

Environmental Quality Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill addresses nonhazardous solid waste.

Highlighted Provisions:

This bill:

▸ prohibits approval of an operation plan or permit for certain nonhazardous solid waste landfill facilities unless specific conditions are met; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-108, as last amended by Laws of Utah 2021, Chapter 302

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

Section 1. Section **19-6-108** is amended to read:

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

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

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

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or

- 32 the capacity specified in the operation plan application as of January 1, 1990, if no
33 operation plan approval has been issued as of January 1, 1990;
- 34 (c) an application for modification of a commercial nonhazardous solid waste
35 incinerator if the construction of the modification would cost 50% or more of the cost
36 of construction of the original incinerator or the modification would result in an
37 increase in the capacity or throughput of the incinerator of a cumulative total of 50%
38 above the total capacity or throughput that was approved in the operation plan as of
39 January 1, 1990, or the initial approved operation plan if the initial approval is
40 subsequent to January 1, 1990;
- 41 (d) an application for modification of a commercial nonhazardous solid or hazardous
42 waste treatment, storage, or disposal facility, other than an incinerator, if the
43 modification would be outside the boundaries of the property owned or controlled by
44 the applicant, as shown in the application or approved operation plan as of January 1,
45 1990, or the initial approved operation plan if the initial approval is subsequent to
46 January 1, 1990; or
- 47 (e) a submission of an operation plan to construct a facility, if previous approvals of the
48 operation plan to construct the facility have been revoked pursuant to Subsection
49 (3)(c)(iv) or (v).
- 50 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage
51 specified for the trial burn in the operation plan or the operation plan application if no
52 operation plan approval has been issued as of January 1, 1990, and on annual operations
53 of 7,000 hours.
- 54 (3)(a)(i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own,
55 construct, modify, or operate a facility or site for the purpose of transferring,
56 treating, or disposing of nonhazardous solid waste or treating, storing, or
57 disposing of hazardous waste without first submitting and receiving the approval
58 of the director for an operation plan for that facility or site.
- 59 (ii)(A) A permittee who is the current owner of a facility or site that is subject to
60 an operation plan may submit to the director information, a report, a plan, or
61 other request for approval for a proposed activity under an operation plan:
- 62 (I) after obtaining the consent of any other permittee who is a current owner of
63 the facility or site; and
- 64 (II) without obtaining the consent of any other permittee who is not a current
65 owner of the facility or site.

- 66 (B) The director may not:
- 67 (I) withhold an approval of an operation plan requested by a permittee who is a
- 68 current owner of the facility or site on the grounds that another permittee
- 69 who is not a current owner of the facility or site has not consented to the
- 70 request; or
- 71 (II) give an approval of an operation plan requested by a permittee who is not a
- 72 current owner before receiving consent of the current owner of the facility
- 73 or site.
- 74 (C) A facility referred to in Subsection (3)(a)(i) does not include a facility when
- 75 the waste from the extraction, beneficiation, and processing of ores and
- 76 minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is
- 77 generated and the disposal occurs at an on-site location owned and operated by
- 78 the generator of the waste.
- 79 (b)(i) Except for a facility that receives the following wastes solely for the purpose of
- 80 recycling, reuse, or reprocessing, a person may not own, construct, modify, or
- 81 operate any commercial facility that accepts for treatment or disposal, with the
- 82 intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without
- 83 first submitting a request to and receiving the approval of the director for an
- 84 operation plan for that facility site.
- 85 (ii) Wastes referred to in Subsection (3)(b)(i) are:
- 86 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
- 87 generated primarily from the combustion of coal or other fossil fuels;
- 88 (B) wastes from the extraction, beneficiation, and processing of ores and minerals;
- 89 or
- 90 (C) cement kiln dust wastes.
- 91 (c)(i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the
- 92 person receives:
- 93 (A) local government approval and the approval described in Subsection (3)(a);
- 94 (B) approval from the Legislature that, on and after May 5, 2021, is required to be
- 95 obtained after the person submits an application under this section; and
- 96 (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B),
- 97 approval from the governor.
- 98 (ii) A facility referred to in Subsection (3)(c)(i) is:
- 99 (A) a commercial nonhazardous solid waste disposal facility;

- 100 (B) except for a facility that receives a waste listed in Subsection (3)(c)(iii), solely
101 for the purpose of recycling, reuse, or reprocessing, any commercial facility
102 that accepts for treatment or disposal, with the intent to make a profit; or
103 (C) a commercial hazardous waste treatment, storage, or disposal facility.
- 104 (iii) Subsection (3)(c)(ii)(B) applies to the following wastes:
- 105 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
106 generated primarily from the combustion of coal or other fossil fuels;
- 107 (B) wastes from the extraction, beneficiation, and processing of ores and minerals;
108 or
- 109 (C) cement kiln dust wastes.
- 110 (iv) The required approvals described in Subsection (3)(c)(i) for a facility described
111 in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:
- 112 (A) the governor's approval is received on or after May 10, 2011, and the facility
113 is not operational within five years after the day on which the governor's
114 approval is received; or
- 115 (B) the governor's approval is received before May 10, 2011, and the facility is not
116 operational on or before May 10, 2016.
- 117 (v) For legislative approval described in Subsection (3)(c)(i)(B), the required
118 legislative approval for a facility described in Subsection (3)(c)(ii) is
119 automatically revoked if:
- 120 (A) after receiving the legislative approval, the person seeking to construct the
121 facility withdraws the application submitted under this section by providing the
122 division a written statement of withdrawal for the facility that is the basis of the
123 legislative approval; or
- 124 (B) after five years from the day on which the required legislative approval takes
125 effect, the application for the facility is not approved by the division.
- 126 (vi) The required approvals described in Subsection (3)(c)(i) for a facility described
127 in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not
128 transferrable to another person for five years after the day on which the governor's
129 approval is received.
- 130 (d) A person need not obtain gubernatorial or legislative approval for the construction of
131 a hazardous waste facility for which an operating plan has been approved by or
132 submitted for approval to the executive secretary of the board under this section
133 before April 24, 1989, and which has been determined, on or before December 31,

134 1990, by the executive secretary of the board to be complete, in accordance with state
135 and federal requirements for operating plans for hazardous waste facilities even if a
136 different geographic site is subsequently submitted.

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

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

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

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

156 (4) The director shall review a proposed nonhazardous solid or hazardous waste operation
157 plan to determine whether that plan complies with this part and the applicable rules of
158 the board.

159 (5)(a) If the facility is a class I or class II facility, the director shall approve or
160 disapprove that plan within 270 days from the date the plan is submitted.

161 (b) Within 60 days after receipt of the plans, specifications, or other information
162 required by this section for a class I or II facility, the director shall determine whether
163 the plan is complete and contains the information necessary to process the plan for
164 approval.

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

167 (ii) If the plan is determined by the director to be incomplete, the director shall issue

- 168 a notice of deficiency, listing the additional information to be provided by the
169 owner or operator to complete the plan.
- 170 (d) The director shall review information submitted in response to a notice of deficiency
171 within 30 days after receipt.
- 172 (e) The following time periods may not be included in the 270 day plan review period
173 for a class I or II facility:
- 174 (i) time awaiting response from the owner or operator to requests for information
175 issued by the director;
- 176 (ii) time required for public participation and hearings for issuance of plan approvals;
177 and
- 178 (iii) time for review of the permit by other federal or state government agencies.
- 179 (6)(a) If the facility is a class III or class IV facility, the director shall approve or
180 disapprove that plan within 365 days from the date the plan is submitted.
- 181 (b) The following time periods may not be included in the 365 day review period:
- 182 (i) time awaiting response from the owner or operator to requests for information
183 issued by the director;
- 184 (ii) time required for public participation and hearings for issuance of plan approvals;
185 and
- 186 (iii) time for review of the permit by other federal or state government agencies.
- 187 (7) If, within 365 days after receipt of a modification request or closure plan for any
188 facility, the director determines that the proposed plan or request, or any part of the
189 proposed plan or request, will not comply with applicable rules, the director shall issue
190 an order prohibiting any action under the proposed plan or request for modification or
191 closure in whole or in part.
- 192 (8) A person who owns or operates a facility or site required to have an approved hazardous
193 waste operation plan under this section and who has pending a permit application before
194 the United States Environmental Protection Agency shall be treated as having an
195 approved plan until final administrative disposition of the permit application is made
196 under this section, unless the director determines that final administrative disposition of
197 the application has not been made because of the failure of the owner or operator to
198 furnish any information requested, or the facility's interim status has terminated under
199 Section 3005[-](e) of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6925[-]
200 (e).
- 201 (9) The director may not approve a proposed nonhazardous solid or hazardous waste

- 202 operation plan unless the plan contains the information that the board requires, including:
- 203 (a) estimates of the composition, quantities, and concentrations of any hazardous waste
204 identified under this part and the proposed treatment, storage, or disposal of the
205 hazardous waste;
- 206 (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or
207 treatment, storage, or disposal of hazardous waste will not be done in a manner that
208 may cause or significantly contribute to an increase in mortality, an increase in
209 serious irreversible or incapacitating reversible illness, or pose a substantial present
210 or potential hazard to human health or the environment;
- 211 (c) consistent with the degree and duration of risks associated with the transfer,
212 treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal
213 of specified hazardous waste, evidence of financial responsibility in whatever form
214 and amount that the director determines is necessary to ensure continuity of operation
215 and that upon abandonment, cessation, or interruption of the operation of the facility
216 or site, the reasonable measures consistent with the available knowledge will be taken
217 to ensure that the waste subsequent to being treated, stored, or disposed of at the site
218 or facility will not present a hazard to the public or the environment;
- 219 (d) evidence that the personnel employed at the facility or site have education and
220 training for the safe and adequate handling of nonhazardous solid or hazardous waste;
- 221 (e) plans, specifications, and other information that the director considers relevant to
222 determine whether the proposed nonhazardous solid or hazardous waste operation
223 plan will comply with this part and the rules of the board;
- 224 (f) compliance schedules, when applicable, including schedules for corrective action or
225 other response measures for releases from a solid waste management unit at the
226 facility, regardless of the time the waste was placed in the unit;
- 227 (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or
228 hazardous waste facility other than a water treatment facility that treats, stores, or
229 disposes site-generated solid or hazardous waste onsite, a traffic impact study that:
- 230 (i) takes into consideration the safety, operation, and condition of roadways serving
231 the proposed facility; and
- 232 (ii) is reviewed and approved by the Department of Transportation or a local highway
233 authority, whichever has jurisdiction over each road serving the proposed facility,
234 with the cost of the review paid by the person who submits the proposed operation
235 plan; and

- 236 (h) for a proposed operation plan submitted on or after July 1, 2013, for a new
237 nonhazardous solid waste facility owned or operated by a local government, financial
238 information that discloses the costs of establishing and operating the facility,
239 including:
- 240 (i) land acquisition and leasing;
 - 241 (ii) construction;
 - 242 (iii) estimated annual operation;
 - 243 (iv) equipment;
 - 244 (v) ancillary structures;
 - 245 (vi) roads;
 - 246 (vii) transfer stations; and
 - 247 (viii) using other operations that are not contiguous to the proposed facility but are
248 necessary to support the facility's construction and operation.
- 249 (10) The director may not approve a commercial nonhazardous solid or hazardous waste
250 operation plan that meets the requirements of Subsection (9) unless the operation plan
251 contains the information required by the board, including:
- 252 (a) evidence that the proposed commercial facility has a proven market of nonhazardous
253 solid or hazardous waste, including:
 - 254 (i) information on the source, quantity, and price charged for treating, storing, and
255 disposing of potential nonhazardous solid or hazardous waste in the state and
256 regionally;
 - 257 (ii) a market analysis of the need for a commercial facility given existing and
258 potential generation of nonhazardous solid or hazardous waste in the state and
259 regionally; and
 - 260 (iii) a review of other existing and proposed commercial nonhazardous solid or
261 hazardous waste facilities regionally and nationally that would compete for the
262 treatment, storage, or disposal of the nonhazardous solid or hazardous waste;
 - 263 (b) a description of the public benefits of the proposed facility, including:
 - 264 (i) the need in the state for the additional capacity for the management of
265 nonhazardous solid or hazardous waste;
 - 266 (ii) the energy and resources recoverable by the proposed facility;
 - 267 (iii) the reduction of nonhazardous solid or hazardous waste management methods,
268 that are less suitable for the environment, that would be made possible by the
269 proposed facility; and

- 270 (iv) whether any other available site or method for the management of hazardous
271 waste would be less detrimental to the public health or safety or to the quality of
272 the environment; and
- 273 (c) compliance history of an owner or operator of a proposed commercial nonhazardous
274 solid or hazardous waste treatment, storage, or disposal facility, that may be applied
275 by the director in a nonhazardous solid or hazardous waste operation plan decision,
276 including any plan conditions.
- 277 (11) The director may not approve a commercial nonhazardous solid or hazardous waste
278 facility operation plan unless based on the application, and in addition to the
279 determination required in Subsections (9) and (10), the director determines that:
- 280 (a) the probable beneficial environmental effect of the facility to the state outweighs the
281 probable adverse environmental effect; and
- 282 (b) there is a need for the facility to serve industry within the state.
- 283 (12) The director may not approve an operation plan or permit for a nonhazardous solid
284 waste class VII landfill facility unless, based on the application, the operation plan and
285 permit contain engineering plans and specifications for cell design that includes:
- 286 (a) an impervious synthetic liner system that has hydraulic conductivity no greater than
287 1E-7 centimeters per second; or
- 288 (b) a clay liner system equivalent to a liner system described in Subsection (12)(a).
- 289 ~~[(12)]~~ (13) Approval of a nonhazardous solid or hazardous waste operation plan may be
290 revoked, in whole or in part, if the person to whom approval of the plan has been given
291 fails to comply with that plan.
- 292 ~~[(13)]~~ (14) The director shall review approved nonhazardous solid and hazardous waste
293 operation plans at least once every five years.
- 294 ~~[(14)]~~ (15) Subsections (10) and (11) do not apply to a hazardous waste facility in existence
295 or to an application filed or pending in the department before April 24, 1989, that are
296 determined by the executive secretary of the board on or before December 31, 1990, to
297 be complete, in accordance with state and federal requirements applicable to operation
298 plans for hazardous waste facilities.
- 299 ~~[(15)]~~ (16) Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste
300 facility in existence or to an application filed or pending in the department before
301 January 1, 1990, that is determined by the director, on or before December 31, 1990, to
302 be complete in accordance with state and federal requirements applicable to operation
303 plans for nonhazardous solid waste facilities.

304 [~~(16)~~] (17) Nonhazardous solid waste generated outside of this state that is defined as
305 hazardous waste in the state where the nonhazardous solid waste is generated and that is
306 received for disposal in this state may not be disposed of at a nonhazardous waste
307 disposal facility owned and operated by local government or a facility under contract
308 with a local government solely for disposal of nonhazardous solid waste generated
309 within the boundaries of the local government, unless disposal is approved by the
310 director.

311 [~~(17)~~] (18) This section may not be construed to exempt a facility from applicable regulation
312 under the federal Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

313 Section 2. **Effective Date.**

314 This bill takes effect on May 7, 2025.