

Representative Mike K. McKell proposes the following substitute bill:

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;
- ▶ 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:



26 AMENDS:

27 **19-6-102**, as last amended by Laws of Utah 2016, Fourth Special Session, Chapter 1

28 **19-6-105**, as last amended by Laws of Utah 2012, Chapter 360

29 **19-6-108**, as last amended by Laws of Utah 2013, Chapter 378

30 **19-6-108.5**, as last amended by Laws of Utah 2010, Chapter 324

31 **19-6-119**, as last amended by Laws of Utah 2012, Chapter 360

32

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

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

35 **19-6-102. Definitions.**

36 As used in this part:

37 (1) "Board" means the Waste Management and Radiation Control Board created in
38 Section **19-1-106**.

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

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

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

48 (i) receives waste for recycling;

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

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

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

54 (a) means waste from building materials, packaging, and rubble resulting from
55 construction, demolition, remodeling, and repair of pavements, houses, commercial buildings,
56 and other structures, and from road building and land clearing; and

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

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

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

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

68 (8) "Division" means the Division of Waste Management and Radiation Control,
69 created in Subsection 19-1-105(1)(d).

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

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

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

85 (12) "Household waste" means any waste material, including garbage, trash, and
86 sanitary wastes in septic tanks, derived from households, including single-family and
87 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,

88 campgrounds, picnic grounds, and day-use recreation areas.

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

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

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

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

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

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

105 (b) a closure plan;

106 (c) a modification plan; or

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

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

109 (19) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from a
110 waste treatment plant, water supply treatment plant, or air pollution control facility, or other
111 discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting
112 from industrial, commercial, mining, or agricultural operations and from community activities
113 but does not include solid or dissolved materials in domestic sewage or in irrigation return
114 flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality
115 Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

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

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

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

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

123 (iv) cement kiln dust; or

124 (v) metal that is:

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

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

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

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

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

136 (b) "Transfer" does not mean:

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

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

141 [~~22~~] (23) "Transportation" means the off-site movement of solid or hazardous waste
142 to any intermediate point or to any point of storage, treatment, or disposal.

143 [~~23~~] (24) "Treatment" means a method, technique, or process designed to change the
144 physical, chemical, or biological character or composition of any solid or hazardous waste so as
145 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for
146 recovery, amenable to storage, or reduced in volume.

147 [~~24~~] (25) "Underground storage tank" means a tank which is regulated under Subtitle
148 I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

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

150 **19-6-105. Rules of board.**

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

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

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

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

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

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

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

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

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

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

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

181 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
182 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,
183 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or
184 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**
203 **facility or site -- Administrative and legislative approval required -- Exemptions from**
204 **legislative and gubernatorial approval -- Time periods for review -- Information required**
205 **-- Other 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
209 than 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
213 the operation plan application as of January 1, 1990, if no operation plan approval has been
214 issued 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),
264 approval 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
284 a 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
297 and 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
300 this 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
314 is 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
321 deficiency 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
346 has 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 disposal of nonhazardous solid waste or transfer, treatment,
354 storage, or disposal of hazardous waste will not be done in a manner that may cause or
355 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 disposal of
359 nonhazardous solid waste or transfer, treatment, storage, or disposal of specified hazardous
360 waste, evidence of financial responsibility in whatever form and amount that the director
361 determines is necessary to insure continuity of operation and that upon abandonment, cessation,
362 or interruption of the operation of the facility or site, all reasonable measures consistent with
363 the available knowledge will be taken to insure that the waste subsequent to being treated,
364 stored, or disposed of at the site or facility will not present a hazard to the public or the
365 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
372 or 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;
415 and

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

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

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

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

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

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

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

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

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

447 (17) This section may not be construed to exempt any facility from applicable
448 regulation under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through
449 2114.

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

451 **19-6-108.5. Management of hazardous waste generated outside Utah.**

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

460 waste, regardless of how it is classified by the state of origin.

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

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

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

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

473 **19-6-119. Nonhazardous solid waste disposal fees.**

474 (1) (a) ~~[Except]~~ Through December 31, 2018, and except as provided in Subsection
475 ~~[(5)] (4)~~, the owner or operator of a commercial nonhazardous solid waste disposal facility or
476 incinerator shall pay the following fees for waste received for treatment or disposal at the
477 facility if the facility or incinerator is required to have operation plan approval under Section
478 **19-6-108** and primarily receives waste generated by off-site sources not owned, controlled, or
479 operated by the facility or site owner or operator:

480 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;

481 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of
482 the following wastes in a cell exclusively designated for the waste being disposed:

483 (A) construction waste or demolition waste;

484 (B) yard waste, including vegetative matter resulting from landscaping, land
485 maintenance, and land clearing operations;

486 (C) dead animals;

487 (D) waste tires and materials derived from waste tires disposed of in accordance with
488 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

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

490 (iii) \$2.50 per ton on:

- 491 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
492 (B) (I) fly ash waste;
493 (II) bottom ash waste;
494 (III) slag waste;
495 (IV) flue gas emission control waste generated primarily from the combustion of coal
496 or other fossil fuels;
497 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
498 (VI) cement kiln dust wastes.

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

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

504 (2) (a) [~~Except~~] Through December 31, 2018, and except as provided in Subsections
505 (2)[~~(b)~~](c) and [~~(5)~~] (4), a waste facility that is owned by a political subdivision shall pay the
506 following annual facility fee to the department by January 15 of each year:

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

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

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

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

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

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

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

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

522 ~~[(b)]~~ (c) ~~[Except]~~ Through December 31, 2018, and except as provided in Subsection
523 ~~[(5)]~~ (4), a waste facility that is owned by a political subdivision shall pay \$2.50 per ton for:

524 (i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii)
525 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; and

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

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

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

531 ~~[(e)]~~ (d) Waste received at a facility owned by a political subdivision under Subsection
532 (2)~~[(b)]~~(c) may not be counted as part of the total tonnage received by the facility under
533 Subsection (2)(a).

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

535 (i) "Recycling center" means a facility that extracts valuable materials from a waste
536 stream or transforms or remanufactures the material into a usable form that has demonstrated
537 or potential market value.

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

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

545 (i) \$1.25 per ton on:

546 (A) all nonhazardous solid waste; and

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

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

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

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

552 ~~[(4) If a facility required to pay fees under this section receives nonhazardous solid~~

553 ~~waste for treatment or disposal, and the fee required under this section is paid for that treatment~~
554 ~~or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees~~
555 ~~under this section.]~~

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

560 ~~[(6)]~~ (5) ~~[Except]~~ Through December 31, 2018, and except as provided in Subsection
561 (2)(a), a facility required to pay fees under this section shall:

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

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

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

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

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

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

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

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

583 (iii) adequately meet the needs of industry, local government, and the department,

584 including enabling the department to employ qualified personnel to appropriately oversee
585 industry and local government regulation;

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

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

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

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

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

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

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

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

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

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

609 [~~(7)~~] (9) The department shall:

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

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

615 [~~8~~] (10) The department may contract or agree with a county to assist in performing
616 nonhazardous solid waste management activities, including agreements for:

617 (a) the development of a solid waste management plan required under Section
618 17-15-23; and

619 (b) pass-through of available funding.

620 [~~9~~] (11) This section does not exempt any facility from applicable regulation under
621 the Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

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