

Part 1 **Solid and Hazardous Waste Act**

19-6-101 Short title.

This part is known as the "Solid and Hazardous Waste Act."

Renumbered and Amended by Chapter 112, 1991 General Session

19-6-102 Definitions.

As used in this part:

- (1) "Board" means the Waste Management and Radiation 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 commercial facility that:
 - (i) receives waste for recycling;
 - (ii) receives waste to be used as fuel, in compliance with federal and state requirements;
 - (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;
 - (iv) receives only waste from the exploration and production of oil and gas; or
 - (v) is a farm or ranch operation that receives animal mortality or animal offal waste:
 - (A) for the purpose of composting or beneficial reuse; and
 - (B) from a facility that processes one or more animals supplied by the farm or ranch operation.
- (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:
 - (i) asbestos;
 - (ii) contaminated soils or tanks resulting from remediation or cleanup at a release or spill;
 - (iii) waste paints;
 - (iv) solvents;
 - (v) sealers;
 - (vi) adhesives; or
 - (vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b) through (vi).
- (5) "Director" means the director of the Division of Waste Management and Radiation Control.
- (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on 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) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

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

(9)

- (a) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste that, 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.
- (b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

(10) "Health facility" means a:

- (a) hospital;
- (b) psychiatric hospital;
- (c) home health agency;
- (d) hospice;
- (e) skilled nursing facility;
- (f) intermediate care facility;
- (g) intermediate care facility for people with an intellectual disability;
- (h) residential health care facility;
- (i) maternity home or birthing center;
- (j) free standing ambulatory surgical center;
- (k) facility owned or operated by a health maintenance organization;
- (l) state renal disease treatment center, including a free standing hemodialysis unit;
- (m) the office of a private physician or dentist whether for individual or private practice;
- (n) veterinary clinic; or
- (o) mortuary.

(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.

(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.

(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.

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

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

(16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

- (a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;
- (b) a closure plan;
- (c) a modification request; or
- (d) an approval that the director is authorized to issue.

(17) "Permit" includes an operation plan.

(18) "Permittee" means a person who is obligated under an operation plan.

(19)

- (a) "Solid waste" means 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.
- (b) "Solid waste" 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. Sec. 1251 et seq.
- (c) "Solid waste" does not include metal that is:
 - (i) purchased as a valuable commercial commodity; and
 - (ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(d) "Solid waste" does not include post-use polymers or recovered feedstock, as those terms are defined in Section 19-6-502, converted or held at an advanced recycling facility.

(20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

(21) "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.

(22)

- (a) "Transfer" means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.
- (b) "Transfer" does not mean:
 - (i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or
 - (ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement off that site.

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

(24) "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.

(25) "Underground storage tank" means a tank that is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

Amended by Chapter 125, 2025 General Session

19-6-102.1 Treatment or disposal -- Exclusions.

As used in Subsections 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B), and 19-6-119(1)(a), the term "treatment or disposal" specifically excludes the recycling, use, reuse, or reprocessing of:

- (1) 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;
- (2) waste from the extraction, beneficiation, and processing of ores and minerals; or
- (3) cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

Amended by Chapter 256, 2020 General Session

Amended by Chapter 354, 2020 General Session

19-6-103 Waste Management and Radiation Control Board -- Members -- Terms --

Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following 12 members:

- (a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:
 - (i) the executive director; or
 - (ii) an employee of the department designated by the executive director; and
- (b) the following 11 voting members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:
 - (i) one representative who is:
 - (A) not connected with industry; and
 - (B) a Utah-licensed professional engineer;
 - (ii) two government representatives who do not represent the federal government;
 - (iii) one representative from the manufacturing, mining, or fuel industry;
 - (iv) one representative from the private solid or hazardous waste disposal industry;
 - (v) one representative from the private hazardous waste recovery industry;
 - (vi) one representative from the radioactive waste management industry;
 - (vii) one representative from the uranium milling industry;
 - (viii) one representative from the public who represents:
 - (A) an environmental nongovernmental organization; or
 - (B) a nongovernmental organization that represents community interests and does not represent industry interests;
 - (ix) one representative from the public who is trained and experienced in public health and a licensed:
 - (A) medical doctor; or
 - (B) dentist; and
 - (x) one representative who is:
 - (A) a medical physicist or a health physicist; or
 - (B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

- (a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;
- (b) be a resident of Utah;
- (c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

- (d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.
- (3)
 - (a) Members shall be appointed for terms of four years each.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.
- (4) Each member is eligible for reappointment.
- (5) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.
- (6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the advice and consent of the Senate.
- (7) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9)
 - (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.
 - (b) Meetings shall be held on the call of the chair, the director, or any three of the members.
- (10) Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

Amended by Chapter 57, 2025 General Session

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) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;
 - (c) meet the requirements of federal law related to solid and hazardous wastes to ensure 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;
 - (d)
 - (i) require a facility, including a facility listed in Subsection (1)(d)(ii), to submit plans, specifications, and other information required by the board to the director before construction, modification, installation, or establishment of a facility to allow the director to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

- (ii) consider a facility referred to in Subsection (1)(d)(i) to include an incinerator that is intended for disposing of nonhazardous solid waste;
- (iii) consider a facility referred to in Subsection (1)(d)(i) to not include a commercial facility that is solely for the purpose of recycling, reuse, or reprocessing the following waste:
 - (A) fly ash waste;
 - (B) bottom ash waste;
 - (C) slag waste; or
 - (D) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and
- (iv) consider a facility referred to in Subsection (1)(d)(i) to not include a facility when the following waste is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste:
 - (A) waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. 261.4(b)(7)(ii); or
 - (B) cement kiln dust; and

(e) to ensure compliance with applicable statutes and rules:

- (i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and
- (ii) approve or disapprove the settlement described in Subsection (1)(e)(i).

(2) The board may:

- (a)
 - (i) hold a hearing that is not an adjudicative proceeding; or
 - (ii) appoint a hearing officer to conduct a hearing that is not an adjudicative proceeding; or
- (b) advise, consult, cooperate with, or provide technical assistance to another agency of the state or federal government, another state, an interstate agency, an affected group, an affected political subdivision, an affected industry, or other person in carrying out the purposes of this part.

(3)

- (a) The board shall establish a comprehensive statewide waste management plan.
- (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 before incorporating the solid waste management strategies 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.

(4)

- (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.
- (5) Subject to the limitations contained in Subsection 19-6-102(19)(c), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.
- (6) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:
 - (a) a permit;
 - (b) a license;
 - (c) a registration;
 - (d) a certification; or
 - (e) another administrative authorization made by the director.
- (7) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Amended by Chapter 256, 2020 General Session

Amended by Chapter 354, 2020 General Session

19-6-105 Rules of board.

- (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;
 - (b) identifying wastes that are determined to be hazardous, including wastes designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et seq.;
 - (c) governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities, including requirements for keeping records, monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in a manner more stringent than they are treated under federal standards;
 - (d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan approval under Section 19-6-108 or that received waste after July 26, 1982, to take appropriate corrective action or other response measures for releases of hazardous waste or hazardous waste constituents from the facility, including releases beyond the boundaries of the facility;
 - (e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or review hazardous wastes operation plans;
 - (f) governing public hearings and participation under this part;
 - (g) establishing standards governing underground storage tanks and aboveground petroleum storage tanks, in accordance with Chapter 6, Part 4, Petroleum Storage Tank Act;
 - (h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106;
 - (i) defining closure plans, modification requests, or both for hazardous waste, as class I, class II with prior director approval, class II, or class III;

and

- (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind to be thrown, or remain upon or in a street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.
- (2) If any of the following are determined to be hazardous waste and are therefore subjected to the provisions of this part, the board shall, in the case of landfills or surface impoundments that receive the solid wastes, take into account the special characteristics of the wastes, the practical difficulties associated with applying requirements for other wastes to the wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to waste:
 - (a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium;
 - (b) 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; and
 - (c) cement kiln dust waste.
- (3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to any facility or incinerator for which plan approval is required under Section 19-6-108.

Amended by Chapter 14, 2025 General Session

19-6-106 Rulemaking authority and procedure.

- (1) Except as provided in Subsection (2), no rule which the board makes for the purpose of the state administering a program under the federal Resource Conservation and Recovery Act and, to the extent the board may have jurisdiction, under the federal Comprehensive Environmental Response, Compensation and Liability Act, or the federal Emergency Planning and Community Right to Know Act of 1986, may be more stringent than the corresponding federal regulations which address the same circumstances. In making the rules, the board may incorporate by reference corresponding federal regulations.
- (2) The board may make rules more stringent than corresponding federal regulations for the purposes described in Subsection (1), only if it makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state. Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the conclusion.

Renumbered and Amended by Chapter 112, 1991 General Session

19-6-107 Director -- Appointment -- Powers.

- (1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.
- (2) The director shall:
 - (a) issue an order necessary to enforce this part;
 - (b) enforce an order by appropriate administrative and judicial proceedings;
 - (c) institute judicial proceedings to secure compliance with this part;
 - (d) carry out inspections pursuant to Section 19-6-109;
 - (e) require submittal of specifications or other information relating to hazardous waste plans for review, and approve, disapprove, revoke, or review the plans;

- (f) develop programs for solid waste and hazardous waste management and control within the state;
- (g) advise, consult, and cooperate with another agency of the state, the federal government, another state, an interstate agency, an affected group, an affected political subdivision, an affected industry, or other affected person in furtherance of the purposes of this part;
- (h) subject to the provisions of this part, enforce rules made or revised by the board through the issuance of orders;
- (i) review plans, specifications or other data relative to solid waste and hazardous waste control systems or any part of the systems as provided in this part;
- (j) under the direction of the executive director, represent the state in matters pertaining to interstate solid waste and hazardous waste management and control including, under the direction of the board, entering into interstate compacts and other similar agreements; and
- (k) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the chair of the board.

(3) The director may:

- (a) subject to Subsection 19-6-104(1)(e), settle or compromise any administrative or civil action initiated to compel compliance with this part and any rules adopted under this part;
- (b) employ full-time employees necessary to carry out this part;
- (c) authorize any employee or representative of the department to conduct inspections as permitted in this part;
- (d) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to solid waste and hazardous waste management and control necessary for the discharge of duties assigned under this part;
- (e) collect and disseminate information relating to solid waste and hazardous waste management control; and
- (f) cooperate with any person in studies and research regarding solid waste and hazardous waste management and control.

Amended by Chapter 256, 2020 General Session

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 the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990;
 - (c) an application for modification of a commercial nonhazardous solid waste incinerator if the construction of the modification would cost 50% or more of the cost of construction of the original incinerator or the modification would result in an increase in the capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity or

throughput that was approved in the operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990;

- (d) an application for modification of a commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or
- (e) a submission of an operation plan to construct a facility, if previous approvals of the operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iv) or (v).

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3)

(a)

(i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

(ii)

(A) A permittee who is the current owner of a facility or site that is subject to an operation plan may submit to the director information, a report, a plan, or other request for approval for a proposed activity under an operation plan:

- (I) after obtaining the consent of any other permittee who is a current owner of the facility or site; and
- (II) without obtaining the consent of any other permittee who is not a current owner of the facility or site.

(B) The director may not:

- (I) withhold an approval of an operation plan requested by a permittee who is a current owner of the facility or site on the grounds that another permittee who is not a current owner of the facility or site has not consented to the request; or
- (II) give an approval of an operation plan requested by a permittee who is not a current owner before receiving consent of the current owner of the facility or site.

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste.

(b)

(i) Except for a facility that receives the following wastes solely for the purpose of recycling, reuse, or reprocessing, a person may not own, construct, modify, or operate any commercial facility that accepts for treatment or disposal, with the intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving the approval of the director for an operation plan for that facility site.

(ii) Wastes referred to in Subsection (3)(b)(i) are:

- (A) 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;
- (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or
- (C) cement kiln dust wastes.

(c)

- (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the person receives:
 - (A) local government approval and the approval described in Subsection (3)(a);
 - (B) approval from the Legislature that, on and after May 5, 2021, is required to be obtained after the person submits an application under this section; and
 - (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.
- (ii) A facility referred to in Subsection (3)(c)(i) is:
 - (A) a commercial nonhazardous solid waste disposal facility;
 - (B) except for a facility that receives a waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, with the intent to make a profit; or
 - (C) a commercial hazardous waste treatment, storage, or disposal facility.
- (iii) Subsection (3)(c)(ii)(B) applies to the following wastes:
 - (A) 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;
 - (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or
 - (C) cement kiln dust wastes.
- (iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:
 - (A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or
 - (B) the governor's approval is received before May 10, 2011, and the facility is not operational on or before May 10, 2016.
- (v) For legislative approval described in Subsection (3)(c)(i)(B), the required legislative approval for a facility described in Subsection (3)(c)(ii) is automatically revoked if:
 - (A) after receiving the legislative approval, the person seeking to construct the facility withdraws the application submitted under this section by providing the division a written statement of withdrawal for the facility that is the basis of the legislative approval; or
 - (B) after five years from the day on which the required legislative approval takes effect, the application for the facility is not approved by the division.
- (vi) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d)

A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

(e)

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

- (f) A person owning or operating a facility or site on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6921, et seq., and who has submitted a proposed hazardous waste plan under this section for that facility or site, may continue to operate that facility or site without violating this section until the plan is approved or disapproved under this section.
- (g)
 - (i) The director shall suspend acceptance of further applications for a commercial nonhazardous solid or hazardous waste facility upon a finding that the director cannot adequately oversee existing and additional facilities for permit compliance, monitoring, and enforcement.
 - (ii) The director shall report any suspension to the Natural Resources, Agriculture, and Environment Interim Committee.
- (4) The director shall review a proposed nonhazardous solid or hazardous waste operation plan to determine whether that plan complies with this part and the applicable rules of the board.
- (5)
 - (a) If the facility is a class I or class II facility, the director shall approve or disapprove that plan within 270 days from the date the plan is submitted.
 - (b) Within 60 days after receipt of the plans, specifications, or other information required by this section for a class I or II facility, the director shall determine whether the plan is complete and contains the information necessary to process the plan for approval.
 - (c)
 - (i) If the plan for a class I or II facility is determined to be complete, the director shall issue a notice of completeness.
 - (ii) If the plan is determined by the director to be incomplete, the director shall issue a notice of deficiency, listing the additional information to be provided by the owner or operator to complete the plan.
 - (d) The director shall review information submitted in response to a notice of deficiency within 30 days after receipt.
 - (e) The following time periods may not be included in the 270 day plan review period for a class I or II facility:
 - (i) time awaiting response from the owner or operator to requests for information issued by the director;
 - (ii) time required for public participation and hearings for issuance of plan approvals; and
 - (iii) time for review of the permit by other federal or state government agencies.
- (6)
 - (a) If the facility is a class III or class IV facility, the director shall approve or disapprove that plan within 365 days from the date the plan is submitted.
 - (b) The following time periods may not be included in the 365 day review period:
 - (i) time awaiting response from the owner or operator to requests for information issued by the director;
 - (ii) time required for public participation and hearings for issuance of plan approvals; and
 - (iii) time for review of the permit by other federal or state government agencies.
- (7) If, within 365 days after receipt of a modification request or closure plan for any facility, the director determines that the proposed plan or request, or any part of the proposed plan or request, will not comply with applicable rules, the director shall issue an order prohibiting any action under the proposed plan or request for modification or closure in whole or in part.
- (8) A person who owns or operates a facility or site required to have an approved hazardous waste operation plan under this section and who has pending a permit application before the United

States Environmental Protection Agency shall be treated as having an approved plan until final administrative disposition of the permit application is made under this section, unless the director determines that final administrative disposition of the application has not been made because of the failure of the owner or operator to furnish any information requested, or the facility's interim status has terminated under Section 3005(e) of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6925(e).

(9) The director may not approve a proposed nonhazardous solid or hazardous waste operation plan unless the plan contains the information that the board requires, including:

- (a) estimates of the composition, quantities, and concentrations of any hazardous waste identified under this part and the proposed treatment, storage, or disposal of the hazardous waste;
- (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment;
- (c) consistent with the degree and duration of risks associated with the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of specified hazardous waste, evidence of financial responsibility in whatever form and amount that the director determines is necessary to ensure continuity of operation and that upon abandonment, cessation, or interruption of the operation of the facility or site, the reasonable measures consistent with the available knowledge will be taken to ensure that the waste subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard to the public or the environment;
- (d) evidence that the personnel employed at the facility or site have education and training for the safe and adequate handling of nonhazardous solid or hazardous waste;
- (e) plans, specifications, and other information that the director considers relevant to determine whether the proposed nonhazardous solid or hazardous waste operation plan will comply with this part and the rules of the board;
- (f) compliance schedules, when applicable, including schedules for corrective action or other response measures for releases from a solid waste management unit at the facility, regardless of the time the waste was placed in the unit;
- (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or hazardous waste facility other than a water treatment facility that treats, stores, or disposes site-generated solid or hazardous waste onsite, a traffic impact study that:
 - (i) takes into consideration the safety, operation, and condition of roadways serving the proposed facility; and
 - (ii) is reviewed and approved by the Department of Transportation or a local highway authority, whichever has jurisdiction over each road serving the proposed facility, with the cost of the review paid by the person who submits the proposed operation plan; and
- (h) for a proposed operation plan submitted on or after July 1, 2013, for a new nonhazardous solid waste facility owned or operated by a local government, financial information that discloses the costs of establishing and operating the facility, including:
 - (i) land acquisition and leasing;
 - (ii) construction;
 - (iii) estimated annual operation;
 - (iv) equipment;
 - (v) ancillary structures;

- (vi) roads;
- (vii) transfer stations; and
- (viii) using other operations that are not contiguous to the proposed facility but are necessary to support the facility's construction and operation.

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

- (a) evidence that the proposed commercial facility has a proven market of nonhazardous solid or hazardous waste, including:
 - (i) information on the source, quantity, and price charged for treating, storing, and disposing of potential nonhazardous solid or hazardous waste in the state and regionally;
 - (ii) a market analysis of the need for a commercial facility given existing and potential generation of nonhazardous solid or hazardous waste in the state and regionally; and
 - (iii) a review of other existing and proposed commercial nonhazardous solid or hazardous waste facilities regionally and nationally that would compete for the treatment, storage, or disposal of the nonhazardous solid or hazardous waste;
- (b) a description of the public benefits of the proposed facility, including:
 - (i) the need in the state for the additional capacity for the management of nonhazardous solid or hazardous waste;
 - (ii) the energy and resources recoverable by the proposed facility;
 - (iii) the reduction of nonhazardous solid or hazardous waste management methods, that are less suitable for the environment, that would be made possible by the proposed facility; and
 - (iv) whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment; and
- (c) compliance history of an owner or operator of a proposed commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, that may be applied by the director in a nonhazardous solid or hazardous waste operation plan decision, including any plan conditions.

(11) The director may not approve a commercial nonhazardous solid or hazardous waste facility operation plan unless based on the application, and in addition to the determination required in Subsections (9) and (10), the director determines that:

- (a) the probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and
- (b) there is a need for the facility to serve industry within the state.

(12)

- (a) The director may not approve an operation plan or permit for a nonhazardous solid waste class VII landfill facility unless, based on the application, the operation plan and permit contain engineering plans and specifications for cell design that includes:
 - (i) an impervious synthetic liner system that has hydraulic conductivity no greater than 1E-7 centimeters per second; or
 - (ii) a clay liner system equivalent to a liner system described in Subsection (12)(a)(i).
- (b) A nonhazardous solid waste class VII landfill facility is considered to have an approved operation plan or permit for purposes of Subsection (12)(a) if the nonhazardous solid waste class VII landfill facility:
 - (i) on January 1, 2025, was permitted by the Division of Oil, Gas, and Mining; and
 - (ii) on or before May 7, 2025, obtains a temporary permit, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the nonhazardous solid waste class VII landfill facility.

- (c) Notwithstanding Subsection (12)(b), a nonhazardous solid waste class VII landfill facility described in Subsection (12)(b) shall ensure that as of July 1, 2030, each cell within the nonhazardous solid waste class VII landfill facility has:
 - (i) an impervious synthetic liner system that has hydraulic conductivity no greater than 1E-7 centimeters per second; or
 - (ii) a clay liner system equivalent to a liner system described in Subsection (12)(c)(i).
- (13) Approval of a nonhazardous solid or hazardous waste operation plan may be revoked, in whole or in part, if the person to whom approval of the plan has been given fails to comply with that plan.
- (14) The director shall review approved nonhazardous solid and hazardous waste operation plans at least once every five years.
- (15) Subsections (10) and (11) do not apply to a hazardous waste facility in existence or to an application filed or pending in the department before April 24, 1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.
- (16) Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste facility in existence or to an application filed or pending in the department before January 1, 1990, that is determined by the director, on or before December 31, 1990, to be complete in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.
- (17) Nonhazardous solid waste generated outside of this state that is defined as hazardous waste in the state where the nonhazardous solid waste is generated and that is received for disposal in this state may not be disposed of at a nonhazardous waste disposal facility owned and operated by local government or a facility under contract with a local government solely for disposal of nonhazardous solid waste generated within the boundaries of the local government, unless disposal is approved by the director.
- (18) This section may not be construed to exempt a facility from applicable regulation under the federal Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

Amended by Chapter 155, 2025 General Session

19-6-108.3 Director to issue written assurances, make determinations, and partition operation plans -- Board to make rules.

- (1) Based upon risk to human health or the environment from potential exposure to hazardous waste, the director may:
 - (a) even if corrective action is incomplete, issue an enforceable written assurance to a person acquiring an interest in real property covered by an operation plan that the person to whom the assurance is issued:
 - (i) is not a permittee under the operation plan; and
 - (ii) will not be subject to an enforcement action under this part for contamination that exists or for violations under this part that occurred before the person acquired the interest in the real property covered by the operation plan;
 - (b) determine that corrective action to the real property covered by the operation plan is:
 - (i) complete;
 - (ii) incomplete;
 - (iii) unnecessary with an environmental covenant; or
 - (iv) unnecessary without an environmental covenant; and

- (c) partition from an operation plan a portion of real property subject to the operation plan after determining that corrective action for that portion of real property is:
 - (i) complete;
 - (ii) unnecessary with an environmental covenant; or
 - (iii) unnecessary without an environmental covenant.
- (2) If the director determines that an environmental covenant is necessary under Subsection (1)(b) or (c), the director shall require that the real property be subject to an environmental covenant according to Title 57, Chapter 25, Uniform Environmental Covenants Act.
- (3) An assurance issued under Subsection (1) protects the person to whom the assurance is issued from any cost recovery and contribution action under state law.
- (4) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may adopt rules to administer this section.

Amended by Chapter 360, 2012 General Session

19-6-108.5 Management of hazardous waste generated outside Utah.

On and after July 1, 2017, waste entering Utah for disposal or treatment, excluding incineration, that is classified by Utah as nonhazardous solid waste shall be treated or disposed of as nonhazardous solid waste, regardless of how it is classified by the state of origin.

Amended by Chapter 232, 2017 General Session

Amended by Chapter 281, 2017 General Session

19-6-109 Inspections authorized -- Fines for a self-inspected facility.

- (1) A duly authorized officer, employee, or representative of the director may, at any reasonable time and upon presentation of appropriate credentials, enter upon and inspect any property, premise, or place on or at which solid or hazardous wastes are generated, transported, stored, treated, or disposed of, and have access to and the right to copy any records relating to the wastes, for the purpose of ascertaining compliance with this part and the rules of the board.
- (2) An inspector may also inspect any waste and obtain waste samples, including samples from any vehicle in which wastes are being transported or samples of any containers or labels.
- (3) Any person obtaining samples shall give to the owner, operator, or agent a receipt describing the sample obtained and, if requested, a portion of each sample of waste equal in volume or weight to the portion retained.
- (4) If any analysis is made of those samples, a copy of the results of that analysis shall be furnished promptly to the owner, operator, or agent in charge.
- (5)
 - (a) Notwithstanding any other provision of this section, by January 1, 2019, the division shall ensure that an owner or operator of a solid waste management facility may elect to self-inspect the solid waste management facility.
 - (b)
 - (i) The division shall create a training program to teach the owner or operator of a solid waste management facility how to self-inspect the owner or operator's solid waste management facility.
 - (ii) The training described in Subsection (5)(b)(i) shall be no longer than five hours total.
 - (c) An owner or operator that elects to self-inspect a solid waste management facility under Subsection (5)(a) shall:

- (i) provide all information to the division that is required by this chapter and any rules issued by the board; and
- (ii) conduct the self-inspection annually and send a self-inspection report, certified by an individual who completed the training described in Subsection (5)(b)(i), to the division upon completion.

(d) The division shall ensure that a solid waste management facility is inspected by an authorized division employee:

- (i) every three to five years, if the solid waste management facility does not elect to self-inspect under Subsection (5)(a);
- (ii) at least once every five years, regardless of whether the solid waste management facility elects to self-inspect under Subsection (5)(a);
- (iii) promptly upon receipt of a credible complaint about the solid waste management facility; and
- (iv) upon request by the solid waste management facility or upon issuance of a notice of violation.

(6)

- (a) The division shall ensure that a fine assessed against a solid waste management facility that elects to self-inspect for a violation of this chapter or a rule made by the board is higher than the fine that would be assessed against a solid waste management facility that does not elect to self-inspect.
- (b) The division may determine that, upon a severe violation of this chapter or a rule made by the board by a facility that elects to self-inspect, that a facility is no longer eligible to self-inspect.

Amended by Chapter 241, 2018 General Session

19-6-111 Variances -- Requirements for application -- Procedure.

(1)

- (a) If the board determines that the application of, or compliance with, any requirements of this part would cause undue or unreasonable hardship to any person, it may issue a variance from any of those requirements.
- (b) No variance may be granted except upon application for it.
- (c) Immediately upon receipt of an application for a variance, the board shall give public notice of the application and provide an opportunity for a public hearing.
- (d) A variance granted for more than one year shall contain a timetable for coming into compliance with this part and shall be conditioned on adherence to that timetable.

(2)

- (a) Any variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate for the initial granting of a variance.
- (b) No renewal may be granted except on application for it.
- (c) Immediately upon receipt of an application for renewal, the board shall give public notice of the application and provide an opportunity for a public hearing.

(3)

- (a) The board may review any variance during the term for which it was granted.
- (b) The procedure for review is the same as that for an original application and the variance previously granted may be revoked upon a finding that the conditions and the terms upon which the variance was granted are not being met.

(4)

- (a) Any variance or renewal exists at the discretion of the board and is not a right of the applicant or holder.
- (b) However, any person adversely affected by the granting, denying, or revoking of any variance or renewal by the board may obtain judicial review of the board's decision by filing a petition in district court within 30 days from the date of notification of the decision.
- (c) The decision of the board may not be overturned upon review unless the court finds that the actions of the board were arbitrary or capricious.

Renumbered and Amended by Chapter 112, 1991 General Session

19-6-112 Notice of violations -- Order for correction -- Civil action to enforce.

- (1) Whenever the director determines that any person is in violation of any applicable approved hazardous wastes operation plan or solid waste plan, the requirements of this part, or any of the board's rules, the director may cause written notice of that violation to be served upon the alleged violator. The notice shall specify the provisions of the plan, this part or rule alleged to have been violated, and the facts alleged to constitute the violation.
- (2) The director may:
 - (a) issue an order requiring that necessary corrective action be taken within a reasonable time; or
 - (b) request the attorney general or the county attorney in the county in which the violation is taking place to bring a civil action for injunctive relief and enforcement of this part.
- (3) Pending promulgation of rules for corrective action under Section 19-6-105, the director may issue corrective action orders on a case-by-case basis, as necessary to carry out the purposes of this part.

Amended by Chapter 360, 2012 General Session

19-6-113 Violations -- Penalties -- Reimbursement for expenses.

- (1) As used in this section, "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.
- (2) Any person who violates any order, plan, rule, or other requirement issued or adopted under this part is subject in a civil proceeding to a penalty of not more than \$13,000 per day for each day of violation.
- (3) On or after July 1, 1990, no person shall knowingly:
 - (a) transport or cause to be transported any hazardous waste identified or listed under this part to a facility that does not have a hazardous waste operation plan or permit under this part or RCRA;
 - (b) treat, store, or dispose of any hazardous waste identified or listed under this part:
 - (i) without having obtained a hazardous waste operation plan or permit as required by this part or RCRA;
 - (ii) in knowing violation of any material condition or requirement of a hazardous waste operation plan or permit; or
 - (iii) in knowing violation of any material condition or requirement of any rules or regulations under this part or RCRA;
 - (c) omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA or any rules or regulations made under this part or RCRA; and

- (d) transport or cause to be transported without a manifest any hazardous waste identified or listed under this part and required by rules or regulations made under this part or RCRA to be accompanied by a manifest.
- (4)
 - (a)
 - (i) Any person who knowingly violates any provision of Subsection (3)(a) or (b) is guilty of a felony.
 - (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony under Subsection (3)(a) or (b) is subject to a fine of not more than \$50,000 for each day of violation, or imprisonment for a term not to exceed five years, or both.
 - (iii) If a person is convicted of a second or subsequent violation under Subsection (3)(a) or (b), the maximum punishment is double both the fine and the term of imprisonment authorized in Subsection (4)(a)(ii).
 - (b)
 - (i) Any person who knowingly violates any of the provisions of Subsection (3)(c) or (d) is guilty of a felony.
 - (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony for a violation of Subsection (3)(c) or (d) is subject to a fine of not more than \$50,000 for each day of violation, or imprisonment for a term not to exceed two years, or both.
 - (iii) If a person is convicted of a second or subsequent violation under Subsection (3)(c) or (d), the maximum punishment is double both the fine and the imprisonment authorized in Subsection (4)(b)(ii).
 - (c)
 - (i) Any person who knowingly transports, treats, stores, or disposes of any hazardous waste identified or listed under this part in violation of Subsection (3)(a), (b), (c), or (d), who knows at that time that the person thereby places another person in imminent danger of death or serious bodily injury, is guilty of a felony.
 - (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of a felony described in Subsection (4)(c)(i) is subject to a fine of not more than \$250,000, or imprisonment for a term not to exceed 15 years, or both.
 - (iii) A corporation, association, partnership, or governmental instrumentality, upon conviction of violating Subsection (4)(c)(i), is subject to a fine of not more than \$1,000,000.
- (5)
 - (a) Except as provided in Subsections (5)(b) and (c) and Section 19-6-722, all penalties assessed and collected under authority of this section shall be deposited in the General Fund.
 - (b) The department may reimburse itself and local governments from money collected from civil penalties for qualifying extraordinary expenses incurred in qualifying environmental enforcement activities.
 - (c) Notwithstanding the provisions of Section 78A-5-110, the department may reimburse itself and local governments from money collected from criminal fines for qualifying extraordinary expenses incurred in prosecutions for violations of this part.
 - (d) The department shall regulate reimbursements by making rules that define:
 - (i) qualifying environmental enforcement activities; and
 - (ii) qualifying extraordinary expenses.
- (6) The attorney general, the county attorney, or the district attorney, as appropriate under Section 17-68-302 or 17-68-303, may commence prosecution for a criminal violation of this part in any county where venue is proper.

Amended by Chapter 16, 2025 Special Session 1

19-6-114 Service of notice, order, or other document.

In accordance with procedural rules adopted by the department, service of any notice, order, or other document issued by, or under the authority of, the director may be made by forwarding a copy of that notice, order, or other document by registered mail, directed to the person's designated address.

Amended by Chapter 256, 2020 General Session

19-6-115 Imminent danger to health or environment -- Authority of executive director to initiate action to restrain.

Notwithstanding any other provision of this part, upon receipt of evidence that the handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a release from an underground storage tank, is presenting an imminent and substantial danger to health or the environment, the executive director may bring suit on behalf of this state in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to immediately restrain any person contributing, or who has contributed, to that action to stop the handling, storage, treatment, transportation, or disposal or to take other action as appropriate.

Amended by Chapter 158, 2024 General Session

19-6-116 Application of part subject to state assumption of primary responsibility from federal government -- Authority of political subdivisions.

- (1) The requirements of this part applicable to the generation, treatment, storage, or disposal of hazardous waste, and the rules adopted under this part, do not take effect until this state is qualified to assume, and does assume, primacy from the federal government for the control of hazardous wastes.
- (2) This part does not alter the authority of political subdivisions of the state to control solid and hazardous wastes within their local jurisdictions so long as any local laws, ordinances, or rules are not inconsistent with this part or the rules of the board.

Amended by Chapter 297, 2011 General Session

19-6-117 Action against insurer or guarantor.

- (1) The state may assert a cause of action directly against an insurer or guarantor of an owner or operator if:
 - (a) a cause of action exists against an owner or operator of a treatment, storage, or disposal facility, based upon conduct for which the director requires evidence of financial responsibility under Section 19-6-108, and that owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code; or
 - (b) jurisdiction over an owner or operator, who is likely to be solvent at the time of judgment, cannot be obtained in state or federal court.
- (2) In that action, the insurer or guarantor may assert all rights and defenses available to the owner or operator, in addition to rights and defenses that would be available to the insurer or guarantor in an action brought against him by the owner or operator.

Amended by Chapter 360, 2012 General Session

19-6-117.5 Applicability of fees for treatment or disposal of waste.

Waste that is subject to more than one fee under Section 19-6-118, 19-6-118.5, or 19-6-119 is subject only to the highest applicable fee.

Enacted by Chapter 10, 2005 General Session

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

- (1)
 - (a) An owner or operator of any commercial hazardous waste or mixed waste disposal or treatment facility that primarily receives hazardous or mixed wastes generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator, and that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection (2).
 - (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or industrial furnace that receives for burning hazardous waste generated by off-site sources not owned, controlled, or operated by the owner or operator shall pay the fee under Subsection (2).
- (2)
 - (a) In accordance with Section 63J-1-504, the department shall establish a fee schedule for the treatment and land disposal of hazardous waste and mixed waste.
 - (b) To create the fee schedule described in Subsection (2)(a), the department shall, before establishing the fee schedule, complete a review of program costs and indirect costs of regulating hazardous waste and mixed waste in the state.
 - (c) The fee schedule described in Subsection (2)(a) shall:
 - (i) implement a flat fee not calculated according to the amount of waste treated or disposed;
 - (ii) provide for reasonable and timely oversight by the department; and
 - (iii) adequately meet the needs of industry and the department, including enabling the department to employ qualified personnel to appropriately oversee industry regulation.
 - (d) A facility that treats or disposes of hazardous waste or mixed waste is authorized to collect the fee established under Subsection (2)(a) from the generator of the waste.
- (3)
 - (a) The department shall allocate and pay to a county at least 10% of the fee established under Subsection (2)(a) that the department receives from a facility in that county.
 - (b) The county may use fees allocated under this Subsection (3) to carry out its hazardous waste monitoring and response programs.
- (4) The department shall deposit the state portion of a fee received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.
- (5) An owner or operator shall submit payment of the fee established in Subsection (2)(a) to the department:
 - (a) in accordance with a schedule provided by the department; and
 - (b) using forms provided by the department.
- (6)
 - (a) The department shall oversee and monitor hazardous waste treatment, disposal, and incineration facilities, including federal government facilities located within the state.
 - (b) The department may determine facility oversight priorities.
- (7)
 - (a) The department, in preparing its budget for the governor and the Legislature, shall separately indicate the amount necessary to administer the hazardous waste program established by this part.

- (b) The Legislature shall appropriate the costs of administering this program.
- (8) The Office of Legislative Fiscal Analyst shall monitor a fee collected under this part.
- (9) Mixed waste subject to a fee under this section is not subject to a fee under Section 19-3-106.

Amended by Chapter 466, 2019 General Session

19-6-118.5 PCB disposal fee.

- (1)
 - (a) On or after July 1, 2010, but on or before June 30, 2011, the owner or operator of a waste facility shall pay a fee of \$4.75 per ton on all wastes containing polychlorinated biphenyls (PCBs) that are:
 - (i) regulated under 15 U.S.C. Sec. 2605; and
 - (ii) received at a facility for disposal or treatment.
 - (b) On and after July 1, 2011, the department shall establish a fee for disposal or treatment of wastes containing polychlorinated biphenyls in accordance with Section 63J-1-504.
- (2) The owner or operator of a facility receiving PCBs for disposal or treatment shall:
 - (a) calculate the fees imposed under Subsection (1)(a) by multiplying the total tonnage of waste received during the calendar month, computed to the first decimal place, by the required fee rate of \$4.75 per ton;
 - (b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and
 - (c) with the fees required under this section, submit to the department, on a form prescribed by the department, information that verifies the amount of waste received and the fees that the owner or operator is required to pay.
- (3) The department shall deposit the fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.
- (4) The owner or operator of a waste facility that is subject to a fee under this section is not subject to a fee for the same waste under Section 19-3-106, even if the waste contains radioactive materials.

Amended by Chapter 17, 2010 General Session

19-6-119 Nonhazardous solid waste disposal fees.

- (1)
 - (a) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste received for treatment or disposal at the facility if the facility or incinerator is required to have operation plan approval under Section 19-6-108 and primarily receives waste generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator:
 - (i) 13 cents per ton on all municipal waste and municipal incinerator ash;
 - (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of the following wastes in a cell exclusively designated for the waste being disposed:
 - (A) construction waste or demolition waste;
 - (B) yard waste, including vegetative matter resulting from landscaping, land maintenance, and land clearing operations;
 - (C) dead animals;

(D) waste tires and materials derived from waste tires disposed of in accordance with Chapter 6, Part 8, Waste Tire Recycling Act; and

(E) petroleum contaminated soils that are approved by the director; and

(iii) \$2.50 per ton on:

(A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

(B)

(I) fly ash waste;

(II) bottom ash waste;

(III) slag waste;

(IV) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(V) waste from the extraction, beneficiation, and processing of ores and minerals; and

(VI) cement kiln dust wastes.

(b) A commercial nonhazardous solid waste disposal facility or incinerator subject to the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for those wastes described in Subsections (1)(a)(i) and (ii).

(c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

(2)

(a) Through December 31, 2018, and except as provided in Subsections (2)(c) and (4), a waste facility that is owned by a political subdivision shall pay the following annual facility fee to the department by January 15 of each year:

(i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal waste each year;

(ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of municipal waste each year;

(iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of municipal waste each year;

(iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of municipal waste each year;

(v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of municipal waste each year;

(vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of municipal waste each year; and

(vii) \$66,000 if the facility receives 500,000 or more tons of municipal waste each year.

(b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

(c) Through December 31, 2018, and except as provided in Subsection (4), a waste facility that is owned by a political subdivision shall pay \$2.50 per ton for:

(i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year; and

(ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year.

(d) Waste received at a facility owned by a political subdivision under Subsection (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection (2)(a).

(3)

- (a) As used in this Subsection (3):
 - (i) "Recycling center" means a facility that extracts valuable materials from a waste stream or transforms or remanufactures the material into a usable form that has demonstrated or potential market value.
 - (ii) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.
- (b) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a transfer station or recycling center shall pay to the department the following fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this section:
 - (i) \$1.25 per ton on:
 - (A) all nonhazardous solid waste; and
 - (B) waste described in Subsection (1)(a)(iii)(B);
 - (ii) 10 cents per ton on all construction and demolition waste; and
 - (iii) 5 cents per ton on all municipal waste or municipal incinerator ash.
- (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee required under Subsection (3)(b)(i).
- (4) The owner or operator of a waste disposal facility that receives nonhazardous solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or reprocessing.
- (5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility required to pay fees under this section shall:
 - (a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste received during the calendar month, computed to the first decimal place, by the required fee rate;
 - (b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and
 - (c) with the fees required under Subsection (6)(b), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.
- (6)
 - (a) In accordance with Section 63J-1-504, on or before July 1, 2018, and each fiscal year thereafter, the department shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid waste.
 - (b) The department shall, before establishing the annual fee schedule described in Subsection (6)(a), consult with industry and local government and complete a review of program costs and indirect costs of regulating nonhazardous solid waste in the state and use the findings of the review to create the fee schedule.
 - (c) The fee schedule described in Subsection (6)(a) shall:
 - (i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a regulatory burden to the department, based on the actual cost, and taking into consideration whether the owner or operator of a facility elects to self-inspect under Section 19-6-109, except as provided in Subsection (6)(d);
 - (ii) cover the fully burdened costs of the program and provide for reasonable and timely oversight by the department;

- (iii) adequately meet the needs of industry, local government, and the department, including enabling the department to employ the appropriate number of qualified personnel to appropriately oversee industry and local government regulation;
- (iv) provide stable funding for the Environmental Quality Restricted Account created in Section 19-1-108; and
- (v) for solid waste managed at a transfer facility, be no greater than the cost of regulatory services provided to the transfer facility.

(d) Any person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or operated by that person may not be charged a fee under this section for the treatment, transfer, storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and minerals that are generated:

- (i) on-site by the person; or
- (ii) by off-site sources owned, controlled, or operated by the person.

(e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on January 1, 2019.

(7) On and after January 1, 2019, a facility required to pay fees under this section shall:

- (a) pay the fees imposed by this section to the department by the 15th day of the month following the quarter in which the fees accrued; and
- (b) with the fees required under Subsection (7)(a), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(8) In setting the fee schedule described in Subsection (6)(a), the department shall ensure that a party is not charged multiple fees for the same solid waste, except the department may charge a separate fee for a transfer station.

(9) The department shall:

- (a) deposit all fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108; and
- (b) in preparing its budget for the governor and the Legislature, separately indicate the amount of the department's budget necessary to administer the solid and hazardous waste program established by this part.

(10) The department may contract or agree with a county to assist in performing nonhazardous solid waste management activities, including agreements for:

- (a) the development of a solid waste management plan required under Section 17E-7-101; and
- (b) pass-through of available funding.

(11) This section does not exempt any facility from applicable regulation under the Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

(12) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2017, on the fee schedule described in Subsection (6)(a).

Amended by Chapter 16, 2025 Special Session 1

19-6-120 New hazardous waste operation plans -- Designation of hazardous waste facilities -- Fees for filing and plan review.

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

- (a) the submission of a revised hazardous waste 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 commercial hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990; or
- (c) an application for modification of a commercial hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if initial approval is subsequent to January 1, 1990.

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3)

- (a) A hazardous waste facility that is subject to payment of fees under this section or Section 19-1-201 for plan reviews under Section 19-6-108 shall be designated by the department as either class I, class II, class III, or class IV facility.
- (b) The department shall designate a commercial hazardous waste facility containing either landfills, surface impoundments, land treatment units, thermal treatment units, incinerators, or underground injection wells, which primarily receive wastes generated by off-site sources not owned, controlled, or operated by the facility owner or operator, as a class I facility.

(4) The maximum fee for filing and review of a class I facility operation plan is \$200,000, and is due and payable as follows:

- (a) the owner or operator of a class I facility shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$50,000;
- (b) upon issuance by the director of a notice of completeness under Section 19-6-108, the owner or operator of the facility shall pay to the department an additional nonrefundable sum of \$50,000; and
- (c) the department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(5)

- (a) The department shall designate a hazardous waste incinerator that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator as a class II facility.
- (b) The maximum fee for filing and review of a class II facility operation plan is \$150,000, and shall be due and payable as follows:
 - (i) the owner or operator of a class II facility shall, at the time of filing for plan review under Section 19-6-108, pay to the department the nonrefundable sum of \$50,000; and
 - (ii) the department shall bill the owner or operator of the facility for any additional actual costs of plan review, up to an additional \$100,000.

(6)

- (a) The department shall designate a hazardous waste facility containing either landfills, surface impoundments, land treatment units, thermal treatment units, or underground injection wells, that primarily receive wastes generated by sources owned, controlled, or operated by the facility owner or operator, as a class III facility.
- (b) The maximum fee for filing and review of a class III facility operation plan is \$100,000 and is due and payable as follows:

- (i) the owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000; and
- (ii) the department shall bill the owner or operator of a class III facility for actual costs of operation plan review, up to an additional \$99,000.

(7)

- (a) A hazardous waste facility not described in Subsections (3) through (6) is designated as a class IV facility.
- (b) The maximum fee for filing and review of a class IV facility operation plan is \$50,000 and is due and payable as follows:
 - (i) the owner or operator shall, at the time of filing for plan review, pay to the department the nonrefundable sum of \$1,000; and
 - (ii) the department shall bill the owner or operator of a class IV facility for actual costs of operation plan review, up to an additional \$49,000.

(8)

- (a) The maximum fee for filing and review of a temporary authorization request, class II or class III modification request, or for a class I, class II, or class III facility is \$50,000 and is due and payable as follows:
 - (i) the owner or operator shall, at the time of filing for that review, pay to the department the nonrefundable sum of \$1,000; and
 - (ii) the department shall bill the owner or operator of the hazardous waste facility for actual costs of the review, up to an additional \$49,000.
- (b) The maximum fee for filing and review of a class I modification request, for a class I, class II, or class III facility, and of a modification request for a class IV facility, is \$20,000, and is due and payable as follows:
 - (i) the owner or operator shall, at the time of filing for that review, pay to the department the nonrefundable sum of \$1,000; and
 - (ii) the department shall bill the owner or operator of the hazardous waste facility for actual costs of review up to an additional \$19,000.
- (c) The owner or operator of a thermal treatment unit shall submit a trial or test burn schedule 90 days before to any planned trial or test burn. At the time the schedule is submitted, the owner or operator shall pay to the department the nonrefundable fee of \$25,000. The department shall apply the fee to the costs of the review and processing of each trial or test burn plan, trial or test burn, and trial or test burn data report. The department shall bill the owner or operator of the facility for any additional actual costs of review and preparation.

(9)

- (a) The owner or operator of a class III facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class II facility operation plan.
- (b) The owner or operator of a class IV facility may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.
- (c) An owner or operator of a class I, class II, or class III facility who submits a class II or class III modification request may obtain a plan review within the time periods for a class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class II facility operation plan.
- (d) An owner or operator of a class I, class II, or class III facility who submits a class I modification request, and an owner or operator of a class IV facility who submits a modification request or a closure plan, may obtain a plan review within the time periods for a

class II facility operation plan by paying, at the time of filing for plan review, the maximum fee for a class III facility operation plan.

(10) Fees received by the department under this section shall be deposited into the General Fund as dedicated credits for hazardous waste plan reviews in accordance with Subsection (12) and Section 19-6-108.

(11)

(a)

(i) The director shall establish an accounting procedure that separately accounts for fees paid by each owner or operator who submits a hazardous waste operation plan for approval under Section 19-6-108 and pays fees for hazardous waste plan reviews under this section or Section 19-1-201.

(ii) The director shall credit fees paid by the owner or operator to that owner or operator.

(iii) The director shall account for costs actually incurred in reviewing each operation plan and may only use the fees of each owner or operator for review of that owner or operator's plan.

(b) If the costs actually incurred by the department in reviewing a hazardous waste operation plan of any facility are less than the nonrefundable fee paid by the owner or operator under this section, the department may, upon approval or disapproval of the plan by the board or upon withdrawal of the plan by the owner or operator, use any remaining funds that have been credited to that owner or operator for the purposes of administering provisions of the hazardous waste programs and activities authorized by this part.

(12)

(a) With regard to any review of a hazardous waste operation plan, modification request, or closure plan that is pending on April 25, 1988, the director may assess fees for that plan review.

(b) The total amount of fees paid by an owner or operator of a hazardous waste facility whose plan review is affected by this Subsection (12) may not exceed the maximum fees allowable under this section for the appropriate class of facility.

(13)

(a) The department shall maintain accurate records of the department's actual costs for each plan review under this section.

(b) A record described in Subsection (13)(a) shall be available for public inspection.

Amended by Chapter 256, 2020 General Session

19-6-121 Local zoning authority powers.

Nothing in this part prohibits any local zoning authority from adopting zoning criteria for commercial hazardous waste disposal facilities or sites that are more stringent than any requirements adopted by the department.

Renumbered and Amended by Chapter 112, 1991 General Session

19-6-122 Facilities to meet local zoning requirements.

Notwithstanding any provisions of this part, persons seeking to operate a commercial hazardous waste disposal facility or site shall meet all local zoning requirements before beginning operations.

Renumbered and Amended by Chapter 112, 1991 General Session

19-6-123 Kilns -- Siting.

A cement kiln or lightweight aggregate kiln may not accept hazardous waste for recycling or for use as fuel without meeting the siting criteria for commercial hazardous waste treatment, storage, and disposal facilities established under Section 19-6-105.

Enacted by Chapter 219, 1991 General Session

19-6-124 Burial of nonhazardous solid waste by an individual.

- (1) Notwithstanding any other provision of this chapter, an individual may bury nonhazardous solid waste on the individual's own property if:
 - (a) the individual lives in an area where no public or duly licensed waste disposal service is available;
 - (b) the individual owns the nonhazardous solid waste; and
 - (c) the nonhazardous solid waste is generated on the individual's private property.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary for the administration of this section.

Enacted by Chapter 287, 2014 General Session

19-6-125 Incineration of medical waste.

- (1) Except as provided in Subsection (2), the division may not approve an operation plan or issue a permit for construction of a new facility that:
 - (a) incinerates infectious waste or chemotherapeutic agents; and
 - (b) is located within a two-mile radius of an area zoned residential on January 1, 2014.
- (2) The division may approve renewal or modification of an operation plan or a permit for a facility that is in operation as of May 13, 2014.

Enacted by Chapter 198, 2014 General Session