

**DEPARTMENT OF ENVIRONMENTAL QUALITY BOARDS**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Environmental Quality Code to modify provisions related to boards within the Department of Environmental Quality, provisions related to executive secretaries to those boards, and related provisions.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to appointment, conflicts of interest, and powers of the Air Quality Board and board members;
- ▶ modifies provisions related to the executive secretary for air quality;
- ▶ modifies provisions related to appointment and powers of the Radiation Control Board and board members;
- ▶ modifies provisions related to the executive secretary for radiation control;
- ▶ addresses civil penalties related to radiation control;
- ▶ modifies provisions related to appointment and powers of the Water Quality Board and board members;
- ▶ modifies provisions related to the executive secretary for water quality;
- ▶ modifies provisions related to appointment and powers of the Solid and Hazardous Waste Control Board and board members;
- ▶ modifies provisions related to the executive secretary for solid and hazardous waste;



- 28           ▶ addresses rulemaking; and
- 29           ▶ makes technical and conforming amendments.

30 **Monies Appropriated in this Bill:**

31           None

32 **Other Special Clauses:**

33           None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36           **19-2-103**, as last amended by Laws of Utah 2009, Chapter 356
- 37           **19-2-104**, as last amended by Laws of Utah 2009, Chapter 377
- 38           **19-2-105**, as last amended by Laws of Utah 2005, Chapter 2
- 39           **19-2-107**, as renumbered and amended by Laws of Utah 1991, Chapter 112
- 40           **19-3-103**, as last amended by Laws of Utah 2002, Chapters 176 and 297
- 41           **19-3-103.5**, as last amended by Laws of Utah 2009, Chapter 377
- 42           **19-3-105**, as last amended by Laws of Utah 2007, Chapter 26
- 43           **19-3-108**, as enacted by Laws of Utah 1991, Chapter 112
- 44           **19-3-109**, as last amended by Laws of Utah 2008, Chapter 382
- 45           **19-5-103**, as last amended by Laws of Utah 2008, Chapters 250 and 336
- 46           **19-5-104**, as last amended by Laws of Utah 2008, Chapters 336 and 382
- 47           **19-5-106**, as last amended by Laws of Utah 1995, Chapter 114
- 48           **19-6-102.1**, as enacted by Laws of Utah 1996, Chapter 230
- 49           **19-6-103**, as last amended by Laws of Utah 2002, Chapter 176
- 50           **19-6-104**, as last amended by Laws of Utah 2009, Chapter 377
- 51           **19-6-105**, as last amended by Laws of Utah 2008, Chapter 382
- 52           **19-6-107**, as renumbered and amended by Laws of Utah 1991, Chapter 112
- 53           **41-6a-1644**, as last amended by Laws of Utah 2009, Chapter 333



54  
55 *Be it enacted by the Legislature of the state of Utah:*

56           Section 1. Section **19-2-103** is amended to read:

57           **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**  
58 **and expenses.**

59 ~~[(1) The board comprises 11 members, one of whom shall be the]~~

60 (1) The Air Quality Board created in Section 19-1-106 consists of the following 11  
61 members:

62 (a) the executive director; and [10 of whom shall be appointed]

63 (b) 10 members appointed in accordance with this section by the governor with the  
64 consent of the Senate.

65 ~~[(2) The members shall be knowledgeable of air pollution matters and shall be:]~~

66 (2) (a) In appointing a member under Subsection (1)(b), the governor shall appoint:

67 (i) for each appointment, an individual who has at least five years experience in air  
68 pollution matters;

69 ~~[(a) a]~~ (ii) one practicing physician and surgeon licensed in the state not connected  
70 with industry;

71 ~~[(b) a]~~ (iii) one registered professional engineer who is not from industry;

72 ~~[(c) a]~~ (iv) one representative from municipal government;

73 ~~[(d) a]~~ (v) one representative from county government;

74 ~~[(e) a]~~ (vi) one representative from agriculture;

75 ~~[(f) a]~~ (vii) one representative from the mining industry;

76 ~~[(g) a]~~ (viii) one representative from manufacturing;

77 ~~[(h) a]~~ (ix) one representative from the fuel industry; and

78 ~~[(i) (x) two representatives of the [public not representing or connected with industry,  
79 at least one of whom represents organized environmental interests] general public, neither of  
80 whom derive a significant portion of their income from a person subject to regulation under  
81 this chapter.~~

82 (b) The income restriction in Subsection (2)(a)(x) applies to an appointment made after  
83 May 11, 2010.

84 (3) No more than five of the appointed members ~~[shall]~~ may belong to the same  
85 political party.

86 (4) The majority of the members may not derive any significant portion of their income  
87 from persons subject to ~~[permits or orders]~~ regulation under this chapter. ~~[Any potential~~  
88 ~~conflict of interest of any]~~

89 (5) A member or the executive secretary, shall adequately disclose to the board a

90 potential conflict of the member or the executive secretary that is relevant to the interests of the  
91 board~~[, shall be adequately disclosed].~~

92 ~~[(5) Members serving on the Air Conservation Committee created by Laws of Utah~~  
93 ~~1981, Chapter 126, as amended, shall serve as members of the board throughout the terms for~~  
94 ~~which they were appointed.]~~

95 (6) (a) Except as required by Subsection (6)(b), members shall be appointed for a term  
96 of four years.

97 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the  
98 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
99 board members are staggered so that approximately half of the board is appointed every two  
100 years.

101 (7) A member may serve more than one term.

102 (8) A member shall hold office until the expiration of the member's term and until the  
103 member's successor is appointed, but not more than 90 days after the expiration of the  
104 member's term.

105 (9) When a vacancy occurs in ~~[the membership]~~ an appointed position on the board for  
106 any reason, the ~~[replacement shall be appointed]~~ governor shall appoint a replacement for the  
107 unexpired term with the consent of the Senate.

108 (10) The board shall elect annually a chair and a vice chair from its members.

109 (11) (a) The board shall meet at least quarterly, and special meetings may be called by  
110 the chair upon ~~[his]~~:

111 (i) the chair's own initiative~~[, upon]~~;

112 (ii) the request of the executive secretary~~[,];~~ or ~~[upon]~~

113 (iii) the request of three members of the board.

114 (b) Three days' notice shall be given to each member of the board ~~[prior to any]~~ before  
115 a meeting.

116 (12) Six members constitute a quorum at any meeting, and the action of a majority of  
117 members present is the action of the board.

118 (13) (a) (i) A member who is not a government employee shall receive no  
119 compensation or benefits for the member's services, but may receive per diem and expenses  
120 incurred in the performance of the member's official duties at the rates established by the

121 Division of Finance under Sections 63A-3-106 and 63A-3-107.

122 (ii) A member may decline to receive per diem and expenses for the member's service.

123 (b) (i) A state government officer and employee member who does not receive salary,  
124 per diem, or expenses from the agency the member represents for the member's service may  
125 receive per diem and expenses incurred in the performance of the member's official duties from  
126 the board at the rates established by the Division of Finance under Sections 63A-3-106 and  
127 63A-3-107.

128 (ii) A state government officer and employee member may decline to receive per diem  
129 and expenses for the member's service.

130 (c) (i) A local government member who does not receive salary, per diem, or expenses  
131 from the entity that the member represents for the member's service may receive per diem and  
132 expenses incurred in the performance of the member's official duties at the rates established by  
133 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

134 (ii) A local government member may decline to receive per diem and expenses for the  
135 member's service.

136 Section 2. Section **19-2-104** is amended to read:

137 **19-2-104. Powers of board.**

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

140 (a) regarding the control, abatement, and prevention of air pollution from all sources

141 [~~and~~];

142 (b) the establishment of the maximum quantity of air contaminants that may be emitted  
143 by any air contaminant source;

144 [~~(b)~~] (c) establishing air quality standards;

145 [~~(c)~~] (d) requiring persons engaged in operations [~~which~~] that result in air pollution to:

146 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

147 (ii) file periodic reports containing information relating to the rate, period of emission,  
148 and composition of the air contaminant; and

149 (iii) provide access to records relating to emissions [~~which~~] that cause or contribute to  
150 air pollution;

151 [~~(d)~~] (e) implementing [~~15 U.S.C.A. 2601 et seq.~~] Toxic Substances Control Act,

152 Subchapter II - Asbestos Hazard Emergency Response, 15 U.S.C. Sec. 2601 et seq., and  
153 reviewing and approving asbestos management plans submitted by local education agencies  
154 under that act;

155 ~~[(e)]~~ (f) establishing a requirement for a diesel emission opacity inspection and  
156 maintenance program for diesel-powered motor vehicles;

157 ~~[(f)]~~ (g) implementing an operating permit program as required by and in conformity  
158 with Titles IV and V of the federal Clean Air Act Amendments of 1990;

159 ~~[(g)]~~ (h) establishing requirements for county emissions inspection and maintenance  
160 programs after obtaining agreement from the counties that would be affected by the  
161 requirements;

162 ~~[(h)]~~ (i) with the approval of the governor, implementing in air quality nonattainment  
163 areas employer-based trip reduction programs;

164 (A) applicable to;

165 (I) businesses having more than 100 employees at a single location; and ~~[applicable to]~~

166 (II) federal, state, and local governments; and

167 (B) to the extent necessary to attain and maintain ambient air quality standards  
168 consistent with the state implementation plan and federal requirements under the standards set  
169 forth in Subsection (2); and

170 ~~[(i)]~~ (j) implementing lead-based paint remediation training, certification, and  
171 performance requirements in accordance with ~~[15 U.S.C.A. 2601 et seq.]~~ the Toxic Substances  
172 Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406 15 U.S.C. Sec.  
173 2601 et seq.

174 (2) When implementing Subsection (1)~~[(h)]~~(i), the board shall take into consideration:

175 (a) the impact of the business on overall air quality; and

176 (b) the need of the business to use automobiles in order to carry out its business  
177 purposes.

178 (3) The board may:

179 (a) (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of or  
180 matter in the administration of this chapter ~~[and]~~;

181 (ii) at a hearing described in Subsection (3)(a)(i):

182 (A) compel the attendance of witnesses [and];

183            (B) compel the production of documents and other evidence[;];  
184            (C) administer oaths and take testimony[;]; and  
185            (D) receive evidence as necessary;  
186            ~~[(ii)]~~ (iii) receive a proposed dispositive action from an administrative law judge as  
187 provided by Section 19-1-301; and  
188            ~~[(iii)]~~ (iv) (A) approve, approve with modifications, or disapprove a proposed  
189 dispositive action; or  
190            (B) return the proposed dispositive action to the administrative law judge for further  
191 action as directed;  
192            (b) issue orders necessary to enforce ~~[the provisions of]~~ this chapter[;];  
193            (c) enforce the orders by appropriate administrative and judicial proceedings[~~, and~~];  
194            (d) institute judicial proceedings to secure compliance with this chapter;  
195            ~~[(e)]~~ (e) settle or compromise any civil action initiated to compel compliance with this  
196 chapter and the rules made under this chapter;  
197            ~~[(d) secure necessary scientific, technical, administrative, and operational services,~~  
198 ~~including laboratory facilities, by contract or otherwise;]~~  
199            ~~[(e) prepare and develop a comprehensive plan or plans for the prevention, abatement,~~  
200 ~~and control of air pollution in this state;]~~  
201            (f) exercise all incidental powers necessary to carry out the purposes of this part to the  
202 extent that the exercise of the incidental powers is in furtherance of one or more of the powers  
203 of the board listed in this section;  
204            ~~[(f)]~~ (g) encourage voluntary cooperation by persons and affected groups to achieve the  
205 purposes of this chapter;  
206            ~~[(g) encourage local units of government to handle air pollution within their respective~~  
207 ~~jurisdictions on a cooperative basis and provide technical and consultative assistance to them;]~~  
208            ~~[(h) encourage and conduct studies, investigations, and research relating to air~~  
209 ~~contamination and air pollution and their causes, effects, prevention, abatement, and control;]~~  
210            ~~[(i) determine by means of field studies and sampling the degree of air contamination~~  
211 ~~and air pollution in all parts of the state;]~~  
212            ~~[(j) monitor the effects of the emission of air contaminants from motor vehicles on the~~  
213 ~~quality of the outdoor atmosphere in all parts of this state and take appropriate action with~~

214 respect to them;]

215 ~~[(k) collect and disseminate information and conduct educational and training~~

216 ~~programs relating to air contamination and air pollution;]~~

217 ~~[(†) (h) advise, consult, contract, and cooperate with:~~

218 ~~(i) other agencies of the state[;];~~

219 ~~(ii) local governments[;];~~

220 ~~(iii) industries[;];~~

221 ~~(iv) other states[;];~~

222 ~~(v) interstate or interlocal agencies[;];~~

223 ~~(vi) the federal government[;]; and~~

224 ~~(vii) with interested persons or groups;~~

225 ~~[(m) consult, upon request, with any person proposing to construct, install, or~~

226 ~~otherwise acquire an air contaminant source in the state concerning the efficacy of any~~

227 ~~proposed control device, or system for this source, or the air pollution problem which may be~~

228 ~~related to the source, device, or system, but a consultation does not relieve any person from~~

229 ~~compliance with this chapter, the rules adopted under it, or any other provision of law;]~~

230 ~~[(n) accept, receive, and administer grants or other funds or gifts from public and~~

231 ~~private agencies, including the federal government, for the purpose of carrying out any of the~~

232 ~~functions of this chapter;]~~

233 ~~[(o) (i) require the owner and operator of each new source [which] that directly emits~~

234 ~~or has the potential to emit 100 tons per year or more of any air contaminant or the owner or~~

235 ~~operator of each existing source [which] that by modification will increase emissions or have~~

236 ~~the potential of increasing emissions by 100 tons per year or more of any air contaminant, to~~

237 ~~pay a fee sufficient to cover the reasonable costs of:~~

238 ~~(i) reviewing and acting upon the notice required under Section 19-2-108; and~~

239 ~~(ii) implementing and enforcing requirements placed on the sources by any approval~~

240 ~~order issued pursuant to notice, not including any court costs associated with any enforcement~~

241 ~~action;~~

242 ~~[(p) assess and collect noncompliance penalties as required in Section 120 of the~~

243 ~~federal Clean Air Act, 42 U.S.C. Sec. 7420;]~~

244 ~~[(q) (j) meet the requirements of federal air pollution laws;~~



245           ~~[(t)]~~ (k) establish work practice, certification, and clearance air sampling requirements  
246 for ~~[persons]~~ a person who:

247           (i) ~~[contract]~~ contracts for hire to conduct demolition, renovation, salvage,  
248 encapsulation work involving friable asbestos-containing materials, or asbestos inspections;

249           (ii) ~~[conduct]~~ conducts work described in Subsection (3)~~[(t)]~~(k)(i) in areas to which the  
250 general public has unrestrained access or in school buildings that are subject to the federal  
251 Asbestos Hazard Emergency Response Act of 1986;

252           (iii) ~~[conduct]~~ conducts asbestos inspections in facilities subject to ~~[15 U.S.C.A. 2601~~  
253 ~~et seq.;~~ the Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency  
254 Response, 15 U.S.C. 2601 et seq.; or

255           (iv) ~~[conduct]~~ conducts lead paint inspections in facilities subject to ~~[15 U.S.C.A. 2601~~  
256 ~~et seq.;~~ the Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, 15  
257 U.S.C. 2601 et seq.;

258           ~~[(s)]~~ (l) establish certification requirements for ~~[persons]~~ a person required under ~~[15~~  
259 ~~U.S.C.A. 2601 et seq.;~~ the Toxic Substances Control Act, Subchapter II - Asbestos Hazard  
260 Emergency Response, 15 U.S.C. 2601 et seq., to be accredited as ~~[inspectors, management~~  
261 ~~planners, abatement project designers, asbestos abatement contractors and supervisors, or~~  
262 ~~asbestos abatement workers;]~~;

263           (i) an inspector;

264           (ii) a management planner;

265           (iii) an abatement project designer;

266           (iv) an asbestos abatement contractor or supervisor; or

267           (v) an asbestos abatement worker;

268           ~~[(t)]~~ (m) establish certification requirements for asbestos project monitors~~[, which~~  
269 ~~shall]~~ that provide for experience-based certification of ~~[persons]~~ a person who, ~~[prior to]~~  
270 before establishment of the certification requirements, ~~[had]~~ has:

271           (i) received relevant asbestos training, as defined by rule[-]; and [had]

272           (ii) acquired at least 1,000 hours of experience as project monitors;

273           ~~[(t)]~~ (n) establish certification procedures and requirements for certification of the  
274 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the  
275 tax credit granted in Section 59-7-605 or 59-10-1009;

276 ~~[(v)]~~ (o) establish a program to certify private sector air quality permitting  
 277 professionals ~~[(AQPP)]~~ "AQPP", as described in Section 19-2-109.5;

278 ~~[(w)]~~ (p) establish certification requirements for ~~[persons]~~ a person required under ~~[15~~  
 279 ~~U.S.C.A. 2601 et seq.,]~~ the Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, 15  
 280 U.S.C. Sec. 2601 et seq., to be accredited ~~[as inspectors, risk assessors, supervisors, project~~  
 281 ~~designers, or abatement workers; and];~~

282 (i) an inspector;

283 (ii) a risk assessor;

284 (iii) a supervisor;

285 (iv) a project designer; or

286 (v) an abatement worker; and

287 ~~[(x)]~~ (q) assist the State Board of Education in adopting school bus idling reduction  
 288 standards and implementing an idling reduction program in accordance with Section  
 289 41-6a-1308.

290 (4) ~~[Any rules]~~ A rule adopted under this chapter shall be consistent with ~~[provisions~~  
 291 ~~of]~~ federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

292 (5) ~~[Nothing in this chapter authorizes the board to require installation of or payment~~  
 293 ~~for any monitoring equipment by the owner or operator of a source if the]~~ Notwithstanding the  
 294 other provisions of this chapter, the board or executive secretary may not require an owner or  
 295 operator to install or pay for monitoring equipment if the owner or operator has installed or is  
 296 operating monitoring equipment that is equivalent to the equipment [which] that the board  
 297 ~~[would require under this section]~~ or executive secretary would otherwise require under this  
 298 chapter.

299 (6) A board member may not represent to any person that the board member speaks for  
 300 or acts on behalf of the board without an affirmative vote of the board at a meeting held in  
 301 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

302 Section 3. Section **19-2-105** is amended to read:

303 **19-2-105. Duties of board.**

304 (1) The board, ~~[in conjunction with the governing body of each county identified in~~  
 305 ~~Section 41-6a-1643 and other interested parties;]~~ through the executive secretary, shall perform  
 306 an evaluation of the inspection and maintenance program developed under Section 41-6a-1643

307 ~~[including issues relating to]~~ in conjunction with:

308 (a) the governing body of each county identified in Section 41-6a-1643; and

309 (b) other interested parties.

310 (2) The evaluation required by Subsection (1) shall include issues relating to:

311 ~~[(1)]~~ (a) the implementation of a standardized inspection and maintenance program;

312 ~~[(2)]~~ (b) out-of-state registration of vehicles used in Utah;

313 ~~[(3)]~~ (c) out-of-county registration of vehicles used within the areas required to have an  
314 inspection and maintenance program;

315 ~~[(4)]~~ (d) use of the farm truck exemption;

316 ~~[(5)]~~ (e) mechanic training programs;

317 ~~[(6)]~~ (f) emissions standards; and

318 ~~[(7)]~~ (g) emissions waivers.

319 Section 4. Section **19-2-107** is amended to read:

320 **19-2-107. Executive secretary -- Appointment -- Powers.**

321 (1) (a) The [executive secretary shall be appointed by the] executive director shall  
322 appoint an executive secretary, with the approval of the board[; and shall serve].

323 (b) The executive secretary serves under the administrative direction of the executive  
324 director.

325 (2) The executive secretary may:

326 ~~[(a) develop programs for the prevention, control, and abatement of new or existing air~~  
327 ~~pollution resources of the state;]~~

328 (a) prepare and develop one or more comprehensive plans for the prevention,  
329 abatement, and control of air pollution in this state;

330 (b) in furtherance of the purposes of this chapter, advise, consult, and cooperate with:

331 (i) other agencies of the state[;];

332 (ii) interlocal agencies;

333 (iii) the federal government[;];

334 (iv) other states and interstate agencies[; and with];

335 (v) affected groups[;];

336 (vi) political subdivisions[;]; and

337 (vii) industries [in furtherance of the purposes of this chapter];

- 338 (c) employ full-time employees necessary to carry out this chapter;
- 339 (d) ~~[as authorized by the board, subject to the provisions of this chapter,]~~ authorize
- 340 ~~[any]~~ an employee or representative of the department to enter at reasonable time and upon
- 341 reasonable notice in or upon public or private property for the purposes of inspecting and
- 342 investigating conditions and plant records concerning possible air pollution;
- 343 (e) encourage, participate in, or conduct studies, investigations, research, and
- 344 demonstrations relating to air pollution and ~~[causes of it]~~ its causes, effects, prevention,
- 345 abatement, and control as advisable and necessary for the discharge of duties assigned under
- 346 this chapter, including the establishment of inventories of pollution sources;
- 347 (f) collect and disseminate information relating to air pollution and the prevention,
- 348 control, and abatement of it;
- 349 (g) ~~[as authorized by the board subject to the provisions of this chapter,]~~ enforce rules
- 350 through the issuance of orders, including:
- 351 (i) prohibiting or abating discharges of wastes affecting ambient air;
- 352 (ii) requiring the construction of new control facilities or any parts of new control
- 353 facilities or the modification, extension, or alteration of existing control facilities or any parts
- 354 of new control facilities; or
- 355 (iii) the adoption of other remedial measures to prevent, control, or abate air pollution;
- 356 (h) review plans, specifications, or other data relative to pollution control systems or
- 357 any part of the systems provided in this chapter;
- 358 (i) cooperate with any person in a study or research regarding air pollution, or its
- 359 control, abatement, and prevention;
- 360 (j) represent the state, with the specific concurrence of the executive director, in a
- 361 matter that pertains to interstate air pollution, including a matter related to an interstate
- 362 compact or similar agreement;
- 363 (k) by contract or otherwise, secure necessary scientific, technical, administrative, and
- 364 operational services, including laboratory facilities;
- 365 (l) encourage voluntary cooperation by a person or affected group to achieve the
- 366 purposes of this chapter;
- 367 (m) encourage a local government to handle air pollution within the local government's
- 368 jurisdiction on a cooperative basis;

369 (n) provide technical and consultative assistance to a local government to assist the  
370 local government in handling air pollution within the local government's jurisdiction;  
371 (o) monitor the effects of the emission of air contaminants from motor vehicles on the  
372 quality of the outdoor atmosphere in all parts of the state;  
373 (p) take appropriate action with respect to the effects of the emission air contaminants  
374 found under Subsection (2)(o);  
375 (q) with regard to air contamination and air pollution:  
376 (i) collect information;  
377 (ii) disseminate information; and  
378 (iii) conduct an educational and training program;  
379 (r) subject to Subsection (3), consult, upon request, with a person proposing to  
380 construct, install, or otherwise acquire an air contaminant source in the state concerning:  
381 (i) the efficacy of a proposed control device or system for the air contaminant source;  
382 or  
383 (ii) the air pollution problem that may be related to the source, device, or system;  
384 (s) accept, receive, and administer a grant, other money, or a gift from a public or  
385 private entity, including the federal government, for the purpose of carrying out a function  
386 under this chapter;  
387 (t) assess and collect a noncompliance penalty as required by Section 120, Clean Air  
388 Act, 42 U.S.C. Sec. 7420;  
389 (u) meet the requirements of federal air pollution laws;  
390 (v) establish work practice, certification, and clearance air sampling requirements for a  
391 person who:  
392 (i) contracts for hire to conduct:  
393 (A) demolition, renovation, salvage, or encapsulation work involving friable  
394 asbestos-containing materials; or  
395 (B) an asbestos inspection;  
396 (ii) conducts work described in Subsection (2)(v)(i) in:  
397 (A) an area to which the general public has unrestrained access; or  
398 (B) a school building that is subject to the Asbestos Hazard Emergency Response Act  
399 of 1986, 15 U.S.C. Sec. 1641 et seq.;

400 (iii) conducts an asbestos inspection in a facility that is subject to the Toxic Substances  
 401 Control Act, Subchapter II - Asbestos Hazard Emergency Response, 15 U.S.C. Sec. 2601 et  
 402 seq.; or

403 (iv) conducts a lead paint inspection in a facility that is subject to the Toxic Substances  
 404 Control Act, Subchapter IV - Lead Exposure Reduction, 15 U.S.C. Sec. 2601 et seq.; and

405 ~~[(†)] (w) as authorized by the board, subject to [the provisions of] this chapter, exercise~~  
 406 all incidental powers necessary to carry out the purposes of this chapter, including certification  
 407 to any state or federal authorities for tax purposes the fact of construction, installation, or  
 408 acquisition of any facility, land, building, machinery, or equipment or any part of them, in  
 409 conformity with this chapter[;].

410 ~~[(j) cooperate with any person in studies and research regarding air pollution, its~~  
 411 ~~control, abatement, and prevention; and]~~

412 ~~[(k) represent the state with the specific concurrence of the executive director in all~~  
 413 ~~matters pertaining to interstate air pollution, including interstate compacts and similar~~  
 414 ~~agreements.]~~

415 (3) A consultation by the executive secretary under Subsection (2)(r) does not relieve a  
 416 person from compliance with this chapter, a rule made under this chapter, or any other  
 417 provision of law.

418 Section 5. Section **19-3-103** is amended to read:

419 **19-3-103. Radiation Control Board -- Members -- Organization -- Meetings -- Per**  
 420 **diem and expenses.**

421 (1) The ~~[board]~~ Radiation Control Board created under Section 19-1-106 ~~[comprises]~~  
 422 consists of the following 13 members~~[- one of whom shall be]:~~

423 (a) the executive director, or [his] the executive director's designee[;]; and [the  
 424 remainder of whom shall be appointed]

425 (b) 12 members appointed in accordance with this section by the governor with the  
 426 consent of the Senate.

427 (2) No more than six appointed members shall be from the same political party.

428 ~~[(3) The appointed members shall be knowledgeable about radiation protection and~~  
 429 ~~shall be as follows:]~~

430 (3) (a) In appointing a member under Subsection (1)(b), the governor shall appoint:

431 (i) for each appointment, an individual who has at least five years experience in  
 432 radiation protection;  
 433 ~~[(a)]~~ (ii) one physician;  
 434 ~~[(b)]~~ (iii) one dentist;  
 435 ~~[(c)]~~ (iv) one health physicist or other professional employed in the field of radiation  
 436 safety;  
 437 ~~[(d)]~~ (v) three representatives of regulated industry[;];  
 438 (A) at least one of whom represents the radioactive waste management industry[;]; and  
 439 (B) at least one of whom represents the uranium milling industry;  
 440 ~~[(e)]~~ (vi) one registrant or licensee representative from academia;  
 441 ~~[(f)]~~ (vii) one representative of a local health department;  
 442 ~~[(g)]~~ (viii) one ~~elect~~ representative of county ~~official~~ government; and  
 443 ~~[(h)]~~ (ix) three members of the general public[, at least one of whom represents  
 444 organized environmental interests], none of whom derive a significant portion of their income  
 445 from a person subject to regulation under this chapter.

446 (b) The income restriction in Subsection (3)(a)(ix) applies to an appointment made  
 447 after May 11, 2010.

448 (4) (a) Except as required by Subsection (4)(b), as terms of current board members  
 449 expire, the governor shall appoint each new member or reappointed member to a four-year  
 450 term.

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

455 (5) ~~[Each]~~ A board member is eligible for reappointment to more than one term.

456 (6) ~~[Each]~~ A board member shall continue in office until the expiration of ~~[his]~~ the  
 457 board member's term and until a successor is appointed, but not more than 90 days after the  
 458 expiration of ~~[his]~~ the term.

459 (7) When a vacancy occurs in ~~[the membership]~~ an appointed position on the board for  
 460 any reason, ~~[the replacement shall be appointed]~~ the governor shall appoint a replacement for  
 461 the unexpired term ~~[by the governor]~~, after considering recommendations by the department

462 and with the consent of the Senate.

463 (8) The board shall annually elect a chair and vice chair from its members.

464 (9) The board shall meet at least quarterly. Other meetings may be called;

465 (a) by the chair[;];

466 (b) by the executive secretary[;]; or

467 (c) upon the request of three members of the board.

468 (10) Reasonable notice shall be given each member of the board [~~prior to any~~] before a  
469 meeting.

470 (11) Seven members constitute a quorum. The action of a majority of the members  
471 present is the action of the board.

472 (12) (a) (i) Members who are not government employees receive no compensation or  
473 benefits for their services, but may receive per diem and expenses incurred in the performance  
474 of the member's official duties at the rates established by the Division of Finance under  
475 Sections 63A-3-106 and 63A-3-107.

476 (ii) Members may decline to receive per diem and expenses for their service.

477 (b) (i) State government officer and employee members who do not receive salary, per  
478 diem, or expenses from their agency for their service may receive per diem and expenses  
479 incurred in the performance of their official duties from the board at the rates established by the  
480 Division of Finance under Sections 63A-3-106 and 63A-3-107.

481 (ii) State government officer and employee members may decline to receive per diem  
482 and expenses for their service.

483 (c) (i) Local government members who do not receive salary, per diem, or expenses  
484 from the entity that they represent for their service may receive per diem and expenses incurred  
485 in the performance of their official duties at the rates established by the Division of Finance  
486 under Sections 63A-3-106 and 63A-3-107.

487 (ii) Local government members may decline to receive per diem and expenses for their  
488 service.

489 Section 6. Section **19-3-103.5** is amended to read:

490 **19-3-103.5. Board authority and duties.**

491 (1) The board may:

492 [~~(a) require submittal of specifications or other information relating to licensing~~]



493 applications for radioactive materials or registration of radiation sources for review, approval,  
494 disapproval, or termination;]

495 (a) make a rule in accordance with Title 63G, Chapter 3, Utah Administrative  
496 Rulemaking Act, that is necessary to implement this chapter;

497 (b) issue orders necessary to enforce [the provisions of] this part[;];

498 (c) enforce the orders by appropriate administrative and judicial proceedings[; and];

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

500 ~~[(e)-(f)]~~ (e) hold a hearing that is not an adjudicative proceeding and at the hearing:

501 (i) compel the attendance of witnesses[;];

502 (ii) compel the production of documents[;] and other evidence[;];

503 (iii) administer oaths and take testimony[;]; and

504 (iv) receive evidence [it] the board finds proper[; or appoint hearing officers];

505 (f) appoint a hearing officer to conduct a hearing that is not an adjudicative proceeding  
506 and authorize [them to exercise the powers under this] the hearing officer to take an action  
507 described in Subsection (1)(e);

508 ~~[(f)]~~ (g) receive a proposed dispositive action from an administrative law judge as  
509 provided by Section 19-1-301[;], and;

510 ~~[(g)-(A)]~~ (i) approve, approve with modifications, or disapprove a proposed  
511 dispositive action; or

512 ~~[(B)]~~ (ii) return the proposed dispositive action to the administrative law judge for  
513 further action as directed;

514 ~~[(C)]~~ (h) settle or compromise any administrative or civil action initiated to compel  
515 compliance with this part or any rules adopted under this part;

516 ~~[(e) advise, consult, cooperate with, and provide technical assistance to other agencies~~  
517 ~~of the state and federal government, other states, interstate agencies, and affected groups,~~  
518 ~~political subdivisions, industries, and other persons in carrying out the provisions of this part;]~~

519 ~~[(f)]~~ (i) promote the planning and application of pollution prevention and radioactive  
520 waste minimization measures to prevent the unnecessary waste and depletion of natural  
521 resources;

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

524 ~~[(h)]~~ (j) accept, receive, and administer grants or other funds or gifts from public and  
525 private agencies, including the federal government, for the purpose of carrying out any of the  
526 functions of this part;

527 ~~[(i)]~~ (k) exercise all incidental powers necessary to carry out the purposes of this part to  
528 the extent that the exercise of the incidental powers is in furtherance of one or more of the  
529 powers of the board listed under this section;

530 ~~[(j)]~~ (l) submit an application to the ~~[U.S.]~~ United States Food and Drug  
531 Administration for approval as an accrediting body in accordance with ~~[42 U.S.C. 263b,]~~ the  
532 Mammography Quality Standards Act of 1992, 42 U.S.C. 263b;

533 ~~[(k)]~~ (m) accredit mammography facilities, pursuant to approval as an accrediting body  
534 from the ~~[U.S.]~~ United States Food and Drug Administration, in accordance with ~~[42 U.S.C.~~  
535 ~~263b,]~~ the Mammography Quality Standards Act of 1992, 42 U.S.C. 263b; and

536 ~~[(l)]~~ (n) review the qualifications of and issue certificates of approval to ~~[individuals~~  
537 ~~who survey]~~ an individual who surveys mammography equipment ~~[and oversee]~~ or oversees  
538 quality assurance practices at mammography facilities.

539 (2) The board shall:

540 (a) require submittal to the executive secretary of specifications or other information  
541 relating to licensing applications for radioactive materials or registration of radiation sources so  
542 that the executive secretary may:

543 (i) review a licensing application;

544 (ii) approve a licensing application;

545 (iii) disapprove a licensing application; or

546 (iv) terminate a licensing application;

547 ~~[(a)]~~ (b) receive a proposed dispositive action from an administrative law judge on an  
548 appeal of final decisions made by the executive secretary as provided by Section 19-1-301;

549 ~~[(b)]~~ (c) prepare a radioactive waste management plan in compliance with Section  
550 19-3-107 as soon as practicable; and

551 ~~[(c)]~~ (d) impound radioactive material as authorized in Section 19-3-111.

552 ~~[(3)]~~ Representatives of the board upon presentation of appropriate credentials may  
553 enter at reasonable times upon the premises of public and private properties subject to  
554 regulation under this part to perform inspections to insure compliance with this part and rules

555 made by the board.]

556 (3) (a) In relation to a license, registration, or certificate that is subject to the authority  
557 of the executive secretary under Section 19-2-108, the board may not:

558 (i) issue a license, registration, or certificate;

559 (ii) approve an amendment or modification to a license, registration, or certificate; or

560 (iii) terminate a license, registration, or certificate.

561 (b) The executive secretary shall apprise the board as necessary and appropriate of  
562 actions taken by the executive secretary with regard to a license, registration, or certificate.

563 (4) A board member may not represent to any person that the board member speaks for  
564 or acts on behalf of the board without an affirmative vote of the board at a meeting held in  
565 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

566 Section 7. Section **19-3-105** is amended to read:

567 **19-3-105. Definitions -- Legislative and gubernatorial approval required for**  
568 **radioactive waste license -- Exceptions -- Application for new, renewed, or amended**  
569 **license.**

570 (1) As used in this section:

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

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

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

574 (B) radium-226 up to a maximum radionuclide concentration level of 10,000

575 picocuries per gram.

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

577 (A) uranium mill tailings;

578 (B) naturally occurring radioactive materials; or

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

581 (I) uranium-233; and

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

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

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

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

591 (A) commercially for profit; or

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

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

594 (A) alternate feed material for reprocessing; or

595 (B) radioactive waste from a location in the state designated as a processing site under  
596 42 U.S.C. 7912(f).

597 (d) "Radioactive waste license" or "license" means a radioactive material license issued  
598 by the executive secretary under Subsection 19-3-108(2)[~~(c)~~](~~(i)~~)(e), to own, construct, modify,  
599 or operate a radioactive waste facility.

600 (2) The provisions of this section are subject to the prohibition under Section  
601 19-3-103.7.

602 (3) Subject to Subsection (10), a person may not own, construct, modify, or operate a  
603 radioactive waste facility without:

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

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

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

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

610 (4) Subject to Subsection (10), a new radioactive waste license application, or an  
611 application to renew or amend an existing radioactive waste license, is subject to the  
612 requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

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

614 (b) would cost 50% or more of the cost of construction of the original radioactive  
615 waste facility or the modification would result in an increase in capacity or throughput of a  
616 cumulative total of 50% of the total capacity or throughput which was approved in the facility

617 license as of January 1, 1990, or the initial approval facility license if the initial license  
618 approval is subsequent to January 1, 1990; or

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

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

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

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

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

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

640 (8) The board shall review each proposed radioactive waste license application to  
641 determine whether the application complies with the provisions of this chapter and the rules of  
642 the board.

643 (9) (a) If the radioactive waste license application is determined to be complete, the  
644 board shall issue a notice of completeness.

645 (b) If the board determines that the radioactive waste license application is incomplete,  
646 the board shall issue a notice of deficiency, listing the additional information to be provided by  
647 the applicant to complete the application.

648 (10) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(11) do  
649 not apply to:

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

652 (b) a license application for a facility in existence as of December 31, 2006, unless the  
653 license application includes an area beyond the facility boundary approved in the license  
654 described in Subsection (10)(a); or

655 (c) an application to renew or amend a license described in Subsection (10)(a), unless  
656 the renewal or amendment includes an area beyond the facility boundary approved in the  
657 license described in Subsection (10)(a).

658 Section 8. Section **19-3-108** is amended to read:

659 **19-3-108. Powers and duties of executive secretary.**

660 (1) The executive director shall appoint an executive secretary, with the approval of the  
661 board, to serve under the direction of the executive director.

662 (2) The executive secretary ~~[may]~~ shall:

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

665 (b) advise, consult with, ~~[and]~~ cooperate with ~~[other agencies, states, the federal~~  
666 ~~government], and provide technical assistance to the following in carrying out this chapter:~~

667 (i) other state agencies;

668 (ii) federal agencies;

669 (iii) other states;

670 (iv) interstate agencies;

671 (v) affected groups;

672 (vi) political subdivisions[;];

673 (vii) industries[;]; and

674 (viii) other [groups to further the purposes of this chapter] persons;

675 ~~[(c) as authorized by the board:]~~

676 (c) cooperate with any person in a study, research, or demonstration project regarding  
677 radioactive waste management or control of radiation sources;

678 (d) receive specifications or other information relating to licensing applications for

679 radioactive materials or registration of radiation sources for review, approval, disapproval, or  
 680 termination;

681       [(i)] (e) issue licenses, registrations, and certifications;

682       [(ii)] (f) review and approve plans;

683       [(iii)] (g) enforce rules through the issuance of orders and assess penalties in  
 684 accordance with Section 19-3-109;

685       [(iv)] (h) impound radioactive material under Section 19-3-111; and

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

689       Section 9. Section **19-3-109** is amended to read:

690       **19-3-109. Civil penalties -- Appeals.**

691       (1) A person who violates [~~any provision of~~] Sections 19-3-104 through 19-3-113, any  
 692 rule or order issued under the authority of those sections, or the terms of a license, permit, or  
 693 registration certificate issued under the authority of those sections is subject to a civil penalty  
 694 not to exceed \$5,000 for each violation.

695       (2) (a) The executive secretary and board may assess and make a demand for payment  
 696 of a penalty under this section [~~and may~~] in accordance with Subsection (3).

697       (b) The executive secretary or board may compromise or remit [that] a penalty under  
 698 this section.

699       (3) (a) [~~In order to~~] To make demand for payment of a penalty assessed under this  
 700 section, the [~~board~~] executive secretary shall issue a notice of agency action[~~, specifying, in~~]  
 701 before the board.

702       (b) In addition to the requirements for notices of agency action contained in Title 63G,  
 703 Chapter 4, Administrative Procedures Act, a notice of agency action under this Subsection (3)  
 704 shall specify:

705       [(a)] (i) the date, facts, and nature of each act or omission charged;

706       [(b)] (ii) the provision of the statute, rule, order, license, permit, or registration  
 707 certificate that is alleged to have been violated;

708       [(c)] (iii) each penalty that the [~~bureau~~] executive secretary proposes to impose,  
 709 together with the amount and date of effect of that penalty; and

710 ~~[(d)]~~ (iv) that failure to pay the penalty or respond may result in a civil action for  
711 collection.

712 (4) A person notified according to Subsection (3) may request an adjudicative  
713 proceeding.

714 (5) Upon request by the board, the attorney general may institute a civil action to  
715 collect a penalty imposed under this section.

716 (6) (a) Except as provided in Subsection (6)(b), the department shall deposit [~~all~~  
717 ~~monies~~] the money collected from civil penalties imposed under this section into the General  
718 Fund.

719 (b) The department may reimburse itself and local governments from [~~monies~~] money  
720 collected from civil penalties for extraordinary expenses incurred in environmental  
721 enforcement activities.

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

723 (i) define qualifying environmental enforcement activities; and

724 (ii) define qualifying extraordinary expenses.

725 Section 10. Section **19-5-103** is amended to read:

726 **19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms --**  
727 **Organization -- Meetings -- Per diem and expenses.**

728 [~~(1) The board comprises the executive director and]~~

729 (1) The Water Quality Board created in Section 19-1-106 consists of the following 12  
730 members:

731 (a) the executive director; and

732 (b) 11 members appointed in accordance with this section by the governor with the  
733 consent of the Senate.

734 (2) No more than six of the appointed members may be from the same political party.

735 [~~(3) The appointed members;~~]

736 (3) (a) In appointing a member under Subsection (1)(b), the governor shall:

737 (i) for each appointment, appoint an individual who has at least five years experience  
738 in water quality issues; and

739 (ii) insofar as practicable, [~~shall~~] appoint individuals to include the following:

740 [~~(a)~~] (A) one member representing the mineral industry;



- 741           ~~[(b)]~~ (B) one member representing the food processing industry;
- 742           ~~[(c)]~~ (C) one member representing another manufacturing industry;
- 743           ~~[(d)]~~ (D) two members who are officials of a municipal government or the officials'
- 744 representative involved in the management or operation of a wastewater treatment facility;
- 745           ~~[(e)]~~ (E) one member representing agricultural and livestock interests;
- 746           ~~[(f)]~~ (F) one member representing fish, wildlife, and recreation interests;
- 747           ~~[(g)]~~ (G) one member representing an improvement or special service district;
- 748           ~~[(h)]~~ (H) two members ~~[at large, one of whom represents organized environmental~~
- 749 ~~interests, selected with due consideration of the areas of the state affected by water pollution~~
- 750 ~~and not representing other interests named in this Subsection (3); and]~~ of the general public,
- 751 neither of whom derive a significant portion of their income from a person subject to regulation
- 752 under this chapter; and
- 753           ~~[(i)]~~ (I) one member representing a local health department.
- 754           (b) The income restriction in Subsection (3)(a)(ii)(H) applies to an appointment made
- 755 after May 10, 2010.
- 756           (4) When a vacancy occurs in ~~[the membership]~~ an appointed position on the board for
- 757 any reason, the ~~[replacement shall be appointed]~~ governor shall appoint a replacement for the
- 758 unexpired term with the consent of the Senate.
- 759           (5) (a) Except as required by Subsection (5)(b), a member shall be appointed for a term
- 760 of four years and is eligible for reappointment.
- 761           (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
- 762 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 763 board members are staggered so that approximately half of the board is appointed every two
- 764 years.
- 765           (6) A member shall hold office until the expiration of the member's term and until the
- 766 member's successor is appointed, not to exceed 90 days after the formal expiration of the term.
- 767           (7) The board shall:
- 768           (a) organize and annually select one of its members as chair and one of its members as
- 769 vice chair;
- 770           (b) hold at least four regular meetings each calendar year; and
- 771           (c) keep minutes of its proceedings ~~[which]~~ that are open to the public for inspection.

772 (8) The chair may call a special meeting upon the request of three or more members of  
773 the board.

774 (9) Each member of the board and the executive secretary shall be notified of the time  
775 and place of each meeting.

776 (10) Seven members of the board constitute a quorum for the transaction of business,  
777 and the action of a majority of members present is the action of the board.

778 (11) (a) A member who is not a government employee may not receive compensation  
779 or benefits for the member's service, but may receive per diem and expenses incurred in the  
780 performance of the member's official duties at the rates established by the Division of Finance  
781 under Sections 63A-3-106 and 63A-3-107.

782 (b) A member may decline to receive per diem and expenses for the member's service.

783 (c) A local government member who does not receive salary, per diem, or expenses  
784 from the entity that the member represents for the member's service may receive per diem and  
785 expenses incurred in the performance of the member's official duties at the rates established by  
786 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

787 (d) A local government member may decline to receive per diem and expenses for the  
788 member's service.

789 Section 11. Section **19-5-104** is amended to read:

790 **19-5-104. Powers and duties of board.**

791 (1) The board has the following powers and duties:

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

794 (b) advise, consult, and cooperate with the following to further the purposes of this  
795 chapter:

796 (i) other agencies of the state[;];

797 (ii) the federal government[;];

798 (iii) other states[~~;~~and];

799 (iv) interstate agencies[~~;~~and with];

800 (v) affected groups[;];

801 (vi) political subdivisions[;]; and

802 (vii) industries [~~to further the purposes of this chapter~~];

803 (c) encourage, participate in, or conduct studies, investigations, research, and  
804 demonstrations relating to water pollution and causes of water pollution as the board finds  
805 necessary to discharge its duties;

806 (d) collect and disseminate information relating to water pollution and the prevention,  
807 control, and abatement of water pollution;

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

811 (f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
812 Rulemaking Act, taking into account Subsection (3), to:

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

815 (A) requirements pertaining to applications for loans;

816 (B) requirements for determination of eligible projects;

817 (C) requirements for determination of the costs upon which loans are based, which  
818 costs may include engineering, financial, legal, and administrative expenses necessary for the  
819 construction, reconstruction, and improvement of sewage treatment plants, including major  
820 interceptors, collection systems, and other facilities appurtenant to the plant;

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

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

825 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section  
826 73-10c-4.5;

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

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

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

832 (g) issue, modify, or revoke orders:

833 (i) prohibiting or abating discharges;

834 (ii) requiring the construction of new treatment works or any parts of them~~[-or];~~  
835 (iii) requiring the modification, extension, or alteration of existing treatment works as  
836 specified by board rule or any parts of them~~[-or];~~  
837 (iv) requiring the adoption of other remedial measures to prevent, control, or abate  
838 pollution;  
839 ~~[(iii)]~~ (v) setting standards of water quality, classifying waters or evidencing any other  
840 determination by the board under this chapter; and  
841 ~~[(iv)]~~ (vi) requiring compliance with this chapter and with rules made under this  
842 chapter;  
843 ~~[(h) (i) review plans, specifications, or other data relative to disposal systems or any~~  
844 ~~part of disposal systems;]~~  
845 ~~[(ii) issue construction or operating permits for the installation or modification of~~  
846 ~~treatment works or any parts of the treatment works; and]~~  
847 ~~[(iii)]~~ (h) delegate the authority to issue an operating permit to a local health  
848 department;  
849 ~~[(i) after public notice and opportunity for a public hearing, issue, continue in effect,~~  
850 ~~revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe~~  
851 ~~to:]~~  
852 ~~[(i) control the management of sewage sludge; or]~~  
853 ~~[(ii) prevent or control the discharge of pollutants, including effluent limitations for the~~  
854 ~~discharge of wastes into the waters of the state;]~~  
855 ~~[(j)]~~ (i) give reasonable consideration in the exercise of its powers and duties to the  
856 economic impact of water pollution control on industry and agriculture;  
857 ~~[(k)]~~ (j) exercise all incidental powers necessary to carry out the purposes of this  
858 chapter, including delegation to the department of its duties as appropriate to improve  
859 administrative efficiency;  
860 ~~[(h)]~~ (k) meet the requirements of federal law related to water pollution;  
861 ~~[(m)]~~ (l) establish and conduct a continuing planning process for control of water  
862 pollution including the specification and implementation of maximum daily loads of pollutants;  
863 ~~[(n)]~~ (m) make rules governing inspection, monitoring, recordkeeping, and reporting  
864 requirements for underground injections and require permits for them, to protect drinking water

865 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,  
866 recognizing that underground injection endangers drinking water sources if:

867 (i) injection may result in the presence of any contaminant in underground water that  
868 supplies or can reasonably be expected to supply any public water system, as defined in Section  
869 19-4-102; and

870 (ii) the presence of the contaminant may:

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

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

874 ~~[(t)]~~ (n) make rules governing sewage sludge management, including permitting,  
875 inspecting, monitoring, recordkeeping, and reporting requirements;

876 ~~[(p)]~~ (o) adopt and enforce rules and establish fees to cover the costs of testing for  
877 certification of operators of treatment works and sewerage systems operated by political  
878 subdivisions;

879 ~~[(q)]~~ (p) notwithstanding ~~[the provisions of]~~ Section 19-4-112, make rules governing  
880 design and construction of irrigation systems that:

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

884 (ii) are constructed after May 4, 1998; ~~[and]~~

885 ~~[(r)]~~ (q) (i) approve, approve in part, approve with conditions, or deny, in writing, an  
886 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and

887 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater  
888 Reuse Act~~[-]; and~~

889 (r) exercise all incidental powers necessary to carry out the purposes of this part to the  
890 extent that the exercise of incidental power is in furtherance of one or more of the duties or  
891 powers of the board listed in this section.

892 (2) In performing the powers and duties listed in Subsection (1), the board shall give  
893 priority to pollution that results in a hazard to the public health.

894 (3) The board shall take into consideration the availability of federal grants:

895 (a) in determining eligible project costs; and

- 896 (b) in establishing priorities pursuant to Subsection (1)(f)(i).
- 897 (4) In establishing certification rules under Subsection (1)~~(p)~~(o), the board shall:
- 898 (a) base the requirements for certification on the size, treatment process type, and
- 899 complexity of the treatment works and sewerage systems operated by political subdivisions;
- 900 (b) allow ~~[operators]~~ an operator until three years after the date of adoption of the rules
- 901 to obtain initial certification;
- 902 (c) allow a new operator to obtain certification by the later of:
- 903 (i) one year from the date the operator is hired by a treatment plant or sewerage system;
- 904 or
- 905 (ii) three years after the date of adoption of the rules~~[, whichever occurs later, to obtain~~
- 906 ~~certification];~~
- 907 (d) issue certification upon application and without testing, at a grade level comparable
- 908 to the grade of current certification to operators who are currently certified under the voluntary
- 909 certification plan for wastewater works operators as recognized by the board; and
- 910 (e) issue a certification upon application and without testing that is valid only at the
- 911 treatment works or sewerage system where that operator is currently employed if the operator:
- 912 (i) is in charge of and responsible for the treatment works or sewerage system on
- 913 March 16, 1991;
- 914 (ii) has been employed at least 10 years in the operation of that treatment works or
- 915 sewerage system ~~[prior to]~~ before March 16, 1991; and
- 916 (iii) demonstrates to the board the operator's capability to operate the treatment works
- 917 or sewerage system at which the operator is currently employed by providing employment
- 918 history and references as required by the board.

919 (5) A board member may not represent to any person that the board member speaks for  
 920 or acts on behalf of the board without an affirmative vote of the board at a meeting held in  
 921 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

922 Section 12. Section **19-5-106** is amended to read:  
 923 **19-5-106. Executive secretary -- Appointment -- Duties.**

- 924 (1) (a) The ~~[executive secretary shall be appointed by the]~~ executive director shall  
 925 appoint an executive secretary with the approval of the board~~[, shall serve].~~
- 926 (b) The executive secretary serves under the administrative direction of the executive

927 director~~[, and has the following duties:]~~.

928 (2) The executive secretary shall:

929 ~~[(1) to]~~ (a) develop programs for the prevention, control, and abatement of new or  
930 existing pollution of the waters of the state;

931 ~~[(2) to]~~ (b) advise, consult, and cooperate with the following in furtherance of the  
932 purposes of this chapter:

933 (i) other agencies of the state~~[:];~~

934 (ii) the federal government~~[:];~~

935 (iii) other states and interstate agencies~~[: and with];~~

936 (iv) affected groups~~[:];~~

937 (v) political subdivisions~~[:];~~ and

938 (vi) industries ~~[in furtherance of the purposes of this chapter];~~

939 ~~[(3) to]~~ (c) employ full-time employees as necessary to carry out ~~[the provisions of]~~  
940 this chapter;

941 ~~[(4)]~~ (d) as authorized by the board and subject to ~~[the provisions of]~~ this chapter, ~~[to]~~  
942 authorize any employee or representative of the department to enter at reasonable times and  
943 upon reasonable notice in or upon public or private property for the purposes of inspecting and  
944 investigating conditions and plant records concerning possible water pollution;

945 ~~[(5) to]~~ (e) encourage, participate in, or conduct studies, investigations, research, and  
946 demonstrations relating to water pollution and causes of water pollution as necessary for the  
947 discharge of duties assigned under this chapter, including the establishment of inventories of  
948 pollution sources;

949 ~~[(6) to]~~ (f) collect and disseminate information relating to water pollution and the  
950 prevention, control, and abatement of water pollution;

951 ~~[(7) to]~~ (g) develop programs for the management of sewage sludge;

952 ~~[(8)]~~ (h) as authorized by the board and subject to ~~[the provisions of]~~ this chapter, ~~[to]~~  
953 enforce rules made by the board through the issuance of orders ~~[which]~~ that may be  
954 subsequently amended or revoked by the board, ~~[which orders]~~ and that may include:

955 ~~[(a)]~~ (i) prohibiting or abating discharges of wastes into the waters of the state;

956 ~~[(b)]~~ (ii) requiring the construction of new control facilities or any parts of them ~~[or];~~

957 (iii) the modification, extension, or alteration of existing control facilities or any parts

958 of them~~[, or]~~;

959 (iv) the adoption of other remedial measures to prevent, control, or abate water  
960 pollution; and

961 ~~[(c)]~~ (v) prohibiting any other violation of this chapter or rules made under this chapter;

962 ~~[(9) to]~~ (i) review plans, specifications, or other data relative to pollution control  
963 systems or any part of the systems provided for in this chapter;

964 (j) issue construction or operating permits for the installation or modification of  
965 treatment works or any parts of the treatment works;

966 (k) after public notice and an opportunity for a public hearing, issue, continue in effect,  
967 revoke, modify, or deny a discharge permit under reasonable conditions that the board may  
968 prescribe to:

969 (i) control the management of sewage sludge; or

970 (ii) prevent or control the discharge of a pollutant, including an effluent limitation for  
971 the discharge of waste into the waters of the state;

972 (l) meet the requirements of federal law related to water pollution;

973 ~~[(10)]~~ (m) as authorized by the board and subject to ~~[the provisions of]~~ this chapter,  
974 ~~[to]~~ exercise all incidental powers necessary to carry out the purposes of this chapter, including  
975 certification to any state or federal authorities for tax purposes only if the fact of construction,  
976 installation, or acquisition of any facility, land, or building, machinery, or equipment, or any  
977 part of them conforms with this chapter;

978 ~~[(11) to]~~ (n) cooperate, ~~[where]~~ when the board finds appropriate, with any person in  
979 studies and research regarding water pollution and its control, abatement, and prevention; and

980 ~~[(12) to]~~ (o) represent the state with the specific concurrence of the executive director  
981 in all matters pertaining to water pollution, including interstate compacts and other similar  
982 agreements.

983 Section 13. Section **19-6-102.1** is amended to read:

984 **19-6-102.1. Treatment and disposal -- Exclusions.**

985 As used in Subsections ~~[19-6-104(1)(j)(ii)(B),]~~ 19-6-108(3)(b) and (3)(c)(ii)(B), and  
986 19-6-119(1)(a), the term "treatment and disposal" specifically excludes the recycling, use,  
987 reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission  
988 control waste generated primarily from the combustion of coal or other fossil fuels; waste from



989 the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust,  
 990 including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction,  
 991 railway ballast, construction fill, aggregate, and other construction-related purposes.

992 Section 14. Section **19-6-103** is amended to read:

993 **19-6-103. Solid and Hazardous Waste Control Board -- Members -- Terms --**  
 994 **Organization -- Meetings -- Per diem and expenses.**

995 (1) The Solid and Hazardous Waste Control Board created ~~[by]~~ in Section 19-1-106  
 996 ~~[comprises the executive director and]~~ consists of the following 13 members:

997 (a) the executive director; and

998 (b) 12 members appointed in accordance with this section by the governor with the  
 999 consent of the Senate.

1000 ~~[(2) The appointed members shall be knowledgeable about]~~

1001 (2) In appointing a member under Subsection (1)(b), the governor shall appoint:

1002 (a) for each appointment, an individual who has at least five years experience in solid  
 1003 and hazardous waste matters ~~[and consist of:]~~;

1004 ~~[(a)]~~ (b) one representative of municipal government;

1005 ~~[(b)]~~ (c) one representative of county government;

1006 ~~[(c)]~~ (d) one representative of the manufacturing or fuel industry;

1007 ~~[(d)]~~ (e) one representative of the mining industry;

1008 ~~[(e)]~~ (f) one representative of the private solid waste disposal or solid waste recovery  
 1009 industry;

1010 ~~[(f)]~~ (g) one registered professional engineer;

1011 ~~[(g)]~~ (h) one representative of a local health department;

1012 ~~[(h)]~~ (i) one representative of the hazardous waste disposal industry; and

1013 ~~[(i)]~~ (j) four representatives of the [public, at least one of whom is a representative of  
 1014 organized environmental interests] general public, none of whom derive a significant portion of  
 1015 their income from a person subject to regulation under this chapter.

1016 (3) Not more than six of the appointed members may be from the same political party.

1017 (4) (a) Except as required by Subsection (4)(b), members shall be appointed for terms  
 1018 of four years each.

1019 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the

1020 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
1021 board members are staggered so that approximately half of the board is appointed every two  
1022 years.

1023 (5) ~~[Each]~~ A member is eligible for reappointment.

1024 (6) ~~[Board members]~~ A member shall continue in office until the expiration of ~~[their~~  
1025 ~~terms]~~ the member's term and until ~~[their successors are]~~ a successor is appointed, but not more  
1026 than 90 days after the expiration of ~~[their terms]~~ the member's term.

1027 (7) When a vacancy occurs in ~~[the membership]~~ an appointed position on the board for  
1028 any reason, ~~[the replacement shall be appointed for]~~ the governor shall appoint a replacement  
1029 for the unexpired term ~~[by the governor]~~, after considering recommendations of the board and  
1030 with the consent of the Senate.

1031 (8) The board shall elect a chair and vice chair on or before April 1 of each year from  
1032 its membership.

1033 (9) (a) (i) Members who are not government employees shall receive no compensation  
1034 or benefits for their services, but may receive per diem and expenses incurred in the  
1035 performance of the member's official duties at the rates established by the Division of Finance  
1036 under Sections 63A-3-106 and 63A-3-107.

1037 (ii) Members may decline to receive per diem and expenses for their service.

1038 (b) (i) State government officer and employee members who do not receive salary, per  
1039 diem, or expenses from their agency for their service may receive per diem and expenses  
1040 incurred in the performance of their official duties from the board at the rates established by the  
1041 Division of Finance under Sections 63A-3-106 and 63A-3-107.

1042 (ii) State government officer and employee members may decline to receive per diem  
1043 and expenses for their service.

1044 (c) Legislators on the committee shall receive compensation and expenses as provided  
1045 by law and legislative rule.

1046 (10) (a) The board shall hold a meeting at least once every three months including one  
1047 meeting during each annual general session of the Legislature.

1048 (b) Meetings shall be held on the call of:

1049 (i) the chair[-];

1050 (ii) the executive secretary[-]; or

1051 (iii) any three of the members.

1052 (11) Seven members constitute a quorum at any meeting, and the action of the majority  
1053 of members present is the action of the board.

1054 Section 15. Section **19-6-104** is amended to read:

1055 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

1056 (1) The board shall:

1057 (a) survey solid and hazardous waste generation and management practices within this  
1058 state ~~[and,];~~

1059 (b) after public hearing and after providing opportunities for comment by local  
1060 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a  
1061 waste management plan for the state;

1062 ~~[(b)]~~ (c) carry out inspections pursuant to Section 19-6-109;

1063 ~~[(c)-(i)]~~ (d) (i) (A) hold a hearing that is not an adjudicative proceeding and at the  
1064 hearing:

1065 (I) compel the attendance of witnesses~~[;]~~;

1066 (II) compel the production of documents~~[;]~~ and other evidence~~[;]~~;

1067 (III) administer oaths and take testimony~~[;]~~; and

1068 (IV) receive evidence ~~[it]~~ the board finds proper~~[;]~~; or

1069 (B) appoint a hearing ~~[officers]~~ officer to conduct a hearing that is not an adjudicative  
1070 proceeding ~~[who shall be delegated these powers]~~ and delegate the powers described in

1071 Subsection (1)(d)(i)(A) to the hearing officer;

1072 (ii) receive a proposed dispositive action from an administrative law judge as provided  
1073 by Section 19-1-301; and

1074 (iii) (A) approve, approve with modifications, or disapprove a proposed dispositive  
1075 action; or

1076 (B) return the proposed dispositive action to the administrative law judge for further  
1077 action as directed;

1078 ~~[(d)]~~ (e) issue orders necessary to effectuate ~~[the provisions of]~~ this part and

1079 ~~[implementing]~~ implement rules ~~[and enforce them]~~;

1080 (f) enforce orders issued under Subsection (1)(e) by administrative and judicial  
1081 proceedings~~[, and]~~;

1082           (g) cause the initiation of judicial proceedings to secure compliance with this part;

1083           ~~(e)~~ (h) settle or compromise any administrative or civil action initiated to compel

1084 compliance with this part and any rules adopted under this part;

1085           ~~(f)~~ (i) require submittal of specifications or other information relating to hazardous

1086 waste plans for review, and approve, disapprove, revoke, or review the plans;

1087           ~~(g)~~ (j) advise, consult with, cooperate with, and provide technical assistance to the

1088 following in carrying out the purposes of this part:

1089           (i) other agencies of the state and federal government[;];

1090           (ii) other states[;] or interstate agencies[~~;~~and];

1091           (iii) affected groups[;];

1092           (iv) political subdivisions[;];

1093           (v) industries[;]; and

1094           (vi) other persons [~~in carrying out the purposes of this part~~];

1095           ~~(h)~~ (k) promote the planning and application of resource recovery systems to prevent

1096 the unnecessary waste and depletion of natural resources;

1097           ~~(i)~~ (l) meet the requirements of federal law related to solid and hazardous wastes to

1098 insure that the solid and hazardous wastes program provided for in this part is qualified to

1099 assume primacy from the federal government in control over solid and hazardous waste;

1100           ~~(j)~~(~~i~~) (m) require ~~[any]~~ a facility, including those listed in Subsection ~~[(1)(j)(ii)]~~ (5),

1101 that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection

1102 ~~[(1)(j)(ii)(B)]~~ (5)(a)(ii) to submit plans, specifications, and other information required by the

1103 board to the [~~board prior to~~] executive secretary before construction, modification, installation,

1104 or establishment of a facility to allow the board to determine whether the proposed

1105 construction, modification, installation, or establishment of the facility will be in accordance

1106 with rules made under this part; and

1107           ~~[(ii) facilities referred to in Subsection (1)(j)(i) include:]~~

1108           ~~[(A) any incinerator that is intended for disposing of nonhazardous solid waste; and]~~

1109           ~~[(B) except for facilities that receive the following wastes solely for the purpose of~~

1110 ~~recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,~~

1111 ~~and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas~~

1112 ~~emission control waste generated primarily from the combustion of coal or other fossil fuels;~~

1113 ~~wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln~~  
1114 ~~dust wastes; and]~~

1115       ~~[(k)]~~ (n) exercise all other incidental powers necessary to carry out the purposes of this  
1116 part to the extent that the exercise of the incidental power is in furtherance of one or more of  
1117 the powers of the board listed in this section.

1118       (2) (a) The board shall establish a comprehensive statewide solid waste management  
1119 plan by January 1, 1994.

1120       (b) The plan shall:

1121       (i) incorporate the solid waste management plans submitted by the counties;

1122       (ii) provide an estimate of solid waste capacity needed in the state for the next 20  
1123 years;

1124       (iii) assess the state's ability to minimize waste and recycle;

1125       (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste  
1126 needs and existing capacity;

1127       (v) evaluate facility siting, design, and operation;

1128       (vi) review funding alternatives for solid waste management; and

1129       (vii) address other solid waste management concerns that the board finds appropriate  
1130 for the preservation of the public health and the environment.

1131       (c) The board shall consider the economic viability of solid waste management  
1132 strategies ~~[prior to]~~ before incorporating them into the plan and shall consider the needs of  
1133 population centers.

1134       (d) The board shall review and modify the comprehensive statewide solid waste  
1135 management plan no less frequently than every five years.

1136       (3) (a) The board shall determine the type of solid waste generated in the state and  
1137 tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid  
1138 waste management plan.

1139       (b) The board shall review and modify the inventory no less frequently than once every  
1140 five years.

1141       (4) Subject to the limitations contained in Subsection 19-6-102(18)(b), the board shall  
1142 establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

1143       (5) (a) Facilities referred to in Subsection (1)(m) include:

- 1144 (i) an incinerator that is intended for disposing of nonhazardous solid waste; and
- 1145 (ii) subject to Subsection (5)(b), a commercial facility that accepts for treatment or
- 1146 disposal, and with the intent to make a profit:
- 1147 (A) fly ash waste;
- 1148 (B) bottom ash waste;
- 1149 (C) slag waste;
- 1150 (D) flue gas emission control waste generated primarily from the combustion of coal or
- 1151 other fossil fuels;
- 1152 (E) waste from the extraction, beneficiation, and processing of ores and minerals; or
- 1153 (F) cement kiln dust wastes.
- 1154 (b) Subsection (5)(a)(ii) does not include a facility that receives the wastes listed in
- 1155 Subsection (5)(a)(ii) solely for the purpose of recycling, reuse, or reprocessing.
- 1156 (6) A board member may not represent to any person that the board member speaks for
- 1157 or acts on behalf of the board without an affirmative vote of the board at a meeting held in
- 1158 accordance with Title 52, Chapter 4, Open and Public Meetings Act.

1159 Section 16. Section **19-6-105** is amended to read:

1160 **19-6-105. Rules of board.**

1161 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

1162 Administrative Rulemaking Act:

1163 (a) establishing minimum standards for protection of human health and the

1164 environment, for the storage, collection, transport, recovery, treatment, and disposal of solid

1165 waste, including requirements for the approval by the executive secretary of plans for the

1166 construction, extension, operation, and closure of solid waste disposal sites;

1167 (b) identifying wastes [~~which~~] that are determined to be hazardous, including wastes

1168 designated as hazardous under Sec. 3001 [~~of the~~], Resource Conservation and Recovery Act of

1169 1976, 42 U.S.C., Sec. 6921, et seq.;

1170 (c) governing generators and transporters of hazardous wastes and owners and

1171 operators of hazardous waste treatment, storage, and disposal facilities, including requirements

1172 for keeping records, monitoring, submitting reports, and using a manifest, without treating

1173 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling

1174 muds, and oil production brines in a manner more stringent than they are treated under federal

- 1175 standards;
- 1176 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is  
1177 subject to a plan approval under Section 19-6-108 or which received waste after July 26, 1982,  
1178 to take appropriate corrective action or other response measures for releases of hazardous waste  
1179 or hazardous waste constituents from the facility, including releases beyond the boundaries of  
1180 the facility;
- 1181 (e) specifying the terms and conditions under which the board shall approve,  
1182 disapprove, revoke, or review hazardous wastes operation plans;
- 1183 (f) governing public hearings and participation under this part;
- 1184 (g) establishing standards governing underground storage tanks, in accordance with  
1185 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;
- 1186 (h) relating to the collection, transportation, processing, treatment, storage, and  
1187 disposal of infectious waste in health facilities in accordance with ~~[the requirements of]~~ Section  
1188 19-6-106;
- 1189 (i) defining closure plans as major or minor;
- 1190 (j) defining modification plans as major or minor; and
- 1191 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or  
1192 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,  
1193 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or  
1194 well.
- 1195 (2) If any of the following are determined to be hazardous waste and are therefore  
1196 subjected to ~~[the provisions of]~~ this part, the board shall, in the case of landfills or surface  
1197 impoundments that receive the solid wastes, take into account the special characteristics of the  
1198 wastes, the practical difficulties associated with applying requirements for other wastes to the  
1199 wastes, and site specific characteristics, including the climate, geology, hydrology, and soil  
1200 chemistry at the site, if the modified requirements assure protection of human health and the  
1201 environment and are no more stringent than federal standards applicable to wastes:
- 1202 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,  
1203 including phosphate rock and overburden from the mining of uranium;
- 1204 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste  
1205 generated primarily from the combustion of coal or other fossil fuels; and

1206 (c) cement kiln dust waste.

1207 (3) The board shall establish criteria for siting commercial hazardous waste treatment,  
1208 storage, and disposal facilities, including commercial hazardous waste incinerators. Those  
1209 criteria shall apply to any facility or incinerator for which plan approval is required under  
1210 Section 19-6-108.

1211 Section 17. Section **19-6-107** is amended to read:

1212 **19-6-107. Executive secretary -- Appointment -- Powers.**

1213 [~~The executive secretary shall be appointed by the~~]

1214 (1) (a) The executive director shall appoint an executive secretary with the approval of  
1215 the board [~~and shall serve~~].

1216 (b) The executive secretary serves under the administrative direction of the executive  
1217 director.

1218 (2) The executive secretary may:

1219 [(1)] (a) develop programs for solid waste and hazardous waste management and  
1220 control within the state;

1221 [(2)] (b) advise, consult, and cooperate with the following in furtherance of the  
1222 purposes of this part:

1223 (i) other agencies of the state[;];

1224 (ii) the federal government[;];

1225 (iii) other states and interstate agencies[~~, and with~~];

1226 (iv) affected groups[;];

1227 (v) political subdivisions[;]; and

1228 (vi) industries [~~in furtherance of the purposes of this part~~];

1229 [(3)] (c) employ full-time employees necessary to carry out this part;

1230 [(4)] (d) as authorized by the board pursuant to [~~the provisions of~~] this part, authorize  
1231 any employee or representative of the department to conduct inspections as permitted in this  
1232 part;

1233 [(5)] (e) encourage, participate in, or conduct studies, investigations, research, and  
1234 demonstrations relating to solid waste and hazardous waste management and control necessary  
1235 for the discharge of duties assigned under this part;

1236 [(6)] (f) collect and disseminate information relating to solid waste and hazardous



1237 waste management control;

1238       ~~[(7)]~~ (g) as authorized by the board pursuant to ~~[the provisions of]~~ this part, enforce  
1239 rules made or revised by the board through the issuance of orders which may be subsequently  
1240 amended or revoked by the board;

1241       ~~[(8)]~~ (h) review plans, specifications or other data relative to solid waste and hazardous  
1242 waste control systems or any part of the systems as provided in this part;

1243       (i) receive plans, specifications, and other information required by the board before  
1244 construction, modification, installation, or establishment of a facility, including a facility listed  
1245 in Subsection (3), that is intended for disposing of nonhazardous waste listed in Subsection  
1246 (3)(b);

1247       (j) determine whether a proposed construction, modification, installation, or  
1248 establishment of the facility, for which the executive secretary receives information under  
1249 Subsection (3)(b), will be in accordance with rules made by the board under this part;

1250       ~~[(9)]~~ (k) cooperate with any person in studies and research regarding solid waste and  
1251 hazardous waste management and control;

1252       ~~[(10)]~~ (l) represent the state with the specific concurrence of the executive director in  
1253 ~~[aH]~~ matters pertaining to interstate solid waste and hazardous waste management and control  
1254 including, under the direction of the board, entering into interstate compacts and other similar  
1255 agreements; and

1256       ~~[(11)]~~ (m) as authorized by the board and subject to ~~[the provisions of]~~ this chapter,  
1257 exercise all incidental powers necessary to carry out the purposes of this chapter.

1258       (3) (a) A facility described in Subsections (2)(i) and (j) includes:

1259       (i) an incinerator that is intended for disposing of nonhazardous solid waste; and

1260       (ii) subject to Subsection (3)(b), a commercial facility that accepts for treatment or  
1261 disposal, and with the intent to make a profit:

1262       (A) fly ash waste;

1263       (B) bottom ash waste;

1264       (C) slag waste;

1265       (D) flue gas emission control waste generated primarily from the combustion of coal or  
1266 other fossil fuel;

1267       (E) waste from the extraction, beneficiation, and processing of ores and minerals; or

1268           (F) cement kiln dust waste.  
1269           (b) Subsection (3)(a)(ii) does not include a facility that receives a waste described in  
1270 Subsection (3)(a)(ii) solely for the purpose of recycling, reuse, or reprocessing.

1271           Section 18. Section **41-6a-1644** is amended to read:

1272           **41-6a-1644. Diesel emissions program -- Implementation -- Monitoring --**  
1273 **Exemptions.**

1274           (1) The legislative body of each county required [~~by the comprehensive plan for air~~  
1275 ~~pollution control developed by the Air Quality Board under Subsection 19-2-104(3)(c)] to use  
1276 an emissions opacity inspection and maintenance program for diesel-powered motor vehicles  
1277 shall:~~

1278           (a) make regulations or ordinances to implement and enforce the requirement  
1279 established by the Air Quality Board;

1280           (b) collect information about and monitor the program; and

1281           (c) by August 1 of each year, supply written information to the Department of  
1282 Environmental Quality to identify program status.

1283           (2) The following vehicles are exempt from an emissions opacity inspection and  
1284 maintenance program for diesel-powered motor vehicles established by a legislative body of a  
1285 county under Subsection (1):

1286           (a) an implement of husbandry; and

1287           (b) a motor vehicle that:

1288           (i) meets the definition of a farm truck under Section 41-1a-102; and

1289           (ii) has a gross vehicle weight rating of 12,001 pounds or more.

1290           (3) (a) The legislative body of a county identified in Subsection (1) shall exempt a  
1291 pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or  
1292 less from the emissions opacity inspection and maintenance program requirements of this  
1293 section, if the registered owner of the pickup truck provides a signed statement to the  
1294 legislative body stating the truck is used:

1295           (i) by the owner or operator of a farm located on property that qualifies as land in  
1296 agricultural use under Sections 59-2-502 and 59-2-503; and

1297           (ii) exclusively for the following purposes in operating the farm:

1298           (A) for the transportation of farm products, including livestock and its products,

1299 poultry and its products, and floricultural and horticultural products; and

1300 (B) for the transportation of farm supplies, including tile, fence, and every other thing  
1301 or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production  
1302 and maintenance.

1303 (b) The county shall provide to the registered owner who signs and submits a signed  
1304 statement under this section a certificate of exemption from emissions opacity inspection and  
1305 maintenance program requirements for purposes of registering the exempt vehicle.

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**Legislative Review Note**  
**as of 2-19-10 3:44 PM**

**Office of Legislative Research and General Counsel**

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**S.B. 223 - Department of Environmental Quality Boards Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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