

1                   **HAZARDOUS WASTE AND MIXED WASTE FEES**

2                                   2013 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Merrill F. Nelson**

5                                   Senate Sponsor: Peter C. Knudson

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7                   **LONG TITLE**

8                   **General Description:**

9                   This bill modifies provisions related to fees charged for hazardous waste and mixed  
10                  waste.

11                  **Highlighted Provisions:**

12                  This bill:

- 13                  ▶ requires the Department of Environmental Quality to:
- 14                          • complete a review of program costs and indirect costs of regulating mixed  
15                  waste; and
- 16                          • establish a fee schedule for the treatment and land disposal of mixed waste;
- 17                  ▶ allows a facility treating or disposing of hazardous waste or mixed waste to collect a  
18                  fee from the generator of the waste; and
- 19                  ▶ makes technical changes.

20                  **Money Appropriated in this Bill:**

21                  None

22                  **Other Special Clauses:**

23                  None

24                  **Utah Code Sections Affected:**

25                  AMENDS:

26                          **19-6-118**, as last amended by Laws of Utah 2012, Chapter 222

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

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

30 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

31 (1) As used in this section:

32 (a) "Demilitarization waste" means:

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

34 (A) CX;

35 (B) GA;

36 (C) GB;

37 (D) GD;

38 (E) H;

39 (F) HD;

40 (G) HL;

41 (H) HN-1;

42 (I) HN-2;

43 (J) HN-3;

44 (K) HT;

45 (L) L; or

46 (M) VX; or

47 (ii) waste or residue from demilitarization, treatment, testing, or disposal of an agent  
48 described in Subsection (1)(a)(i).

49 (b) "Remediation project" means:

50 (i) a superfund cleanup project;

51 (ii) a Resource Conservation and Recovery Act closure or corrective action site; or

52 (iii) a voluntary cleanup of:

53 (A) hazardous debris; or

54 (B) hazardous waste subject to regulation solely because of removal or remedial action  
55 taken in response to environmental contamination.

56 (c) "Remediation waste" means waste from a remediation project.

57 (2) (a) An owner or operator of any commercial hazardous waste or mixed waste

58 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by  
59 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and  
60 that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection (3).

61 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or  
62 industrial furnace that receives for burning hazardous waste generated by off-site sources not  
63 owned, controlled, or operated by the owner or operator shall pay the fee under Subsection (3).

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

67 (ii) The fee required under Subsection (3)(a)(i) shall be calculated by multiplying the  
68 total tonnage of waste, computed to the first decimal place, received during the calendar month  
69 by \$28.

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

73 (A) meets the state treatment standards required for land disposal at the facility; or

74 (B) is no longer a hazardous waste at the time of disposal at that facility.

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

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

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

81 (iii) A fee required under Subsection (3)(b)(i) shall be calculated by multiplying the  
82 tonnage of waste, computed to the first decimal place, received during the calendar month by  
83 \$14.

84 (c) Through June 30, 2014, when hazardous waste or mixed waste is received at a  
85 facility for treatment or disposal and the fee required under Subsection (3) is paid for that

86 treatment or disposal, any subsequent treatment or disposal of the waste is not subject to  
87 additional fees under Subsection (3).

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

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

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

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

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

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

100 (iv) A facility that treats or disposes of hazardous waste or mixed waste is authorized  
101 to collect the fee established under Subsection (3)(d)(i) from the generator of the waste.

102 (4) (a) Through June 30, 2014, remediation waste received at a hazardous waste land  
103 disposal or treatment facility from a remediation project is subject to a fee in the following  
104 amounts:

| 105 Amount of Remediation Waste Received                            | Fee Amount                   |
|---|------------------------------|
| from a Remediation Project  |                              |
| 106 More than 0, but less than 1,000 tons                           | \$28 per ton                 |
| 107 Equal to or greater than 1,000 tons, but less than 12,500 tons  | \$10 per ton for all waste   |
| 108 Equal to or greater than 12,500 tons, but less than 25,000 tons | \$5 per ton for all waste    |
| 109 Equal to or greater than 25,000 tons                            | \$2.50 per ton for all waste |

110 (b) Through June 30, 2014, emission control dust/sludge from the primary production  
111 of steel in electric furnaces (K061, as defined in 40 C.F.R. Sec. 261.32) received at a hazardous

112 waste land disposal or treatment facility is subject to a fee of \$5 per ton in lieu of the fee  
113 established in Subsection (3).

114 (c) Through June 30, 2014, demilitarization waste received at a hazardous waste  
115 treatment, storage, or disposal facility is subject to a fee of \$5 per ton in addition to the fee  
116 established in Subsection (3).

117 (d) (i) Through June 30, 2014, the department may in accordance with this Subsection  
118 (4)(d) assess a person required to pay a fee under this section a special assessment if the  
119 department determines that the aggregate of the following fees is insufficient to cover the  
120 department's costs of administering its hazardous waste program:

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

122 (B) a fee imposed under Section 19-6-118.5.

123 (ii) In determining the amount of a special assessment under this Subsection (4)(d), the  
124 department shall calculate the amount of the insufficiency and assess each person subject to the  
125 special assessment a proportion of the insufficiency equal to the proportion of fees paid by that  
126 person.

127 (iii) The department shall deposit a special assessment collected under this Subsection  
128 (4)(d) into the Environmental Quality Restricted Account created in Section 19-1-108.

129 (e) Through June 30, 2014, the department shall annually review the fee established in  
130 Subsection (4)(a) and make recommendations to the Legislature's Natural Resources,  
131 Agriculture, and Environment Interim Committee concerning the amount of the fee.

132 (5) (a) Through June 30, 2014, the department shall allocate at least 10% of the fees  
133 received from a facility under this section to the county where the facility is located, not  
134 including a special assessment.

135 (b) Beginning on July 1, 2014, the department shall allocate and pay to a county at least  
136 10% of the fee established under Subsection (3)(d)(i) that the department receives from a  
137 facility in that county.

138 (c) The county may use fees allocated under Subsection (5) to carry out its hazardous  
139 waste monitoring and response programs.

140 (6) The department shall deposit the state portion of a fee received under this section  
141 into the Environmental Quality Restricted Account created in Section 19-1-108.

142 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), the owner or operator shall pay a  
143 fee, accrued under this section before June 30, 2014, to the department on or before the 15th  
144 day of the month following the month in which the fee accrued.

145 (ii) If a fee accrues on remediation waste under this section before June 30, 2014, the  
146 fee shall be paid in accordance with a schedule determined by the department:

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

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

150 (b) With the monthly fee described in Subsection (7)(a)(i), the owner or operator shall  
151 submit a completed form, as prescribed by the department, specifying information required by  
152 the department to verify the amount of waste received and the fee amount for which the owner  
153 or operator is liable.

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

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

157 (ii) using forms provided by the department.

158 (8) (a) The department shall oversee and monitor hazardous waste treatment, disposal,  
159 and incineration facilities, including federal government facilities located within the state.

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

161 (9) (a) The department, in preparing its budget for the governor and the Legislature,  
162 shall separately indicate the amount necessary to administer the hazardous waste program  
163 established by this part.

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

165 (10) The Office of Legislative Fiscal Analyst shall monitor a fee collected under this  
166 part.

167 (11) Mixed waste subject to a fee under this section is not subject to a fee under

168 Section 19-3-106.