

SOLID WASTE REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike K. McKell

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies regulations in regard to nonhazardous solid waste.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies definitions;
- ▶ states that no person may own, construct, modify, or operate any facility or site for

the purpose of transferring, treating, or disposing of nonhazardous solid waste without first submitting and receiving the approval of the director for an operation plan for that facility or site;

- ▶ provides that certain waste entering Utah from other states for disposal or treatment be treated according to standards provided in Utah law;

- ▶ modifies fee structures for nonhazardous solid waste streams; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-102, as last amended by Laws of Utah 2016, Fourth Special Session, Chapter 1

19-6-105, as last amended by Laws of Utah 2012, Chapter 360

- 30 19-6-108, as last amended by Laws of Utah 2013, Chapter 378
- 31 19-6-108.5, as last amended by Laws of Utah 2010, Chapter 324
- 32 19-6-119, as last amended by Laws of Utah 2012, Chapter 360
- 33 19-6-502, as last amended by Laws of Utah 2016, Fourth Special Session, Chapter 1

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

36 Section 1. Section 19-6-102 is amended to read:

37 **19-6-102. Definitions.**

38 As used in this part:

39 (1) "Board" means the Waste Management and Radiation Control Board created in
 40 Section 19-1-106.

41 (2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at
 42 which the owner or operator has disposed of nonhazardous solid waste or has treated, stored,
 43 or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the
 44 facility or site.

45 (3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"
 46 means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or
 47 disposal.

48 (b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does
 49 not include a facility that:

50 (i) receives waste for recycling;

51 (ii) receives waste to be used as fuel, in compliance with federal and state requirements;

52 or

53 (iii) is solely under contract with a local government within the state to dispose of
 54 nonhazardous solid waste generated within the boundaries of the local government.

55 (4) "Construction waste or demolition waste":

56 (a) means waste from building materials, packaging, and rubble resulting from
 57 construction, demolition, remodeling, and repair of pavements, houses, commercial buildings,

58 and other structures, and from road building and land clearing; and

59 (b) does not include: asbestos; contaminated soils or tanks resulting from remediation
60 or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous
61 or potentially hazardous materials.

62 (5) "Demolition waste" has the same meaning as the definition of construction waste in
63 this section.

64 (6) "Director" means the director of the Division of Waste Management and Radiation
65 Control.

66 (7) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or
67 placing of any solid or hazardous waste into or on any land or water so that the waste or any
68 constituent of the waste may enter the environment, be emitted into the air, or discharged into
69 any waters, including groundwaters.

70 (8) "Division" means the Division of Waste Management and Radiation Control,
71 created in Subsection [19-1-105\(1\)\(d\)](#).

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

74 (10) "Hazardous waste" means a solid waste or combination of solid wastes other than
75 household waste which, because of its quantity, concentration, or physical, chemical, or
76 infectious characteristics may cause or significantly contribute to an increase in mortality or an
77 increase in serious irreversible or incapacitating reversible illness or may pose a substantial
78 present or potential hazard to human health or the environment when improperly treated,
79 stored, transported, disposed of, or otherwise managed.

80 (11) "Health facility" means hospitals, psychiatric hospitals, home health agencies,
81 hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for
82 people with an intellectual disability, residential health care facilities, maternity homes or
83 birthing centers, free standing ambulatory surgical centers, facilities owned or operated by
84 health maintenance organizations, and state renal disease treatment centers including free
85 standing hemodialysis units, the offices of private physicians and dentists whether for individual

86 or private practice, veterinary clinics, and mortuaries.

87 (12) "Household waste" means any waste material, including garbage, trash, and
88 sanitary wastes in septic tanks, derived from households, including single-family and
89 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,
90 campgrounds, picnic grounds, and day-use recreation areas.

91 (13) "Infectious waste" means a solid waste that contains or may reasonably be
92 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by
93 a susceptible host could result in an infectious disease.

94 (14) "Manifest" means the form used for identifying the quantity, composition, origin,
95 routing, and destination of hazardous waste during its transportation from the point of
96 generation to the point of disposal, treatment, or storage.

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

99 (16) "Modification plan" means a plan under Section 19-6-108 to modify a facility or
100 site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing
101 of hazardous waste.

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

104 (a) a plan to own, construct, or operate a facility or site for the purpose of transferring,
105 treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of
106 hazardous waste;

107 (b) a closure plan;

108 (c) a modification plan; or

109 (d) an approval that the director is authorized to issue.

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

111 (19) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from a waste
112 treatment plant, water supply treatment plant, or air pollution control facility, or other discarded
113 material, including solid, liquid, semi-solid, or contained gaseous material resulting from

114 industrial, commercial, mining, or agricultural operations and from community activities but
115 does not include solid or dissolved materials in domestic sewage or in irrigation return flows or
116 discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under
117 the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

118 (b) "Solid waste" does not include any of the following wastes unless the waste causes a
119 public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

120 (i) certain large volume wastes, such as inert construction debris used as fill material;

121 (ii) drilling muds, produced waters, and other wastes associated with the exploration,
122 development, or production of oil, gas, or geothermal energy;

123 (iii) solid wastes from the extraction, beneficiation, and processing of ores and minerals;

124 (iv) cement kiln dust; or

125 (v) metal that is:

126 (A) purchased as a valuable commercial commodity; and

127 (B) not otherwise hazardous waste or subject to conditions of the federal hazardous
128 waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

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

131 (21) "Storage" means the actual or intended containment of solid or hazardous waste
132 either on a temporary basis or for a period of years in such a manner as not to constitute
133 disposal of the waste.

134 (22) (a) "Transfer" means the collection of nonhazardous solid waste from a permanent,
135 fixed, supplemental collection facility for movement to a vehicle for movement to an offsite
136 nonhazardous solid waste storage or disposal facility.

137 (b) "Transfer" does not mean:

138 (i) the act of moving nonhazardous solid waste from one location to another location on
139 the site where the nonhazardous solid waste is generated; or

140 (ii) placement of nonhazardous solid waste on the site where the nonhazardous solid
141 waste is generated in preparation for movement off that site.

142 [~~(22)~~] (23) "Transportation" means the off-site movement of solid or hazardous waste
143 to any intermediate point or to any point of storage, treatment, or disposal.

144 [~~(23)~~] (24) "Treatment" means a method, technique, or process designed to change the
145 physical, chemical, or biological character or composition of any solid or hazardous waste so as
146 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for
147 recovery, amenable to storage, or reduced in volume.

148 [~~(24)~~] (25) "Underground storage tank" means a tank which is regulated under Subtitle
149 I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

150 Section 2. Section **19-6-105** is amended to read:

151 **19-6-105. Rules of board.**

152 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
153 Administrative Rulemaking Act:

154 (a) establishing minimum standards for protection of human health and the environment,
155 for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste,
156 including requirements for the approval by the director of plans for the construction, extension,
157 operation, and closure of solid waste disposal sites;

158 (b) identifying wastes which are determined to be hazardous, including wastes
159 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
160 1976, 42 U.S.C., Sec. 6921, et seq.;

161 (c) governing generators and transporters of hazardous wastes and owners and
162 operators of hazardous waste treatment, storage, and disposal facilities, including requirements
163 for keeping records, monitoring, submitting reports, and using a manifest, without treating
164 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling
165 muds, and oil production brines in a manner more stringent than they are treated under federal
166 standards;

167 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is
168 subject to a plan approval under Section **19-6-108** or which received waste after July 26, 1982,
169 to take appropriate corrective action or other response measures for releases of hazardous

170 waste or hazardous waste constituents from the facility, including releases beyond the
171 boundaries of the facility;

172 (e) specifying the terms and conditions under which the director shall approve,
173 disapprove, revoke, or review hazardous wastes operation plans;

174 (f) governing public hearings and participation under this part;

175 (g) establishing standards governing underground storage tanks, in accordance with
176 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

177 (h) relating to the collection, transportation, processing, treatment, storage, and
178 disposal of infectious waste in health facilities in accordance with the requirements of Section
179 [19-6-106](#);

180 (i) defining closure plans as major or minor;

181 (j) defining modification plans as major or minor; and

182 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
183 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,
184 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.

185 (2) If any of the following are determined to be hazardous waste and are therefore
186 subjected to the provisions of this part, the board shall, in the case of landfills or surface
187 impoundments that receive the solid wastes, take into account the special characteristics of the
188 wastes, the practical difficulties associated with applying requirements for other wastes to the
189 wastes, and site specific characteristics, including the climate, geology, hydrology, and soil
190 chemistry at the site, if the modified requirements assure protection of human health and the
191 environment and are no more stringent than federal standards applicable to wastes:

192 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,
193 including phosphate rock and overburden from the mining of uranium;

194 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste
195 generated primarily from the combustion of coal or other fossil fuels; and

196 (c) cement kiln dust waste.

197 (3) The board shall establish criteria for siting commercial hazardous waste treatment,

198 storage, and disposal facilities, including commercial hazardous waste incinerators. Those
199 criteria shall apply to any facility or incinerator for which plan approval is required under
200 Section 19-6-108.

201 Section 3. Section 19-6-108 is amended to read:

202 **19-6-108. New nonhazardous solid or hazardous waste operation plans for facility**
203 **or site -- Administrative and legislative approval required -- Exemptions from legislative**
204 **and gubernatorial approval -- Time periods for review -- Information required -- Other**
205 **conditions -- Revocation of approval -- Periodic review.**

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

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

210 (b) an application for modification of a commercial hazardous waste incinerator if the
211 construction or the modification would increase the hazardous waste incinerator capacity above
212 the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the
213 operation plan application as of January 1, 1990, if no operation plan approval has been issued
214 as of January 1, 1990;

215 (c) an application for modification of a commercial nonhazardous solid waste
216 incinerator if the construction of the modification would cost 50% or more of the cost of
217 construction of the original incinerator or the modification would result in an increase in the
218 capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity
219 or throughput that was approved in the operation plan as of January 1, 1990, or the initial
220 approved operation plan if the initial approval is subsequent to January 1, 1990;

221 (d) an application for modification of a commercial nonhazardous solid or hazardous
222 waste treatment, storage, or disposal facility, other than an incinerator, if the modification
223 would be outside the boundaries of the property owned or controlled by the applicant, as shown
224 in the application or approved operation plan as of January 1, 1990, or the initial approved
225 operation plan if the initial approval is subsequent to January 1, 1990; or

226 (e) a submission of an operation plan to construct a facility, if previous approvals of the
227 operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iii).

228 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput
229 tonnage specified for the trial burn in the operation plan or the operation plan application if no
230 operation plan approval has been issued as of January 1, 1990, and on annual operations of
231 7,000 hours.

232 (3) (a) (i) No person may own, construct, modify, or operate any facility or site for the
233 purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing,
234 or disposing of hazardous waste without first submitting and receiving the approval of the
235 director for an operation plan for that facility or site.

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

239 (I) after obtaining the consent of any other permittee who is a current owner of the
240 facility or site; and

241 (II) without obtaining the consent of any other permittee who is not a current owner of
242 the facility or site.

243 (B) The director may not:

244 (I) withhold an approval of an operation plan requested by a permittee who is a current
245 owner of the facility or site on the grounds that another permittee who is not a current owner of
246 the facility or site has not consented to the request; or

247 (II) give an approval of an operation plan requested by a permittee who is not a current
248 owner before receiving consent of the current owner of the facility or site.

249 (b) (i) Except for facilities that receive the following wastes solely for the purpose of
250 recycling, reuse, or reprocessing, no person may own, construct, modify, or operate any
251 commercial facility that accepts for treatment or disposal, with the intent to make a profit, any
252 of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving
253 the approval of the director for an operation plan for that facility site.

- 254 (ii) Wastes referred to in Subsection (3)(b)(i) are:
- 255 (A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste
256 generated primarily from the combustion of coal or other fossil fuels;
- 257 (B) wastes from the extraction, beneficiation, and processing of ores and minerals; or
258 (C) cement kiln dust wastes.
- 259 (c) (i) No person may construct a facility listed under Subsection (3)(c)(ii) until the
260 person receives:
- 261 (A) local government approval and the approval described in Subsection (3)(a);
262 (B) approval from the Legislature; and
263 (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval
264 from the governor.
- 265 (ii) A facility referred to in Subsection (3)(c)(i) is:
- 266 (A) a commercial nonhazardous solid waste disposal facility;
267 (B) except for facilities that receive the following wastes solely for the purpose of
268 recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,
269 with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas
270 emission control waste generated primarily from the combustion of coal or other fossil fuels;
271 wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln
272 dust wastes; or
273 (C) a commercial hazardous waste treatment, storage, or disposal facility.
- 274 (iii) The required approvals described in Subsection (3)(c)(i) for a facility described in
275 Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:
- 276 (A) the governor's approval is received on or after May 10, 2011, and the facility is not
277 operational within five years after the day on which the governor's approval is received; or
278 (B) the governor's approval is received before May 10, 2011, and the facility is not
279 operational on or before May 10, 2016.
- 280 (iv) The required approvals described in Subsection (3)(c)(i) for a facility described in
281 Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to

282 another person for five years after the day on which the governor's approval is received.

283 (d) No person need obtain gubernatorial or legislative approval for the construction of a
284 hazardous waste facility for which an operating plan has been approved by or submitted for
285 approval to the executive secretary of the board under this section before April 24, 1989, and
286 which has been determined, on or before December 31, 1990, by the executive secretary of the
287 board to be complete, in accordance with state and federal requirements for operating plans for
288 hazardous waste facilities even if a different geographic site is subsequently submitted.

289 (e) No person need obtain gubernatorial and legislative approval for the construction of
290 a commercial nonhazardous solid waste disposal facility for which an operation plan has been
291 approved by or submitted for approval to the executive secretary of the board under this section
292 on or before January 1, 1990, and which, on or before December 31, 1990, the executive
293 secretary of the board determines to be complete, in accordance with state and federal
294 requirements applicable to operation plans for nonhazardous solid waste facilities.

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

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

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

307 (4) The director shall review each proposed nonhazardous solid or hazardous waste
308 operation plan to determine whether that plan complies with the provisions of this part and the
309 applicable rules of the board.

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

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

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

317 (ii) If the plan is determined by the director to be incomplete, the director shall issue a
318 notice of deficiency, listing the additional information to be provided by the owner or operator
319 to complete the plan.

320 (d) The director shall review information submitted in response to a notice of deficiency
321 within 30 days after receipt.

322 (e) The following time periods may not be included in the 270 day plan review period
323 for a class I or II facility:

324 (i) time awaiting response from the owner or operator to requests for information
325 issued by the director;

326 (ii) time required for public participation and hearings for issuance of plan approvals;
327 and

328 (iii) time for review of the permit by other federal or state government agencies.

329 (6) (a) If the facility is a class III or class IV facility, the director shall approve or
330 disapprove that plan within 365 days from the date it is submitted.

331 (b) The following time periods may not be included in the 365 day review period:

332 (i) time awaiting response from the owner or operator to requests for information
333 issued by the director;

334 (ii) time required for public participation and hearings for issuance of plan approvals;
335 and

336 (iii) time for review of the permit by other federal or state government agencies.

337 (7) If, within 365 days after receipt of a modification plan or closure plan for any

338 facility, the director determines that the proposed plan, or any part of it, will not comply with
339 applicable rules, the director shall issue an order prohibiting any action under the proposed plan
340 for modification or closure in whole or in part.

341 (8) Any person who owns or operates a facility or site required to have an approved
342 hazardous waste operation plan under this section and who has pending a permit application
343 before the United States Environmental Protection Agency shall be treated as having an
344 approved plan until final administrative disposition of the permit application is made under this
345 section, unless the director determines that final administrative disposition of the application has
346 not been made because of the failure of the owner or operator to furnish any information
347 requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource
348 Conservation and Recovery Act, 42 U.S.C. Section 6925 (e).

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

351 (a) estimates of the composition, quantities, and concentrations of any hazardous waste
352 identified under this part and the proposed treatment, storage, or disposal of it;

353 (b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or
354 treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause
355 or significantly contribute to an increase in mortality, an increase in serious irreversible or
356 incapacitating reversible illness, or pose a substantial present or potential hazard to human
357 health or the environment;

358 (c) consistent with the degree and duration of risks associated with the transfer,
359 treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of
360 specified hazardous waste, evidence of financial responsibility in whatever form and amount that
361 the director determines is necessary to insure continuity of operation and that upon
362 abandonment, cessation, or interruption of the operation of the facility or site, all reasonable
363 measures consistent with the available knowledge will be taken to insure that the waste
364 subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard
365 to the public or the environment;

366 (d) evidence that the personnel employed at the facility or site have education and
367 training for the safe and adequate handling of nonhazardous solid or hazardous waste;

368 (e) plans, specifications, and other information that the director considers relevant to
369 determine whether the proposed nonhazardous solid or hazardous waste operation plan will
370 comply with this part and the rules of the board;

371 (f) compliance schedules, where applicable, including schedules for corrective action or
372 other response measures for releases from any solid waste management unit at the facility,
373 regardless of the time the waste was placed in the unit;

374 (g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or
375 hazardous waste facility other than a water treatment facility that treats, stores, or disposes
376 site-generated solid or hazardous waste onsite, a traffic impact study that:

377 (i) takes into consideration the safety, operation, and condition of roadways serving the
378 proposed facility; and

379 (ii) is reviewed and approved by the Department of Transportation or a local highway
380 authority, whichever has jurisdiction over each road serving the proposed facility, with the cost
381 of the review paid by the person who submits the proposed operation plan; and

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

385 (i) land acquisition and leasing;

386 (ii) construction;

387 (iii) estimated annual operation;

388 (iv) equipment;

389 (v) ancillary structures;

390 (vi) roads;

391 (vii) transfer stations; and

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

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

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

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

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

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

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

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

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

410 (iii) the reduction of nonhazardous solid or hazardous waste management methods,
411 which are less suitable for the environment, that would be made possible by the proposed
412 facility; and

413 (iv) whether any other available site or method for the management of hazardous waste
414 would be less detrimental to the public health or safety or to the quality of the environment; and

415 (c) compliance history of an owner or operator of a proposed commercial
416 nonhazardous solid or hazardous waste treatment, storage, or disposal facility, which may be
417 applied by the director in a nonhazardous solid or hazardous waste operation plan decision,
418 including any plan conditions.

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

422 (a) the probable beneficial environmental effect of the facility to the state outweighs the
423 probable adverse environmental effect; and

424 (b) there is a need for the facility to serve industry within the state.

425 (12) Approval of a nonhazardous solid or hazardous waste operation plan may be
426 revoked, in whole or in part, if the person to whom approval of the plan has been given fails to
427 comply with that plan.

428 (13) The director shall review all approved nonhazardous solid and hazardous waste
429 operation plans at least once every five years.

430 (14) The provisions of Subsections (10) and (11) do not apply to hazardous waste
431 facilities in existence or to applications filed or pending in the department prior to April 24,
432 1989, that are determined by the executive secretary of the board on or before December 31,
433 1990, to be complete, in accordance with state and federal requirements applicable to operation
434 plans for hazardous waste facilities.

435 (15) The provisions of Subsections (9), (10), and (11) do not apply to a nonhazardous
436 solid waste facility in existence or to an application filed or pending in the department prior to
437 January 1, 1990, that is determined by the director, on or before December 31, 1990, to be
438 complete in accordance with state and federal requirements applicable to operation plans for
439 nonhazardous solid waste facilities.

440 (16) Nonhazardous solid waste generated outside of this state that is defined as
441 hazardous waste in the state where it is generated and which is received for disposal in this state
442 may not be disposed of at a nonhazardous waste disposal facility owned and operated by local
443 government or a facility under contract with a local government solely for disposal of
444 nonhazardous solid waste generated within the boundaries of the local government, unless
445 disposal is approved by the director.

446 (17) This section may not be construed to exempt any facility from applicable regulation
447 under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through 2114.

448 Section 4. Section **19-6-108.5** is amended to read:

449 **19-6-108.5. Management of hazardous waste generated outside Utah.**

450 ~~[(1)]~~ On and after July 1, ~~[1992, any]~~ 2017, waste entering Utah for disposal or
451 treatment, excluding incineration, that is classified by Utah as nonhazardous solid waste ~~[and by~~
452 ~~the state of origin as hazardous waste, and that exceeds the base volume provided in Subsection~~
453 ~~(2) for each receiving facility or site, shall be treated according to the same treatment standards~~
454 ~~to which it would have been subject had it remained in the state where it originated. However, if~~
455 ~~those standards are less protective of human health or the environment than the treatment~~
456 ~~standards applicable under Utah law, the waste shall be treated in compliance with the Utah~~
457 ~~standards]~~ shall be treated or disposed of as nonhazardous solid waste, regardless of how it is
458 classified by the state of origin.

459 ~~[(2)]~~ The base volume provided in Subsection (1) for each receiving facility or site is the
460 average of the annual quantities of nonhazardous solid waste that originated outside Utah and
461 were received by the facility or site in calendar years 1990 and 1991.]

462 ~~[(3)(a)]~~ The base volume for each receiving facility or site that has an operating plan
463 approved prior to July 1, 1992, but did not receive nonhazardous solid waste originating outside
464 Utah during calendar years 1990 and 1991, shall be the average of annual quantities of
465 out-of-state nonhazardous waste the facility or site received during the 24 months following the
466 date of initial receipt of nonhazardous waste originating outside Utah.]

467 ~~[(b)]~~ The base determined under Subsection (3)(a) applies to the facility or site on and
468 after July 1, 1995, regardless of the amount of nonhazardous waste originating outside Utah
469 received by the facility or site prior to this date.]

470 Section 5. Section **19-6-119** is amended to read:

471 **19-6-119. Nonhazardous solid waste disposal fees.**

472 (1) (a) ~~[Except]~~ Through December 31, 2018, and except as provided in Subsection
473 ~~[(5)]~~ (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or
474 incinerator shall pay the following fees for waste received for treatment or disposal at the
475 facility if the facility or incinerator is required to have operation plan approval under Section
476 19-6-108 and primarily receives waste generated by off-site sources not owned, controlled, or
477 operated by the facility or site owner or operator:

- 478 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;
- 479 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of
- 480 the following wastes in a cell exclusively designated for the waste being disposed:
- 481 (A) construction waste or demolition waste;
- 482 (B) yard waste, including vegetative matter resulting from landscaping, land
- 483 maintenance, and land clearing operations;
- 484 (C) dead animals;
- 485 (D) waste tires and materials derived from waste tires disposed of in accordance with
- 486 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and
- 487 (E) petroleum contaminated soils that are approved by the director; and
- 488 (iii) \$2.50 per ton on:
- 489 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
- 490 (B) (I) fly ash waste;
- 491 (II) bottom ash waste;
- 492 (III) slag waste;
- 493 (IV) flue gas emission control waste generated primarily from the combustion of coal or
- 494 other fossil fuels;
- 495 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
- 496 (VI) cement kiln dust wastes.
- 497 (b) A commercial nonhazardous solid waste disposal facility or incinerator subject to
- 498 the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for
- 499 those wastes described in Subsections (1)(a)(i) and (ii).
- 500 (c) The owner or operator of a facility described in Subsection [19-6-102\(3\)\(b\)\(iii\)](#) shall
- 501 pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.
- 502 (2) (a) [~~Except~~] Through December 31, 2018, and except as provided in Subsections
- 503 (2)[~~(b)~~](c) and [~~(5)~~] (4), a waste facility that is owned by a political subdivision shall pay the
- 504 following annual facility fee to the department by January 15 of each year:
- 505 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal

506 waste each year;

507 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of

508 municipal waste each year;

509 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of

510 municipal waste each year;

511 (iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of

512 municipal waste each year;

513 (v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of

514 municipal waste each year;

515 (vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of

516 municipal waste each year; and

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

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

519 ~~(b)~~ (c) [Except] Through December 31, 2018, and except as provided in Subsection

520 ~~(5)~~ (4), a waste facility that is owned by a political subdivision shall pay \$2.50 per ton for:

521 (i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii)

522 received for disposal if the waste is:

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

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

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

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

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

528 ~~(e)~~ (d) Waste received at a facility owned by a political subdivision under Subsection

529 ~~(2)(b)~~ (c) may not be counted as part of the total tonnage received by the facility under

530 Subsection (2)(a).

531 (3) (a) As used in this Subsection (3):

532 (i) "Recycling center" means a facility that extracts valuable materials from a waste

533 stream or transforms or remanufactures the material into a usable form that has demonstrated or

534 potential market value.

535 (ii) "Transfer station" means a permanent, fixed, supplemental collection and
536 transportation facility that is used to deposit collected solid waste from off-site into a transfer
537 vehicle for transport to a solid waste handling or disposal facility.

538 (b) [~~Except~~] Through December 31, 2018, and except as provided in Subsection [~~(5)~~]
539 (4), the owner or operator of a transfer station or recycling center shall pay to the department
540 the following fees on waste sent for disposal to a nonhazardous solid waste disposal or
541 treatment facility that is not subject to a fee under this section:

542 (i) \$1.25 per ton on:

543 (A) all nonhazardous solid waste; and

544 (B) waste described in Subsection (1)(a)(iii)(B);

545 (ii) 10 cents per ton on all construction and demolition waste; and

546 (iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

547 (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee
548 required under Subsection (3)(b)(i).

549 [~~(4) If a facility required to pay fees under this section receives nonhazardous solid
550 waste for treatment or disposal, and the fee required under this section is paid for that treatment
551 or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees
552 under this section.]~~

553 [~~(5)~~] (4) The owner or operator of a waste disposal facility that receives nonhazardous
554 solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those
555 nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or
556 reprocessing.

557 [~~(6)~~] (5) [~~Except~~] Through December 31, 2018, and except as provided in Subsection
558 (2)(a), a facility required to pay fees under this section shall:

559 (a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste
560 received during the calendar month, computed to the first decimal place, by the required fee
561 rate;

562 (b) pay the fees imposed by this section to the department by the 15th day of the month
563 following the month in which the fees accrued; and

564 (c) with the fees required under Subsection (6)(b), submit to the department, on a form
565 prescribed by the department, information that verifies the amount of nonhazardous solid waste
566 received and the fees that the owner or operator is required to pay.

567 (6) (a) In accordance with Section 63J-1-504, on or before July 1, 2018, the department
568 shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid
569 waste.

570 (b) The department shall, before establishing the fee schedule described in Subsection
571 (6)(a), consult with industry and local government and complete a review of program costs and
572 indirect costs of regulating nonhazardous solid waste in the state and use the findings of the
573 review to create the fee schedule.

574 (c) The fee schedule described in Subsection (6)(a) shall:

575 (i) create an equitable and fair fee to be paid by all persons whose treatment, transfer, or
576 disposal of nonhazardous solid waste creates a regulatory burden to the department, except as
577 provided in Subsection (6)(d);

578 (ii) cover the fully burdened costs of the program and provide for reasonable and timely
579 oversight by the department;

580 (iii) adequately meet the needs of industry, local government, and the department,
581 including enabling the department to employ qualified personnel to appropriately oversee
582 industry and local government regulation;

583 (iv) provide stable funding for the Environmental Quality Restricted Account created in
584 Section 19-1-108; and

585 (v) give consideration to a fee differential regarding solid waste managed at a transfer
586 facility, no greater than 50 percent of the fee set for the treatment or disposal of the same solid
587 waste.

588 (d) Any person who treats, transfers, stores, or disposes of solid waste from the
589 extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or

590 operated by that person may not be charged a fee under this section for the treatment, transfer,
591 storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and
592 minerals that are generated:

593 (i) on-site by the person; or

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

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

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

598 (a) pay the fees imposed by this section to the department by the 15th day of the month
599 following the quarter in which the fees accrued; and

600 (b) with the fees required under Subsection (7)(a), submit to the department, on a form
601 prescribed by the department, information that verifies the amount of nonhazardous solid waste
602 received and the fees that the owner or operator is required to pay.

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

606 [~~7~~] (9) The department shall:

607 (a) deposit all fees received under this section into the Environmental Quality Restricted
608 Account created in Section 19-1-108; and

609 (b) in preparing its budget for the governor and the Legislature, separately indicate the
610 amount of the department's budget necessary to administer the solid and hazardous waste
611 program established by this part.

612 [~~8~~] (10) The department may contract or agree with a county to assist in performing
613 nonhazardous solid waste management activities, including agreements for:

614 (a) the development of a solid waste management plan required under Section
615 17-15-23; and

616 (b) pass-through of available funding.

617 [~~9~~] (11) This section does not exempt any facility from applicable regulation under the

618 Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

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

622 Section 6. Section **19-6-502** is amended to read:

623 **19-6-502. Definitions.**

624 As used in this part:

625 (1) "Governing body" means the governing board, commission, or council of a public
626 entity.

627 (2) "Jurisdiction" means the area within the incorporated limits of:

628 (a) a municipality;

629 (b) a special service district;

630 (c) a municipal-type service district;

631 (d) a service area; or

632 (e) the territorial area of a county not lying within a municipality.

633 (3) "Long-term agreement" means an agreement or contract having a term of more than
634 five years but less than 50 years.

635 (4) "Municipal residential waste" means solid waste that is:

636 (a) discarded or rejected at a residence within the public entity's jurisdiction; and

637 (b) collected at or near the residence by:

638 (i) a public entity; or

639 (ii) a person with whom the public entity has as an agreement to provide solid waste
640 management.

641 (5) "Public entity" means:

642 (a) a county;

643 (b) a municipality;

644 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;

645 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

646 (e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type
647 Services to Unincorporated Areas.

648 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that
649 imposes a legal duty on a person.

650 (7) "Residence" means an improvement to real property used or occupied as a primary
651 or secondary detached single-family dwelling.

652 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of
653 usable material, energy, fuel, or heat from solid waste and the disposition of it.

654 (9) "Short-term agreement" means a contract or agreement having a term of five years
655 or less.

656 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance
657 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the
658 time of discard or rejection, including:

- 659 (i) garbage;
- 660 (ii) refuse;
- 661 (iii) industrial and commercial waste;
- 662 (iv) sludge from an air or water control facility;
- 663 (v) rubbish;
- 664 (vi) ash;
- 665 (vii) contained gaseous material;
- 666 (viii) incinerator residue;
- 667 (ix) demolition and construction debris;
- 668 (x) a discarded automobile; and
- 669 (xi) offal.

670 (b) "Solid waste" does not include sewage or another highly diluted water carried
671 material or substance and those in gaseous form.

672 (11) "Solid waste management" means the purposeful and systematic collection,
673 transportation, storage, processing, recovery, or disposal of solid waste.

674 (12) (a) "Solid waste management facility" means a facility employed for solid waste
675 management, including:

- 676 (i) a transfer station;
- 677 (ii) a transport system;
- 678 (iii) a baling facility;
- 679 (iv) a landfill; and
- 680 (v) a processing system, including:
 - 681 (A) a resource recovery facility;
 - 682 (B) a facility for reducing solid waste volume;
 - 683 (C) a plant or facility for compacting, or composting, [~~or pyrolyzation~~] of solid waste;
 - 684 (D) an incinerator;
 - 685 (E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;
 - 686 (F) a facility for resource recovery of energy consisting of:
 - 687 (I) a facility for the production, transmission, distribution, and sale of heat and steam;
 - 688 (II) a facility for the generation and sale of electric energy to a public utility,
689 municipality, or other public entity that owns and operates an electric power system on March
690 15, 1982; and

691 (III) a facility for the generation, sale, and transmission of electric energy on an
692 emergency basis only to a military installation of the United States; and

693 (G) an auxiliary energy facility that is connected to a facility for resource recovery of
694 energy as described in Subsection (12)(a)(v)(F), that:

- 695 (I) is fueled by natural gas, landfill gas, or both;
- 696 (II) consists of a facility for the production, transmission, distribution, and sale of
697 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
698 military installation of the United States; and

699 (III) consists of a facility for the generation, transmission, distribution, and sale of
700 electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a
701 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

702 (b) "Solid waste management facility" does not mean a facility that:
703 (i) accepts and processes metal, as defined in Subsection 19-6-102(19)(b), by
704 separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a
705 principle commodity grade product of prepared scrap metal for sale or use for remelting
706 purposes provided that any byproduct or residual that would qualify as solid waste is managed
707 at a solid waste management facility; or
708 (ii) accepts and processes paper, plastic, rubber, glass, or textiles that:
709 (A) have been source-separated or otherwise diverted from the solid waste stream
710 before acceptance at the facility and that are not otherwise hazardous waste or subject to
711 conditions of federal hazardous waste regulations; and
712 (B) are reused or recycled as a valuable commercial commodity by separating, shearing,
713 sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity
714 grade product, provided that any byproduct or residual that would qualify as solid waste is
715 managed at a solid waste management facility.