
- 1343 or well.
- 1344 (2) If any of the following are determined to be hazardous waste and are therefore
- 1345 subjected to the provisions of this part, the board shall, in the case of landfills or surface
- 1346 impoundments that receive the solid wastes, take into account the special characteristics of the
- 1347 wastes, the practical difficulties associated with applying requirements for other wastes to the
- 1348 wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil
- 1349 chemistry at the site, if the modified requirements assure protection of human health and the
- 1350 environment and are no more stringent than federal standards applicable to waste:
- 1351 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,
- 1352 including phosphate rock and overburden from the mining of uranium;
- 1353 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste
- 1354 generated primarily from the combustion of coal or other fossil fuels; and
- 1355 (c) cement kiln dust waste.
- 1356 (3) The board shall establish criteria for siting commercial hazardous waste treatment,
- 1357 storage, and disposal facilities, including commercial hazardous waste incinerators. Those
- 1358 criteria shall apply to any facility or incinerator for which plan approval is required under
- 1359 Section [19-6-108](#).
- 1360 Section 23. Section **19-6-107** is amended to read:

1361 **19-6-107. Director -- Appointment -- Powers.**

1362 (1) The executive director shall appoint the director. The director shall serve under the
 1363 administrative direction of the executive director.

1364 (2) The director shall:

1365 ~~[(a) develop programs to promote and protect the public from radiation sources in the~~
 1366 ~~state;]~~

1367 ~~[(b) advise, consult, cooperate with, and provide technical assistance to other agencies,~~
 1368 ~~states, the federal government, political subdivisions, industries, and other persons in carrying~~
 1369 ~~out the provisions of the Radiation Control Act;]~~

1370 ~~[(c) receive specifications or other information relating to licensing applications for~~
 1371 ~~radioactive materials or registration of radiation sources for review, approval, disapproval, or~~
 1372 ~~termination;]~~

1373 ~~[(d) issue permits, licenses, registrations, certifications, and other administrative~~
 1374 ~~authorizations;]~~

1375 ~~[(e) review and approve plans;]~~

1376 ~~[(f) assess penalties in accordance with Section [19-3-109](#);~~

1377 ~~[(g) impound radioactive material under Section [19-3-111](#);~~

1378 ~~[(h)]~~ (a) issue ~~[orders]~~ an order necessary to enforce ~~[the provisions of]~~ this part~~[, to]~~;

1379 (b) enforce ~~[the orders]~~ an order by appropriate administrative and judicial
 1380 proceedings~~[, or to]~~;

1381 (c) institute judicial proceedings to secure compliance with this part;

1382 ~~[(i)]~~ (d) carry out inspections pursuant to Section [19-6-109](#);

1383 ~~[(j)]~~ (e) require submittal of specifications or other information relating to hazardous
 1384 waste plans for review, and approve, disapprove, revoke, or review the plans;

1385 ~~[(k)]~~ (f) develop programs for solid waste and hazardous waste management and
 1386 control within the state;

1387 ~~[(l)]~~ (g) advise, consult, and cooperate with ~~[other agencies]~~ another agency of the
 1388 state, the federal government, ~~[other states and interstate agencies, and with]~~ another state, an
 1389 interstate agency, an affected [groups] group, an affected political [subdivisions, and
 1390 industries] subdivision, an affected industry, or other affected person in furtherance of the
 1391 purposes of this part;

1392 ~~[(m)]~~ (h) subject to the provisions of this part, enforce rules made or revised by the
1393 board through the issuance of orders;

1394 ~~[(n)]~~ (i) review plans, specifications or other data relative to solid waste and hazardous
1395 waste control systems or any part of the systems as provided in this part;

1396 ~~[(o)]~~ (j) under the direction of the executive director, represent the state in ~~[aH]~~ matters
1397 pertaining to interstate solid waste and hazardous waste management and control including,
1398 under the direction of the board, entering into interstate compacts and other similar agreements;
1399 and

1400 ~~[(p)]~~ (k) as authorized by the board and subject to the provisions of this part, act as
1401 executive secretary of the board under the direction of the ~~[chairman]~~ chair of the board.

1402 (3) The director may:

1403 (a) subject to Subsection 19-6-104~~[(3)(f)]~~(1)(e), settle or compromise any
1404 administrative or civil action initiated to compel compliance with this part and any rules
1405 adopted under this part;

1406 (b) employ full-time employees necessary to carry out this part;

1407 (c) ~~[as authorized by the board pursuant to the provisions of this part,]~~ authorize any
1408 employee or representative of the department to conduct inspections as permitted in this part;

1409 (d) encourage, participate in, or conduct studies, investigations, research, and
1410 demonstrations relating to solid waste and hazardous waste management and control necessary
1411 for the discharge of duties assigned under this part;

1412 (e) collect and disseminate information relating to solid waste and hazardous waste
1413 management control; and

1414 (f) cooperate with any person in studies and research regarding solid waste and
1415 hazardous waste management and control~~[:]~~.

1416 ~~[(g) cooperate with any person in studies, research, or demonstration projects regarding
1417 radioactive waste management or control of radiation sources;]~~

1418 ~~[(h) settle or compromise any civil action initiated by the division to compel
1419 compliance with this chapter or the rules made under this chapter; and]~~

1420 ~~[(i) authorize employees or representatives of the department to enter, at reasonable
1421 times and upon reasonable notice, in and upon public or private property for the purpose of
1422 inspecting and investigating conditions and records concerning radiation sources;]~~

1423 Section 24. Section **19-6-108** is amended to read:

1424 **19-6-108. New nonhazardous solid or hazardous waste operation plans for**
1425 **facility or site -- Administrative and legislative approval required -- Exemptions from**
1426 **legislative and gubernatorial approval -- Time periods for review -- Information required**
1427 **-- Other conditions -- Automatic revocation of approval -- Periodic review.**

1428 (1) For purposes of this section, the following items shall be treated as submission of a
1429 new operation plan:

1430 (a) the submission of a revised operation plan specifying a different geographic site
1431 than a previously submitted plan;

1432 (b) an application for modification of a commercial hazardous waste incinerator if the
1433 construction or the modification would increase the hazardous waste incinerator capacity above
1434 the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in
1435 the operation plan application as of January 1, 1990, if no operation plan approval has been
1436 issued as of January 1, 1990;

1437 (c) an application for modification of a commercial nonhazardous solid waste
1438 incinerator if the construction of the modification would cost 50% or more of the cost of
1439 construction of the original incinerator or the modification would result in an increase in the
1440 capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity
1441 or throughput that was approved in the operation plan as of January 1, 1990, or the initial
1442 approved operation plan if the initial approval is subsequent to January 1, 1990;

1443 (d) an application for modification of a commercial nonhazardous solid or hazardous
1444 waste treatment, storage, or disposal facility, other than an incinerator, if the modification
1445 would be outside the boundaries of the property owned or controlled by the applicant, as shown
1446 in the application or approved operation plan as of January 1, 1990, or the initial approved
1447 operation plan if the initial approval is subsequent to January 1, 1990; or

1448 (e) a submission of an operation plan to construct a facility, if previous approvals of the
1449 operation plan to construct the facility have been revoked pursuant to Subsection

1450 (3)(c)~~(iii)~~(iv).

1451 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput
1452 tonnage specified for the trial burn in the operation plan or the operation plan application if no
1453 operation plan approval has been issued as of January 1, 1990, and on annual operations of

1454 7,000 hours.

1455 (3) (a) (i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own,
1456 construct, modify, or operate [~~any~~] a facility or site for the purpose of transferring, treating, or
1457 disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste
1458 without first submitting and receiving the approval of the director for an operation plan for that
1459 facility or site.

1460 (ii) (A) A permittee who is the current owner of a facility or site that is subject to an
1461 operation plan may submit to the director information, a report, a plan, or other request for
1462 approval for a proposed activity under an operation plan:

1463 (I) after obtaining the consent of any other permittee who is a current owner of the
1464 facility or site; and

1465 (II) without obtaining the consent of any other permittee who is not a current owner of
1466 the facility or site.

1467 (B) The director may not:

1468 (I) withhold an approval of an operation plan requested by a permittee who is a current
1469 owner of the facility or site on the grounds that another permittee who is not a current owner of
1470 the facility or site has not consented to the request; or

1471 (II) give an approval of an operation plan requested by a permittee who is not a current
1472 owner before receiving consent of the current owner of the facility or site.

1473 (C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the
1474 waste from the extraction, beneficiation, and processing of ores and minerals listed in 40
1475 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an
1476 on-site location owned and operated by the generator of the waste.

1477 (b) (i) Except for [~~facilities that receive~~] a facility that recieves the following wastes
1478 solely for the purpose of recycling, reuse, or reprocessing, a person may not own, construct,
1479 modify, or operate any commercial facility that accepts for treatment or disposal, with the
1480 intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting
1481 a request to and receiving the approval of the director for an operation plan for that facility site.

1482 (ii) Wastes referred to in Subsection (3)(b)(i) are:

1483 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
1484 generated primarily from the combustion of coal or other fossil fuels;

1485 (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

1486 (C) cement kiln dust wastes.

1487 (c) (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the
1488 person receives:

1489 (A) local government approval and the approval described in Subsection (3)(a);

1490 (B) approval from the Legislature; and

1491 (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B),
1492 approval from the governor.

1493 (ii) A facility referred to in Subsection (3)(c)(i) is:

1494 (A) a commercial nonhazardous solid waste disposal facility;

1495 (B) ~~except for [facilities that receive the following wastes]~~ a facility that receives a
1496 waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing,
1497 any commercial facility that accepts for treatment or disposal, with the intent to make a profit[:
1498 fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated
1499 primarily from the combustion of coal or other fossil fuels; wastes from the extraction,
1500 beneficiation, and processing of ores and minerals; or cement kiln dust wastes]; or

1501 (C) a commercial hazardous waste treatment, storage, or disposal facility.

1502 (iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

1503 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
1504 generated primarily from the combustion of coal or other fossil fuels;

1505 (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

1506 (C) cement kiln dust wastes.

1507 ~~[(iii)]~~ (iv) The required approvals described in Subsection (3)(c)(i) for a facility
1508 described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

1509 (A) the governor's approval is received on or after May 10, 2011, and the facility is not
1510 operational within five years after the day on which the governor's approval is received; or

1511 (B) the governor's approval is received before May 10, 2011, and the facility is not
1512 operational on or before May 10, 2016.

1513 ~~[(iv)]~~ (v) The required approvals described in Subsection (3)(c)(i) for a facility
1514 described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not
1515 transferrable to another person for five years after the day on which the governor's approval is

1516 received.

1517 (d) A person need not obtain gubernatorial or legislative approval for the construction
1518 of a hazardous waste facility for which an operating plan has been approved by or submitted
1519 for approval to the executive secretary of the board under this section before April 24, 1989,
1520 and which has been determined, on or before December 31, 1990, by the executive secretary of
1521 the board to be complete, in accordance with state and federal requirements for operating plans
1522 for hazardous waste facilities even if a different geographic site is subsequently submitted.

1523 (e) A person need not obtain gubernatorial and legislative approval for the construction
1524 of a commercial nonhazardous solid waste disposal facility for which an operation plan has
1525 been approved by or submitted for approval to the executive secretary of the board under this
1526 section on or before January 1, 1990, and which, on or before December 31, 1990, the
1527 executive secretary of the board determines to be complete, in accordance with state and
1528 federal requirements applicable to operation plans for nonhazardous solid waste facilities.

1529 (f) ~~Any~~ A person owning or operating a facility or site on or before November 19,
1530 1980, who has given timely notification as required by Section 3010 of the Resource
1531 Conservation and Recovery Act of 1976, 42 U.S.C. ~~[Section]~~ Sec. 6921, et seq., and who has
1532 submitted a proposed hazardous waste plan under this section for that facility or site, may
1533 continue to operate that facility or site without violating this section until the plan is approved
1534 or disapproved under this section.

1535 (g) (i) The director shall suspend acceptance of further applications for a commercial
1536 nonhazardous solid or hazardous waste facility upon a finding that the director cannot
1537 adequately oversee existing and additional facilities for permit compliance, monitoring, and
1538 enforcement.

1539 (ii) The director shall report any suspension to the Natural Resources, Agriculture, and
1540 Environment Interim Committee.

1541 (4) The director shall review ~~each~~ a proposed nonhazardous solid or hazardous waste
1542 operation plan to determine whether that plan complies with ~~[the provisions of]~~ this part and
1543 the applicable rules of the board.

1544 (5) (a) If the facility is a class I or class II facility, the director shall approve or
1545 disapprove that plan within 270 days from the date ~~[it]~~ the plan is submitted.

1546 (b) Within 60 days after receipt of the plans, specifications, or other information

1547 required by this section for a class I or II facility, the director shall determine whether the plan
1548 is complete and contains ~~[aH]~~ the information necessary to process the plan for approval.

1549 (c) (i) If the plan for a class I or II facility is determined to be complete, the director
1550 shall issue a notice of completeness.

1551 (ii) If the plan is determined by the director to be incomplete, the director shall issue a
1552 notice of deficiency, listing the additional information to be provided by the owner or operator
1553 to complete the plan.

1554 (d) The director shall review information submitted in response to a notice of
1555 deficiency within 30 days after receipt.

1556 (e) The following time periods may not be included in the 270 day plan review period
1557 for a class I or II facility:

1558 (i) time awaiting response from the owner or operator to requests for information
1559 issued by the director;

1560 (ii) time required for public participation and hearings for issuance of plan approvals;
1561 and

1562 (iii) time for review of the permit by other federal or state government agencies.

1563 (6) (a) If the facility is a class III or class IV facility, the director shall approve or
1564 disapprove that plan within 365 days from the date ~~[it]~~ the plan is submitted.

1565 (b) The following time periods may not be included in the 365 day review period:

1566 (i) time awaiting response from the owner or operator to requests for information
1567 issued by the director;

1568 (ii) time required for public participation and hearings for issuance of plan approvals;
1569 and

1570 (iii) time for review of the permit by other federal or state government agencies.

1571 (7) If, within 365 days after receipt of a modification ~~[plan]~~ request or closure plan for
1572 any facility, the director determines that the proposed plan or request, or any part of ~~[it]~~ the
1573 proposed plan or request, will not comply with applicable rules, the director shall issue an order
1574 prohibiting any action under the proposed plan or request for modification or closure in whole
1575 or in part.

1576 (8) ~~[Any]~~ A person who owns or operates a facility or site required to have an
1577 approved hazardous waste operation plan under this section and who has pending a permit

1578 application before the United States Environmental Protection Agency shall be treated as
1579 having an approved plan until final administrative disposition of the permit application is made
1580 under this section, unless the director determines that final administrative disposition of the
1581 application has not been made because of the failure of the owner or operator to furnish any
1582 information requested, or the facility's interim status has terminated under Section 3005 (e) of
1583 the Resource Conservation and Recovery Act, 42 U.S.C. [~~Section~~] Sec. 6925 (e).

1584 (9) The director may not approve a proposed nonhazardous solid or hazardous waste
1585 operation plan unless the plan contains the information that the board requires, including:

1586 (a) estimates of the composition, quantities, and concentrations of any hazardous waste
1587 identified under this part and the proposed treatment, storage, or disposal of [~~it~~] the hazardous
1588 waste;

1589 (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or
1590 treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause
1591 or significantly contribute to an increase in mortality, an increase in serious irreversible or
1592 incapacitating reversible illness, or pose a substantial present or potential hazard to human
1593 health or the environment;

1594 (c) consistent with the degree and duration of risks associated with the transfer,
1595 treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of
1596 specified hazardous waste, evidence of financial responsibility in whatever form and amount
1597 that the director determines is necessary to [~~insure~~] ensure continuity of operation and that
1598 upon abandonment, cessation, or interruption of the operation of the facility or site, [~~at~~] the
1599 reasonable measures consistent with the available knowledge will be taken to [~~insure~~] ensure
1600 that the waste subsequent to being treated, stored, or disposed of at the site or facility will not
1601 present a hazard to the public or the environment;

1602 (d) evidence that the personnel employed at the facility or site have education and
1603 training for the safe and adequate handling of nonhazardous solid or hazardous waste;

1604 (e) plans, specifications, and other information that the director considers relevant to
1605 determine whether the proposed nonhazardous solid or hazardous waste operation plan will
1606 comply with this part and the rules of the board;

1607 (f) compliance schedules, [~~where~~] when applicable, including schedules for corrective
1608 action or other response measures for releases from [~~any~~] a solid waste management unit at the

1609 facility, regardless of the time the waste was placed in the unit;

1610 (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or
1611 hazardous waste facility other than a water treatment facility that treats, stores, or disposes
1612 site-generated solid or hazardous waste onsite, a traffic impact study that:

1613 (i) takes into consideration the safety, operation, and condition of roadways serving the
1614 proposed facility; and

1615 (ii) is reviewed and approved by the Department of Transportation or a local highway
1616 authority, whichever has jurisdiction over each road serving the proposed facility, with the cost
1617 of the review paid by the person who submits the proposed operation plan; and

1618 (h) for a proposed operation plan submitted on or after July 1, 2013, for a new
1619 nonhazardous solid waste facility owned or operated by a local government, financial
1620 information that discloses [aH] the costs of establishing and operating the facility, including:

1621 (i) land acquisition and leasing;

1622 (ii) construction;

1623 (iii) estimated annual operation;

1624 (iv) equipment;

1625 (v) ancillary structures;

1626 (vi) roads;

1627 (vii) transfer stations; and

1628 (viii) using other operations that are not contiguous to the proposed facility but are
1629 necessary to support the facility's construction and operation.

1630 (10) The director may not approve a commercial nonhazardous solid or hazardous
1631 waste operation plan that meets the requirements of Subsection (9) unless [it] the operation
1632 plan contains the information required by the board, including:

1633 (a) evidence that the proposed commercial facility has a proven market of
1634 nonhazardous solid or hazardous waste, including:

1635 (i) information on the source, quantity, and price charged for treating, storing, and
1636 disposing of potential nonhazardous solid or hazardous waste in the state and regionally;

1637 (ii) a market analysis of the need for a commercial facility given existing and potential
1638 generation of nonhazardous solid or hazardous waste in the state and regionally; and

1639 (iii) a review of other existing and proposed commercial nonhazardous solid or

1640 hazardous waste facilities regionally and nationally that would compete for the treatment,
1641 storage, or disposal of the nonhazardous solid or hazardous waste;

1642 (b) a description of the public benefits of the proposed facility, including:

1643 (i) the need in the state for the additional capacity for the management of nonhazardous
1644 solid or hazardous waste;

1645 (ii) the energy and resources recoverable by the proposed facility;

1646 (iii) the reduction of nonhazardous solid or hazardous waste management methods,
1647 [~~which~~] that are less suitable for the environment, that would be made possible by the proposed
1648 facility; and

1649 (iv) whether any other available site or method for the management of hazardous waste
1650 would be less detrimental to the public health or safety or to the quality of the environment;
1651 and

1652 (c) compliance history of an owner or operator of a proposed commercial
1653 nonhazardous solid or hazardous waste treatment, storage, or disposal facility, [~~which~~] that
1654 may be applied by the director in a nonhazardous solid or hazardous waste operation plan
1655 decision, including any plan conditions.

1656 (11) The director may not approve a commercial nonhazardous solid or hazardous
1657 waste facility operation plan unless based on the application, and in addition to the
1658 determination required in Subsections (9) and (10), the director determines that:

1659 (a) the probable beneficial environmental effect of the facility to the state outweighs
1660 the probable adverse environmental effect; and

1661 (b) there is a need for the facility to serve industry within the state.

1662 (12) Approval of a nonhazardous solid or hazardous waste operation plan may be
1663 revoked, in whole or in part, if the person to whom approval of the plan has been given fails to
1664 comply with that plan.

1665 (13) The director shall review [~~an~~] approved nonhazardous solid and hazardous waste
1666 operation plans at least once every five years.

1667 (14) [~~The provisions of~~] Subsections (10) and (11) do not apply to a hazardous waste
1668 [~~facilities~~] facility in existence or to [~~applications~~] an application filed or pending in the
1669 department [~~prior to~~] before April 24, 1989, that are determined by the executive secretary of
1670 the board on or before December 31, 1990, to be complete, in accordance with state and federal

1671 requirements applicable to operation plans for hazardous waste facilities.

1672 (15) ~~[The provisions of]~~ Subsections (9), (10), and (11) do not apply to a nonhazardous
1673 solid waste facility in existence or to an application filed or pending in the department ~~[prior~~
1674 ~~to]~~ before January 1, 1990, that is determined by the director, on or before December 31, 1990,
1675 to be complete in accordance with state and federal requirements applicable to operation plans
1676 for nonhazardous solid waste facilities.

1677 (16) Nonhazardous solid waste generated outside of this state that is defined as
1678 hazardous waste in the state where ~~[it]~~ the nonhazardous solid waste is generated and ~~[which]~~
1679 that is received for disposal in this state may not be disposed of at a nonhazardous waste
1680 disposal facility owned and operated by local government or a facility under contract with a
1681 local government solely for disposal of nonhazardous solid waste generated within the
1682 boundaries of the local government, unless disposal is approved by the director.

1683 (17) This section may not be construed to exempt ~~[any]~~ a facility from applicable
1684 regulation under the federal Atomic Energy Act, 42 U.S.C. ~~[Sections]~~ Sec. 2014 and 2021
1685 through 2114.

1686 Section 25. Section **19-6-114** is amended to read:

1687 **19-6-114. Service of notice, order, or other document.**

1688 ~~[Proof of]~~ In accordance with procedural rules adopted by the department, service of
1689 any notice, order, or other document issued by, or under the authority of, the ~~[board]~~ director
1690 may be made ~~[in the same manner as in the service of a summons in a civil action. Proof of~~
1691 ~~service shall be filed with the board or may be made]~~ by forwarding a copy of that notice,
1692 order, or other document by registered mail, directed to the ~~[person at his last known]~~ person's
1693 designated address~~[, with an affidavit to that effect being filed with the board].~~

1694 Section 26. Section **19-6-120** is amended to read:

1695 **19-6-120. New hazardous waste operation plans -- Designation of hazardous**
1696 **waste facilities -- Fees for filing and plan review.**

1697 (1) For purposes of this section, the following items shall be treated as submission of a
1698 new hazardous waste operation plan:

1699 (a) the submission of a revised hazardous waste operation plan specifying a different
1700 geographic site than a previously submitted plan;

1701 (b) an application for modification of a commercial hazardous waste incinerator if the

1702 construction or the modification would increase the commercial hazardous waste incinerator
1703 capacity above the capacity specified in the operation plan as of January 1, 1990, or the
1704 capacity specified in the operation plan application as of January 1, 1990, if no operation plan
1705 approval has been issued as of January 1, 1990; or

1706 (c) an application for modification of a commercial hazardous waste treatment, storage,
1707 or disposal facility, other than an incinerator, if the modification would be outside the
1708 boundaries of the property owned or controlled by the applicant, as shown in the application or
1709 approved operation plan as of January 1, 1990, or the initial approved operation plan if initial
1710 approval is subsequent to January 1, 1990.

1711 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput
1712 tonnage specified for the trial burn in the operation plan or the operation plan application if no
1713 operation plan approval has been issued as of January 1, 1990, and on annual operations of
1714 7,000 hours.

1715 (3) (a) ~~[Hazardous waste facilities that are]~~ A hazardous waste facility that is subject to
1716 payment of fees under this section or Section 19-1-201 for plan reviews under Section
1717 19-6-108 shall be designated by the department as either class I, class II, class III, or class IV
1718 ~~[facilities]~~ facility.

1719 (b) The department shall designate a commercial hazardous waste ~~[facilities]~~ facility
1720 containing either landfills, surface impoundments, land treatment units, thermal treatment
1721 units, incinerators, or underground injection wells, which primarily receive wastes generated by
1722 off-site sources not owned, controlled, or operated by the facility owner or operator, as a class I
1723 ~~[facilities]~~ facility.

1724 (4) The maximum fee for filing and review of ~~[each]~~ a class I facility operation plan is
1725 \$200,000, and is due and payable as follows:

1726 (a) ~~[The]~~ the owner or operator of a class I facility shall, at the time of filing for plan
1727 review, pay to the department the nonrefundable sum of \$50,000~~[-];~~;

1728 (b) ~~[Upon]~~ upon issuance by the director of a notice of completeness under Section
1729 19-6-108, the owner or operator of the facility shall pay to the department an additional
1730 nonrefundable sum of \$50,000~~[-];~~ and

1731 (c) ~~[The]~~ the department shall bill the owner or operator of the facility for any
1732 additional actual costs of plan review, up to an additional \$100,000.

1733 (5) (a) The department shall designate a hazardous waste [incinerators] incinerator that
1734 primarily receive wastes generated by sources owned, controlled, or operated by the facility
1735 owner or operator as a class II [facilities] facility.

1736 (b) The maximum fee for filing and review of ~~[each]~~ a class II facility operation plan is
1737 \$150,000, and shall be due and payable as follows:

1738 (i) ~~[The]~~ the owner or operator of a class II facility shall, at the time of filing for plan
1739 review under Section 19-6-108, pay to the department the nonrefundable sum of \$50,000~~[-];~~
1740 and

1741 (ii) ~~[The]~~ the department shall bill the owner or operator of the facility for any
1742 additional actual costs of plan review, up to an additional \$100,000.

1743 (6) (a) The department shall designate a hazardous waste [facilities] facility containing
1744 either landfills, surface impoundments, land treatment units, thermal treatment units, or
1745 underground injection wells, that primarily receive wastes generated by sources owned,
1746 controlled, or operated by the facility owner or operator, as a class III [facilities] facility.

1747 (b) The maximum fee for filing and review of ~~[each]~~ a class III facility operation plan
1748 is \$100,000 and is due and payable as follows:

1749 (i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the
1750 department the nonrefundable sum of \$1,000~~[-];~~ and

1751 (ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class III facility for
1752 actual costs of operation plan review, up to an additional \$99,000.

1753 (7) (a) ~~[All other hazardous waste facilities are]~~ A hazardous waste facility not
1754 described in Subsections (3) through (6) is designated as a class IV [facilities] facility.

1755 (b) The maximum fee for filing and review of ~~[each]~~ a class IV facility operation plan
1756 is \$50,000 and is due and payable as follows:

1757 (i) ~~[The]~~ the owner or operator shall, at the time of filing for plan review, pay to the
1758 department the nonrefundable sum of \$1,000~~[-];~~ and

1759 (ii) ~~[The]~~ the department shall bill the owner or operator of ~~[each]~~ a class IV facility for
1760 actual costs of operation plan review, up to an additional \$49,000.

1761 (8) (a) The maximum fee for filing and review of ~~[each major modification plan and~~
1762 ~~major closure plan]~~ a temporary authorization request, class II or class III modification request,
1763 or for a class I, class II, or class III facility is \$50,000 and is due and payable as follows:

1764 (i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the
1765 department the nonrefundable sum of \$1,000~~[-]; and~~

1766 (ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility
1767 for actual costs of the review, up to an additional \$49,000.

1768 (b) The maximum fee for filing and review of ~~[each minor modification and minor~~
1769 ~~closure plan]~~ a class I modification request, for a class I, class II, or class III facility, and of
1770 ~~[any]~~ a modification ~~[or closure plan]~~ request for a class IV facility, is \$20,000, and is due and
1771 payable as follows:

1772 (i) ~~[The]~~ the owner or operator shall, at the time of filing for that review, pay to the
1773 department the nonrefundable sum of \$1,000~~[-]; and~~

1774 (ii) ~~[The]~~ the department shall bill the owner or operator of the hazardous waste facility
1775 for actual costs of review up to an additional \$19,000.

1776 (c) The owner or operator of a thermal treatment unit shall submit a trial or test burn
1777 schedule 90 days ~~[prior]~~ before to any planned trial or test burn. At the time the schedule is
1778 submitted, the owner or operator shall pay to the department the nonrefundable fee of \$25,000.
1779 The department shall apply the fee to the costs of the review and processing of each trial or test
1780 burn plan, trial or test burn, and trial or test burn data report. The department shall bill the
1781 owner or operator of the facility for any additional actual costs of review and preparation.

1782 (9) (a) The owner or operator of a class III facility may obtain a plan review within the
1783 time periods for a class II facility operation plan by paying, at the time of filing for plan review,
1784 the maximum fee for a class II facility operation plan.

1785 (b) The owner or operator of a class IV facility may obtain a plan review within the
1786 time periods for a class II facility operation plan by paying, at the time of filing for plan review,
1787 the maximum fee for a class III facility operation plan.

1788 (c) An owner or operator of a class I, class II, or class III facility who submits a ~~[major~~
1789 ~~modification plan or a major closure plan]~~ class II or class III modification request may obtain
1790 a plan review within the time periods for a class II facility operation plan by paying, at the time
1791 of filing for plan review, the maximum fee for a class II facility operation plan.

1792 (d) An owner or operator of a class I, class II, or class III facility who submits a ~~[minor~~
1793 ~~modification plan or a minor closure plan]~~ class I modification request, and an owner or
1794 operator of a class IV facility who submits a modification ~~[plan]~~ request or a closure plan, may

1795 obtain a plan review within the time periods for a class II facility operation plan by paying, at
1796 the time of filing for plan review, the maximum fee for a class III facility operation plan.

1797 (10) [~~All fees~~] Fees received by the department under this section shall be deposited
1798 [~~in~~] into the General Fund as dedicated credits for hazardous waste plan reviews in accordance
1799 with Subsection (12) and Section 19-6-108.

1800 (11) (a) (i) The director shall establish an accounting procedure that separately
1801 accounts for fees paid by each owner or operator who submits a hazardous waste operation
1802 plan for approval under Section 19-6-108 and pays fees for hazardous waste plan reviews under
1803 this section or Section 19-1-201.

1804 (ii) The director shall credit [~~all~~] fees paid by the owner or operator to that owner or
1805 operator.

1806 (iii) The director shall account for costs actually incurred in reviewing each operation
1807 plan and may only use the fees of each owner or operator for review of that owner or operator's
1808 plan.

1809 (b) If the costs actually incurred by the department in reviewing a hazardous waste
1810 operation plan of any facility are less than the nonrefundable fee paid by the owner or operator
1811 under this section, the department may, upon approval or disapproval of the plan by the board
1812 or upon withdrawal of the plan by the owner or operator, use any remaining funds that have
1813 been credited to that owner or operator for the purposes of administering provisions of the
1814 hazardous waste programs and activities authorized by this part.

1815 (12) (a) With regard to any review of a hazardous waste operation plan, modification
1816 [~~plan~~] request, or closure plan that is pending on April 25, 1988, the director may assess fees
1817 for that plan review.

1818 (b) The total amount of fees paid by an owner or operator of a hazardous waste facility
1819 whose plan review is affected by this [~~subsection~~] Subsection (12) may not exceed the
1820 maximum fees allowable under this section for the appropriate class of facility.

1821 (13) (a) The department shall maintain accurate records of [~~its~~] the department's actual
1822 costs for each plan review under this section.

1823 (b) [~~Those records~~] A record described in Subsection (13)(a) shall be available for
1824 public inspection.

1825 Section 27. Section 19-6-326 is amended to read:

1826 **19-6-326. Written assurances.**

1827 (1) Based upon risk to human health or the environment from potential exposure to
1828 hazardous substances or materials, the executive director, or the executive director's designee,
1829 may issue enforceable written assurances to a bona fide prospective purchaser, contiguous
1830 property owner, or innocent landowner of real property that no enforcement action under this
1831 part may be initiated regarding that real property against the person to whom the assurances are
1832 issued.

1833 (2) An assurance granted under Subsection (1) grants the person to whom the
1834 assurance is issued protection from imposition of any state law cost recovery and contribution
1835 actions under this part.

1836 (3) The executive director may make rules in accordance with Title 63G, Chapter 3,
1837 Utah Administrative Rulemaking Act, as necessary for the administration of this section.

1838 Section 28. Section **19-6-502** is amended to read:

1839 **19-6-502. Definitions.**

1840 As used in this part:

1841 (1) "Governing body" means the governing board, commission, or council of a public
1842 entity.

1843 (2) "Jurisdiction" means the area within the incorporated limits of:

1844 (a) a municipality;

1845 (b) a special service district;

1846 (c) a municipal-type service district;

1847 (d) a service area; or

1848 (e) the territorial area of a county not lying within a municipality.

1849 (3) "Long-term agreement" means an agreement or contract having a term of more than
1850 five years but less than 50 years.

1851 (4) "Municipal residential waste" means solid waste that is:

1852 (a) discarded or rejected at a residence within the public entity's jurisdiction; and

1853 (b) collected at or near the residence by:

1854 (i) a public entity; or

1855 (ii) a person with whom the public entity has as an agreement to provide solid waste
1856 management.

- 1857 (5) "Public entity" means:
- 1858 (a) a county;
- 1859 (b) a municipality;
- 1860 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;
- 1861 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or
- 1862 (e) a municipal-type service district created under Title 17, Chapter 34,
- 1863 Municipal-Type Services to Unincorporated Areas.
- 1864 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that
- 1865 imposes a legal duty on a person.
- 1866 (7) "Residence" means an improvement to real property used or occupied as a primary
- 1867 or secondary detached single-family dwelling.
- 1868 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of
- 1869 usable material, energy, fuel, or heat from solid waste and the disposition of it.
- 1870 (9) "Short-term agreement" means a contract or agreement having a term of five years
- 1871 or less.
- 1872 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance
- 1873 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the
- 1874 time of discard or rejection, including:
- 1875 (i) garbage;
- 1876 (ii) refuse;
- 1877 (iii) industrial and commercial waste;
- 1878 (iv) sludge from an air or water control facility;
- 1879 (v) rubbish;
- 1880 (vi) ash;
- 1881 (vii) contained gaseous material;
- 1882 (viii) incinerator residue;
- 1883 (ix) demolition and construction debris;
- 1884 (x) a discarded automobile; and
- 1885 (xi) offal.
- 1886 (b) "Solid waste" does not include sewage or another highly diluted water carried
- 1887 material or substance and those in gaseous form.

1888 (11) "Solid waste management" means the purposeful and systematic collection,
1889 transportation, storage, processing, recovery, or disposal of solid waste.

1890 (12) (a) "Solid waste management facility" means a facility employed for solid waste
1891 management, including:

1892 (i) a transfer station;

1893 (ii) a transport system;

1894 (iii) a baling facility;

1895 (iv) a landfill; and

1896 (v) a processing system, including:

1897 (A) a resource recovery facility;

1898 (B) a facility for reducing solid waste volume;

1899 (C) a plant or facility for compacting, or composting, of solid waste;

1900 (D) an incinerator;

1901 (E) a solid waste disposal, reduction, pyrolization, or conversion facility;

1902 (F) a facility for resource recovery of energy consisting of:

1903 (I) a facility for the production, transmission, distribution, and sale of heat and steam;

1904 (II) a facility for the generation and sale of electric energy to a public utility,

1905 municipality, or other public entity that owns and operates an electric power system on March
1906 15, 1982; and

1907 (III) a facility for the generation, sale, and transmission of electric energy on an
1908 emergency basis only to a military installation of the United States; and

1909 (G) an auxiliary energy facility that is connected to a facility for resource recovery of
1910 energy as described in Subsection (12)(a)(v)(F), that:

1911 (I) is fueled by natural gas, landfill gas, or both;

1912 (II) consists of a facility for the production, transmission, distribution, and sale of
1913 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
1914 military installation of the United States; and

1915 (III) consists of a facility for the generation, transmission, distribution, and sale of
1916 electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a
1917 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

1918 (b) "Solid waste management facility" does not mean a facility that:

1919 (i) accepts and processes metal, as described in Subsection ~~19-6-102[(18)](19)~~(b), by
1920 separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a
1921 principle commodity grade product of prepared scrap metal for sale or use for remelting
1922 purposes provided that any byproduct or residual that would qualify as solid waste is managed
1923 at a solid waste management facility; or

1924 (ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

1925 (A) have been source-separated or otherwise diverted from the solid waste stream
1926 before acceptance at the facility and that are not otherwise hazardous waste or subject to
1927 conditions of federal hazardous waste regulations; and

1928 (B) are reused or recycled as a valuable commercial commodity by separating,
1929 shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle
1930 commodity grade product, provided that any byproduct or residual that would qualify as solid
1931 waste is managed at a solid waste management facility.

1932 Section 29. Section ~~19-6-721.1~~ is enacted to read:

1933 **19-6-721.1. Notice of violations -- Order for correction -- Civil action to enforce.**

1934 (1) Whenever the director determines that a person is in violation of an applicable
1935 approved used oil operation permit, the requirements of this part, or any of the board's rules,
1936 the director may cause written notice of that violation to be served upon the alleged violator.
1937 The notice shall specify the provisions of the permit, this part, or rule alleged to have been
1938 violated, and the facts alleged to constitute the violation.

1939 (2) The director may:

1940 (a) issue an order requiring that necessary corrective action be taken within a
1941 reasonable time; or

1942 (b) request the attorney general or the county attorney in the county in which the
1943 violation is taking place to bring a civil action for injunctive relief and enforcement of this part.