

HOUSEHOLD HAZARDOUS WASTE AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: John P. Holmgren

AN ACT RELATING TO THE ENVIRONMENTAL QUALITY CODE; DEFINING HOUSEHOLD WASTE; EXEMPTING HOUSEHOLD WASTE FROM THE DEFINITION OF HAZARDOUS WASTE; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-6-102, as last amended by Chapter 193, Laws of Utah 1997

19-6-104, as last amended by Chapter 230, Laws of Utah 1996

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

Section 1. Section **19-6-102** is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the Solid and Hazardous Waste Control Board created in Section 19-1-106.

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

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

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

(i) receives waste for recycling;

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

or

(iii) is solely under contract with a local government within the state to dispose of

nonhazardous solid waste generated within the boundaries of the local government.

(4) "Construction waste or demolition waste":

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

(b) does not include: asbestos; contaminated soils or tanks resulting from remediation or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous or potentially hazardous materials.

(5) "Demolition waste" has the same meaning as the definition of construction waste in this section.

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

(7) "Executive secretary" means the executive secretary of the board.

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

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

(10) "Health facility" means hospitals, psychiatric hospitals, home health agencies, hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, residential health care facilities, maternity homes or birthing centers, free standing ambulatory surgical centers, facilities owned or operated by health maintenance organizations, and state renal disease treatment centers including free standing hemodialysis units, the offices of private

physicians and dentists whether for individual or private practice, veterinary clinics, and mortuaries.

(11) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

~~[(11)]~~ (12) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

~~[(12)]~~ (13) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

~~[(13)]~~ (14) "Mixed waste" means any material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

~~[(14)]~~ (15) "Modification plan" means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

~~[(15)]~~ (16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan under Section 19-6-108 to own, construct, or operate a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

~~[(16)]~~ (17) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq.

(b) "Solid waste" does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

- (i) certain large volume wastes, such as inert construction debris used as fill material;
- (ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;
- (iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;
- (iv) solid wastes from the extraction, beneficiation, and processing of ores and minerals; or
- (v) cement kiln dust.

~~[(17)]~~ (18) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

~~[(18)]~~ (19) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

~~[(19)]~~ (20) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

~~[(20)]~~ (21) "Underground storage tank" means a tank which is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C., Section 6991, et seq.

Section 2. Section **19-6-104** is amended to read:

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

- (1) The board shall:
 - (a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;
 - (b) carry out inspections pursuant to Section 19-6-109;
 - (c) hold hearings and compel the attendance of witnesses, the production of documents, and other evidence, administer oaths and take testimony, and receive evidence it finds proper, or appoint

hearing officers who shall be delegated these powers;

(d) issue orders necessary to effectuate the provisions of this part and implementing rules and enforce them by administrative and judicial proceedings, and cause the initiation of judicial proceedings to secure compliance with this part;

(e) settle or compromise any administrative or civil action initiated to compel compliance with this part and any rules adopted under this part;

(f) require submittal of specifications or other information relating to hazardous waste plans for review, and approve, disapprove, revoke, or review the plans;

(g) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, other states, interstate agencies, and affected groups, political subdivisions, industries, and other persons in carrying out the purposes of this part;

(h) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;

(i) meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;

(j) (i) require any facility, including those listed in Subsection (1)(j)(ii), that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection (1)(j)(ii)(B) to submit plans, specifications, and other information required by the board to the board prior to construction, modification, installation, or establishment of a facility to allow the board to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

(ii) facilities referred to in Subsection (1)(j)(i) include:

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

(B) except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the

extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; and

(k) exercise all other incidental powers necessary to carry out the purposes of this part.

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

(b) The plan shall:

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

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

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

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

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

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

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

(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

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

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

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

(4) Subject to the limitations contained in Subsection 19-6-102[(14)](17)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.