

Keven J. Stratton proposes the following substitute bill:

**Environmental Quality Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

House Sponsor: Carl R. Albrecht

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**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;
- addresses the treatment of certain existing nonhazardous solid waste facilities; 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

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*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;

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49 operation plan to construct the facility have been revoked pursuant to Subsection  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

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

98 approval from the governor.

99 (ii) A facility referred to in Subsection (3)(c)(i) is:

100 (A) a commercial nonhazardous solid waste disposal facility;

101 (B) except for a facility that receives a waste listed in Subsection (3)(c)(iii), solely  
102 for the purpose of recycling, reuse, or reprocessing, any commercial facility  
103 that accepts for treatment or disposal, with the intent to make a profit; or

104 (C) a commercial hazardous waste treatment, storage, or disposal facility.

105 (iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

106 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste  
107 generated primarily from the combustion of coal or other fossil fuels;

108 (B) wastes from the extraction, beneficiation, and processing of ores and minerals;  
109 or

110 (C) cement kiln dust wastes.

111 (iv) The required approvals described in Subsection (3)(c)(i) for a facility described  
112 in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

113 (A) the governor's approval is received on or after May 10, 2011, and the facility  
114 is not operational within five years after the day on which the governor's  
115 approval is received; or

116 (B) the governor's approval is received before May 10, 2011, and the facility is not  
117 operational on or before May 10, 2016.

118 (v) For legislative approval described in Subsection (3)(c)(i)(B), the required  
119 legislative approval for a facility described in Subsection (3)(c)(ii) is  
120 automatically revoked if:

121 (A) after receiving the legislative approval, the person seeking to construct the  
122 facility withdraws the application submitted under this section by providing the  
123 division a written statement of withdrawal for the facility that is the basis of the  
124 legislative approval; or

125 (B) after five years from the day on which the required legislative approval takes  
126 effect, the application for the facility is not approved by the division.

127 (vi) The required approvals described in Subsection (3)(c)(i) for a facility described  
128 in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not  
129 transferrable to another person for five years after the day on which the governor's  
130 approval is received.

131 (d) A person need not obtain gubernatorial or legislative approval for the construction of

132 a hazardous waste facility for which an operating plan has been approved by or  
133 submitted for approval to the executive secretary of the board under this section  
134 before April 24, 1989, and which has been determined, on or before December 31,  
135 1990, by the executive secretary of the board to be complete, in accordance with state  
136 and federal requirements for operating plans for hazardous waste facilities even if a  
137 different geographic site is subsequently submitted.

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

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

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

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

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

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

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

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

- 200 Section 3005[-](e) of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6925[-]  
201 (e).
- 202 (9) The director may not approve a proposed nonhazardous solid or hazardous waste  
203 operation plan unless the plan contains the information that the board requires, including:
- 204 (a) estimates of the composition, quantities, and concentrations of any hazardous waste  
205 identified under this part and the proposed treatment, storage, or disposal of the  
206 hazardous waste;
- 207 (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or  
208 treatment, storage, or disposal of hazardous waste will not be done in a manner that  
209 may cause or significantly contribute to an increase in mortality, an increase in  
210 serious irreversible or incapacitating reversible illness, or pose a substantial present  
211 or potential hazard to human health or the environment;
- 212 (c) consistent with the degree and duration of risks associated with the transfer,  
213 treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal  
214 of specified hazardous waste, evidence of financial responsibility in whatever form  
215 and amount that the director determines is necessary to ensure continuity of operation  
216 and that upon abandonment, cessation, or interruption of the operation of the facility  
217 or site, the reasonable measures consistent with the available knowledge will be taken  
218 to ensure that the waste subsequent to being treated, stored, or disposed of at the site  
219 or facility will not present a hazard to the public or the environment;
- 220 (d) evidence that the personnel employed at the facility or site have education and  
221 training for the safe and adequate handling of nonhazardous solid or hazardous waste;
- 222 (e) plans, specifications, and other information that the director considers relevant to  
223 determine whether the proposed nonhazardous solid or hazardous waste operation  
224 plan will comply with this part and the rules of the board;
- 225 (f) compliance schedules, when applicable, including schedules for corrective action or  
226 other response measures for releases from a solid waste management unit at the  
227 facility, regardless of the time the waste was placed in the unit;
- 228 (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or  
229 hazardous waste facility other than a water treatment facility that treats, stores, or  
230 disposes site-generated solid or hazardous waste onsite, a traffic impact study that:
- 231 (i) takes into consideration the safety, operation, and condition of roadways serving  
232 the proposed facility; and
- 233 (ii) is reviewed and approved by the Department of Transportation or a local highway

234 authority, whichever has jurisdiction over each road serving the proposed facility,  
235 with the cost of the review paid by the person who submits the proposed operation  
236 plan; and

237 (h) for a proposed operation plan submitted on or after July 1, 2013, for a new  
238 nonhazardous solid waste facility owned or operated by a local government, financial  
239 information that discloses the costs of establishing and operating the facility,  
240 including:

241 (i) land acquisition and leasing;

242 (ii) construction;

243 (iii) estimated annual operation;

244 (iv) equipment;

245 (v) ancillary structures;

246 (vi) roads;

247 (vii) transfer stations; and

248 (viii) using other operations that are not contiguous to the proposed facility but are  
249 necessary to support the facility's construction and operation.

250 (10) The director may not approve a commercial nonhazardous solid or hazardous waste  
251 operation plan that meets the requirements of Subsection (9) unless the operation plan  
252 contains the information required by the board, including:

253 (a) evidence that the proposed commercial facility has a proven market of nonhazardous  
254 solid or hazardous waste, including:

255 (i) information on the source, quantity, and price charged for treating, storing, and  
256 disposing of potential nonhazardous solid or hazardous waste in the state and  
257 regionally;

258 (ii) a market analysis of the need for a commercial facility given existing and  
259 potential generation of nonhazardous solid or hazardous waste in the state and  
260 regionally; and

261 (iii) a review of other existing and proposed commercial nonhazardous solid or  
262 hazardous waste facilities regionally and nationally that would compete for the  
263 treatment, storage, or disposal of the nonhazardous solid or hazardous waste;

264 (b) a description of the public benefits of the proposed facility, including:

265 (i) the need in the state for the additional capacity for the management of  
266 nonhazardous solid or hazardous waste;

267 (ii) the energy and resources recoverable by the proposed facility;

- 268 (iii) the reduction of nonhazardous solid or hazardous waste management methods,  
269 that are less suitable for the environment, that would be made possible by the  
270 proposed facility; and
- 271 (iv) whether any other available site or method for the management of hazardous  
272 waste would be less detrimental to the public health or safety or to the quality of  
273 the environment; and
- 274 (c) compliance history of an owner or operator of a proposed commercial nonhazardous  
275 solid or hazardous waste treatment, storage, or disposal facility, that may be applied  
276 by the director in a nonhazardous solid or hazardous waste operation plan decision,  
277 including any plan conditions.
- 278 (11) The director may not approve a commercial nonhazardous solid or hazardous waste  
279 facility operation plan unless based on the application, and in addition to the  
280 determination required in Subsections (9) and (10), the director determines that:
- 281 (a) the probable beneficial environmental effect of the facility to the state outweighs the  
282 probable adverse environmental effect; and
- 283 (b) there is a need for the facility to serve industry within the state.
- 284 (12)(a) The director may not approve an operation plan or permit for a nonhazardous  
285 solid waste class VII landfill facility unless, based on the application, the operation  
286 plan and permit contain engineering plans and specifications for cell design that  
287 includes:
- 288 (i) an impervious synthetic liner system that has hydraulic conductivity no greater  
289 than 1E-7 centimeters per second; or
- 290 (ii) a clay liner system equivalent to a liner system described in Subsection (12)(a)(i).
- 291 (b) A nonhazardous solid waste class VII landfill facility is considered to have an  
292 approved operation plan or permit for purposes of Subsection (12)(a) if the  
293 nonhazardous solid waste class VII landfill facility:
- 294 (i) on January 1, 2025, was permitted by the Division of Oil, Gas, and Mining; and  
295 (ii) on or before May 7, 2025, obtains a temporary permit, as defined by rule made in  
296 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
297 the nonhazardous solid waste class VII landfill facility.
- 298 (c) Notwithstanding Subsection (12)(b), a nonhazardous solid waste class VII landfill  
299 facility described in Subsection (12)(b) shall ensure that as of July 1, 2030, each cell  
300 within the nonhazardous solid waste class VII landfill facility has:
- 301 (i) an impervious synthetic liner system that has hydraulic conductivity no greater

302                    than 1E-7 centimeters per second; or  
303                    (ii) a clay liner system equivalent to a liner system described in Subsection (12)(c)(i).  
304    [~~12~~] (13) Approval of a nonhazardous solid or hazardous waste operation plan may be  
305                    revoked, in whole or in part, if the person to whom approval of the plan has been given  
306                    fails to comply with that plan.  
307    [~~13~~] (14) The director shall review approved nonhazardous solid and hazardous waste  
308                    operation plans at least once every five years.  
309    [~~14~~] (15) Subsections (10) and (11) do not apply to a hazardous waste facility in existence  
310                    or to an application filed or pending in the department before April 24, 1989, that are  
311                    determined by the executive secretary of the board on or before December 31, 1990, to  
312                    be complete, in accordance with state and federal requirements applicable to operation  
313                    plans for hazardous waste facilities.  
314    [~~15~~] (16) Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste  
315                    facility in existence or to an application filed or pending in the department before  
316                    January 1, 1990, that is determined by the director, on or before December 31, 1990, to  
317                    be complete in accordance with state and federal requirements applicable to operation  
318                    plans for nonhazardous solid waste facilities.  
319    [~~16~~] (17) Nonhazardous solid waste generated outside of this state that is defined as  
320                    hazardous waste in the state where the nonhazardous solid waste is generated and that is  
321                    received for disposal in this state may not be disposed of at a nonhazardous waste  
322                    disposal facility owned and operated by local government or a facility under contract  
323                    with a local government solely for disposal of nonhazardous solid waste generated  
324                    within the boundaries of the local government, unless disposal is approved by the  
325                    director.  
326    [~~17~~] (18) This section may not be construed to exempt a facility from applicable regulation  
327                    under the federal Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

328                    **Section 2. Effective Date.**

329                    This bill takes effect on May 7, 2025.