

HAZARDOUS WASTE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Ralph Okerlund

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LONG TITLE

General Description:

This bill modifies hazardous waste fees and repeals Title 19, Chapter 9, Hazardous Waste Facilities Management Act.

Highlighted Provisions:

This bill:

- ▶ defines "demilitarization waste";
- ▶ establishes a fee for hazardous waste that contains both demilitarization waste and another hazardous waste component subject to treatment standards;
- ▶ directs the Solid and Hazardous Waste Division to conduct a study and establish a flat fee schedule by a certain date;
- ▶ provides a transition to the flat fee schedule;
- ▶ repeals Title 19, Chapter 9, Hazardous Waste Facilities Management Act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-118, as last amended by Laws of Utah 2010, Chapter 17

REPEALS:

19-9-101, as renumbered and amended by Laws of Utah 2003, Chapter 184

- 30           **19-9-102**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 31           **19-9-103**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 32           **19-9-104**, as last amended by Laws of Utah 2010, Chapter 286
- 33           **19-9-105**, as last amended by Laws of Utah 2011, Chapter 297
- 34           **19-9-106**, as last amended by Laws of Utah 2008, Chapter 3
- 35           **19-9-107**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 36           **19-9-108**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 37           **19-9-109**, as last amended by Laws of Utah 2011, Chapter 297
- 38           **19-9-110**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 39           **19-9-111**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 40           **19-9-112**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 41           **19-9-113**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 42           **19-9-114**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 43           **19-9-115**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 44           **19-9-116**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 45           **19-9-117**, as renumbered and amended by Laws of Utah 2003, Chapter 184
- 46           **19-9-118**, as renumbered and amended by Laws of Utah 2003, Chapter 184



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

49           Section 1. Section **19-6-118** is amended to read:

50           **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

51           (1) As used in this section:

52           (a) "Demilitarization waste" means:

53           (i) a nerve, military, or chemical agent, including:

54           (A) CX;

55           (B) GA;

56           (C) GB;

57           (D) GD;

58           (E) H;  
59           (F) HD;  
60           (G) HL;  
61           (H) HN-1;  
62           (I) HN-2;  
63           (J) HN-3;  
64           (K) HT;  
65           (L) L; or  
66           (M) VX; or  
67           (ii) waste or residue from demilitarization, treatment, testing, or disposal of an agent  
68 described in Subsection (1)(a)(i).  
69           (b) "Remediation project" means:  
70           (i) a superfund cleanup project;  
71           (ii) a Resource Conservation and Recovery Act closure or corrective action site; or  
72           (iii) a voluntary cleanup of:  
73           (A) hazardous debris; or  
74           (B) hazardous waste subject to regulation solely because of removal or remedial action  
75 taken in response to environmental contamination.  
76           (c) "Remediation waste" means waste from a remediation project.  
77           [~~(+)~~] (2) (a) An owner or operator of any commercial hazardous waste or mixed waste  
78 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by  
79 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and  
80 that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection [~~(2)~~]  
81 (3).  
82           (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or  
83 industrial furnace that receives for burning hazardous waste generated by off-site sources not  
84 owned, controlled, or operated by the owner or operator shall pay the fee under Subsection  
85 [~~(2)~~] (3).

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

90           ~~[(b) On and after July 1, 2005]~~

91           (3) (a) (i) Through June 30, 2014, the owner or operator of each facility under  
92 Subsection ~~[(1)]~~ (2) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste  
93 received at the facility for disposal, treatment, or both.

94           ~~[(c)]~~ (ii) The fee required under Subsection ~~[(2)(b)]~~ (3)(a)(i) shall be calculated by  
95 multiplying the total tonnage of waste, computed to the first decimal place, received during the  
96 calendar month by \$28.

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

101           ~~[(e) (i) On and after July 1, 1997 through June 30, 2003, and on and after April 1, 2004~~  
102 ~~through June 30, 2005, hazardous waste received at a land disposal facility is subject to a fee of~~  
103 ~~\$14 per ton or fraction of a ton, rather than the \$28 fee under Subsection (2)(a), if the waste is~~  
104 ~~treated so that it:]~~

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

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

107           ~~[(ii) On and after July 1, 2003, through March 31, 2004, hazardous waste received at a~~  
108 ~~land disposal facility for treatment and disposal is subject to the \$28 fee imposed under~~  
109 ~~Subsection (2)(a).]~~

110           ~~[(f) (i) On and after July 1, 2005,]~~

111           (b) (i) Through June 30, 2014, hazardous waste received at a land disposal facility is  
112 subject to a fee of \$14 per ton instead of the fee described in Subsection (3)(a) if the waste is  
113 treated so that it:

114 (A) meets the state treatment standards required for land disposal at the facility; or  
115 (B) is no longer a hazardous waste at the time of disposal at that facility.

116 (ii) Through June 30, 2014, demilitarization waste received at a land disposal facility is  
117 subject to the fee described in Subsection (3)(b)(i), if:

118 (A) the demilitarization waste contains an additional constituent that is not  
119 demilitarization waste and is required by rule to be treated before land disposal; and

120 (B) the additional constituent meets every applicable state treatment standard required  
121 for land disposal of that constituent at the facility.

122 ~~[(ii) The]~~ (iii) A fee required under Subsection [(2)(f)(i)] (3)(b)(i) shall be calculated  
123 by multiplying the tonnage of waste, computed to the first decimal place, received during the  
124 calendar month by \$14.

125 (c) Through June 30, 2014, when hazardous waste or mixed waste is received at a  
126 facility for treatment or disposal and the fee required under Subsection (3) is paid for that  
127 treatment or disposal, any subsequent treatment or disposal of the waste is not subject to  
128 additional fees under Subsection (3).

129 (d) (i) In accordance with Section 63J-1-504, on or before July 1, 2014, the department  
130 shall establish a fee schedule for the treatment and land disposal of hazardous waste.

131 (ii) To create the fee schedule described in Subsection (3)(d)(i), the department shall,  
132 before establishing the fee schedule, complete a review of program costs and indirect costs of  
133 regulating hazardous waste in the state.

134 (iii) The fee schedule described in Subsection (3)(d)(i) shall:

135 (A) implement a flat fee not calculated according to the amount of waste treated or  
136 disposed;

137 (B) provide for reasonable and timely oversight by the department; and

138 (C) adequately meet the needs of industry and the department, including enabling the  
139 department to employ qualified personnel to appropriately oversee industry regulation.

140 ~~[(3)] (4) (a) [On or after July 1, 2010, remediation]~~ Through June 30, 2014,  
141 remediation waste received at a hazardous waste land disposal or treatment facility from a

142 remediation project is subject to a fee in the following amounts:

143 Amount of Remediation Waste Received	Fee Amount
144 from a Remediation Project	
144 More than 0, but less than 1,000 tons	\$28 per ton
145 Equal to or greater than 1,000 tons, but less than 12,500 tons	\$10 per ton for all waste
146 Equal to or greater than 12,500 tons, but less than 25,000 tons	\$5 per ton for all waste
147 Equal to or greater than 25,000 tons	\$2.50 per ton for all waste

148 (b) [~~On and after July 1, 2010, emission~~] Through June 30, 2014, emission control  
 149 dust/sludge from the primary production of steel in electric furnaces (K061, as defined in 40  
 150 [CFR] C.F.R. Sec. 261.32) received at a hazardous waste land disposal or treatment facility is  
 151 subject to a fee of \$5 per ton in lieu of the fee established in Subsection [~~(2)~~] (3).

152 (c) [~~On and after July 1, 2010, nerve, military, and chemical agents and wastes/residues~~  
 153 ~~from demilitarization, treatment, testing and disposal of nerve, military, and chemical agents~~  
 154 ~~CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, and VX~~] Through June 30, 2014,  
 155 demilitarization waste received at a hazardous waste treatment, storage, or disposal facility  
 156 [are] is subject to a fee of \$5 per ton in addition to the fee established in Subsection [~~(2)~~] (3).

157 (d) (i) [~~On or after July 1, 2010, but on or before June 30, 2011;~~] Through June 30,  
 158 2014, the department may in accordance with this Subsection [~~(3)~~] (4)(d) assess a person  
 159 required to pay a fee under this section a special assessment if the department determines that  
 160 the aggregate of the following fees is insufficient to cover the department's costs of  
 161 administering its hazardous waste program:

- 162 (A) a fee imposed under this section; and
- 163 (B) a fee imposed under Section 19-6-118.5.

164 (ii) In determining the amount of a special assessment under this Subsection [~~(3)~~]  
 165 (4)(d), the department shall calculate the amount of the insufficiency and assess each person  
 166 subject to the special assessment a proportion of the insufficiency equal to the proportion of  
 167 fees paid by that person.

168 (iii) The department shall deposit a special assessment collected under this Subsection  
169 ~~[(3)]~~ (4)(d) into the Environmental Quality Restricted Account created in Section 19-1-108.

170 (e) ~~[The]~~ Through June 30, 2014, the department shall annually review the fee  
171 established in Subsection ~~[(3)]~~ (4)(a) and make recommendations to the Legislature's Natural  
172 Resources, Agriculture, and Environment Interim Committee concerning the amount of the fee.

173 ~~[(4)]~~ (5) (a) ~~[The]~~ Through June 30, 2014, the department shall allocate at least 10% of  
174 the fees received from a facility under this section to the county ~~[in which]~~ where the facility is  
175 located, not including a special assessment.

176 (b) Beginning on July 1, 2014, the department shall allocate and pay to a county at least  
177 10% of the fee established under Subsection (3)(d)(i) that the department receives from a  
178 facility in that county.

179 ~~[(b)]~~ (c) The county may use fees allocated under Subsection ~~[(3)]~~ (5) to carry out its  
180 hazardous waste monitoring and response programs.

181 ~~[(5)]~~ (6) The department shall deposit the state portion of ~~[the fees]~~ a fee received  
182 under this section into the Environmental Quality Restricted Account created in Section  
183 19-1-108.

184 ~~[(6)]~~ (7) (a) (i) Except as provided in Subsection ~~[(6)]~~ (7)(a)(ii), the owner or operator  
185 shall pay ~~[the fees imposed]~~ a fee, accrued under this section before June 30, 2014, to the  
186 department on or before the 15th day of the month following the month in which the fee  
187 accrued.

188 (ii) ~~[For a fee to be paid on remediation waste,]~~ If a fee accrues on remediation waste  
189 under this section before June 30, 2014, the fee shall be paid in accordance with a schedule  
190 determined by the department:

191 (A) made in consultation with the person paying the fee; and

192 (B) considering any contractual schedule for payment between the person paying the  
193 fee and another person with whom the person paying the fee has contracted.

194 (b) With the monthly fee~~;~~ described in Subsection (7)(a)(i), the owner or operator  
195 shall submit a completed form, as prescribed by the department, specifying information

196 required by the department to verify the amount of waste received and the fee amount for  
197 which the owner or operator is liable.

198 (c) Beginning on July 1, 2014, an owner or operator shall submit payment of the fee  
199 established in Subsection (3)(d)(i) to the department:

200 (i) in accordance with a schedule provided by the department; and

201 (ii) using forms provided by the department.

202 ~~[(7)]~~ (8) (a) The department shall oversee and monitor hazardous waste treatment,  
203 disposal, and incineration facilities, including federal government facilities located within the  
204 state.

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

206 ~~[(8)]~~ (9) (a) The department, in preparing its budget for the governor and the  
207 Legislature, shall separately indicate the amount necessary to administer the hazardous waste  
208 program established by this part.

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

210 ~~[(9)]~~ (10) The Office of Legislative Fiscal Analyst shall monitor ~~[the fees]~~ a fee  
211 collected under this part.

212 ~~[(10)]~~ (11) Mixed waste subject to a fee under this section is not subject to a fee under  
213 Section 19-3-106.

214 ~~[(11) As used in this section:]~~

215 ~~[(a) "Remediation project" means:]~~

216 ~~[(i) a Superfund cleanup project;]~~

217 ~~[(ii) a Resource Conservation and Recovery Act Corrective Action Site; or]~~

218 ~~[(iii) a voluntary cleanup of:]~~

219 ~~[(A) hazardous debris; or]~~

220 ~~[(B) hazardous waste subject to regulation solely because of removal or remedial~~  
221 ~~action taken in response to environmental contamination.]~~

222 ~~[(b) "Remediation waste" means waste from a remediation project.]~~

223 Section 2. **Repealer.**

- 224           This bill repeals:
- 225           Section **19-9-101, Title.**
- 226           Section **19-9-102, Definitions.**
- 227           Section **19-9-103, Petition for creation of hazardous waste facilities authority --**
- 228 **Recommendation to governor -- Action by governor.**
- 229           Section **19-9-104, Creation of authority -- Members.**
- 230           Section **19-9-105, Powers of authority.**
- 231           Section **19-9-106, Acquisition of sites by authority -- Property vested in state on**
- 232 **disincorporation of authority.**
- 233           Section **19-9-107, Fees.**
- 234           Section **19-9-108, Obligations of authority -- Limitation -- Issuance.**
- 235           Section **19-9-109, Security for obligations -- Provisions of security instruments.**
- 236           Section **19-9-110, Application of proceeds from sale of obligations.**
- 237           Section **19-9-111, Cost of acquisition or improvement of facility.**
- 238           Section **19-9-112, Validity of signatures on obligations.**
- 239           Section **19-9-113, Obligations as negotiable instruments.**
- 240           Section **19-9-114, Personal liability on obligations.**
- 241           Section **19-9-115, Tax exemption of property, income, and obligations of authority.**
- 242           Section **19-9-116, Obligations as authorized investments and securities.**
- 243           Section **19-9-117, Publication of resolution authorizing obligations -- Contesting**
- 244 **validity -- Action to compel signing of obligations.**
- 245           Section **19-9-118, Legal, accounting, and auditing services for authority.**