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**WASTE MANAGEMENT AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill deals with fees set by the Division of Waste Management and Radiation Control.

**Highlighted Provisions:**

This bill:

- ▶ creates the Division of Waste Management and Radiation Control Expendable Revenue Fund and describes the uses of the fund;
- ▶ requires the Division of Waste Management and Radiation Control to upgrade technology;
- ▶ states that the annual fee schedule set by the Division of Waste Management and Radiation Control shall be equitable and fair, though not necessarily equal or uniform;
- ▶ provides criteria in setting the annual fee schedule;
- ▶ authorizes a landfill to conduct a self-inspection with reporting to the Division of Waste Management and Radiation Control;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **19-1-108**, as last amended by Laws of Utah 2013, Chapter 330

32 **19-6-109**, as last amended by Laws of Utah 2012, Chapter 360

33 **19-6-119**, as last amended by Laws of Utah 2017, Chapter 281

34 **63I-2-219**, as last amended by Laws of Utah 2016, Chapter 369

35 ENACTS:

36 **19-6-126**, Utah Code Annotated 1953



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

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

40 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**  
41 **restricted account -- Sources of funds -- Uses of funds.**

42 (1) There is created the Environmental Quality Restricted Account.

43 (2) The sources of money for the restricted account are:

44 (a) radioactive waste disposal fees collected under Sections **19-3-106** and **19-3-106.4**  
45 and other fees collected under Subsection **19-3-104(5)**;

46 (b) hazardous waste disposal fees collected under Section **19-6-118**;

47 (c) PCB waste disposal fees collected under Section **19-6-118.5**;

48 (d) nonhazardous solid waste disposal fees collected under Section **19-6-119**; and

49 (e) the investment income derived from money in the Environmental Quality  
50 Restricted Account.

51 (3) In each fiscal year[-]:

52 (a) the first [~~\$400,000~~] \$200,000 collected from the waste disposal fees listed in  
53 Subsection (2), collectively, shall be deposited in the [~~General Fund as free revenue. The~~  
54 ~~balance~~] Division of Waste Management and Radiation Control Expendable Revenue Fund  
55 created in Section **19-6-126**; and

56 (b) the balance of the money collected from the waste disposal fees listed in Subsection  
57 (2), collectively, shall be deposited in the [~~Environmental Quality Restricted Account]~~  
58 Hazardous Substances Mitigation Fund.

59 (4) The Legislature may annually appropriate money from the Environmental Quality  
60 Restricted Account to:

61 (a) the department for the costs of administering radiation control programs;

62 (b) the department for the costs of administering solid and hazardous waste programs;

63 and

64 (c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to  
65 \$400,000, to provide money to:

66 (i) meet the state's cost share requirements for cleanup under the Comprehensive  
67 Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.  
68 as amended; and

69 (ii) respond to an emergency as provided in Section [19-6-309](#).

70 (5) After the requirements of Subsection (3) are met, sources of money for the  
71 restricted account described in Subsection (2)(a) may only be used for the purpose described in  
72 Subsection (4)(a).

73 (6) An annual request for money to be appropriated from the Environmental Quality  
74 Restricted Account to the Hazardous Substances Mitigation Fund may be made by the  
75 department only after the executive director's review of the Environmental Quality Restricted  
76 Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal  
77 year immediately before the general session for which the request is made.

78 (7) In order to stabilize funding for the radiation control program and the solid and  
79 hazardous waste program, the Legislature shall in years of excess revenues reserve in the  
80 Environmental Quality Restricted Account sufficient money to meet departmental needs in  
81 years of projected shortages.

82 (8) The Legislature may not appropriate money from the General Fund to the  
83 department as a supplemental appropriation to cover the costs of the radiation control program  
84 and the solid and hazardous waste program in an amount exceeding 25% of the amount of  
85 waste disposal fees collected during the most recent prior fiscal year.

86 (9) Money appropriated under this part that is not expended at the end of the fiscal year  
87 lapses into the Environmental Quality Restricted Account.

88 (10) (a) The balance in the Environmental Quality Restricted Account may not exceed  
89 \$4,000,000 above the anticipated revenue need for the money in the restricted account for the

90 fiscal year.

91 (b) Excess funds under Subsection (10)(a) shall be credited on a proportionate basis to  
92 each person who paid money to the fund in the previous fiscal year.

93 Section 2. Section **19-6-109** is amended to read:

94 **19-6-109. Inspections authorized -- Fines for a self-inspected facility.**

95 ~~[Any]~~ (1) A duly authorized officer, employee, or representative of the director may, at  
96 any reasonable time and upon presentation of appropriate credentials, enter upon and inspect  
97 any property, premise, or place on or at which solid or hazardous wastes are generated,  
98 transported, stored, treated, or disposed of, and have access to and the right to copy any records  
99 relating to the wastes, for the purpose of ascertaining compliance with this part and the rules of  
100 the board. ~~[Those persons referred to in this section]~~

101 (2) An inspector may also inspect any waste and obtain waste samples, including  
102 samples from any vehicle in which wastes are being transported or samples of any containers or  
103 labels.

104 (3) Any person obtaining samples shall give to the owner, operator, or agent a receipt  
105 describing the sample obtained and, if requested, a portion of each sample of waste equal in  
106 volume or weight to the portion retained.

107 (4) If any analysis is made of those samples, a copy of the results of that analysis shall  
108 be furnished promptly to the owner, operator, or agent in charge.

109 (5) (a) Notwithstanding any other provision of this section, by January 1, 2019, the  
110 division shall ensure that an owner or operator of a solid waste management facility may elect  
111 to self-inspect the solid waste management facility.

112 (b) (i) The division shall create a training program to teach the owner or operator of a  
113 solid waste management facility how to self-inspect the owner or operator's solid waste  
114 management facility.

115 (ii) The training described in Subsection (5)(b)(i) shall be no longer than five hours  
116 total.

117 (c) An owner or operator that elects to self-inspect a solid waste management facility  
118 under Subsection (5)(a) shall:

119 (i) provide all information to the division that is required by this chapter and any rules  
120 issued by the board; and

- 121 (ii) conduct the self-inspection annually.
- 122 (d) The division shall ensure that a solid waste management facility is inspected by an  
123 authorized division employee:
- 124 (i) annually, if the solid waste management facility does not elect to self-inspect under  
125 Subsection (5)(a);
- 126 (ii) at least once every five years, regardless of whether the solid waste management  
127 facility elects to self-inspect under Subsection (5)(a);
- 128 (iii) promptly upon receipt of a valid complaint about the solid waste management  
129 facility; and
- 130 (iv) upon request by the solid waste management facility.
- 131 (6) The division shall ensure that a fine assessed against a solid waste management  
132 facility that elects to self-inspect for a violation of this chapter or a rule made by the board is  
133 higher than the fine that would be assessed against a solid waste management facility that does  
134 not elect to self-inspect.

135 Section 3. Section **19-6-119** is amended to read:

136 **19-6-119. Nonhazardous solid waste disposal fees.**

137 (1) (a) Through December 31, 2018, and except as provided in Subsection (4), the  
138 owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator  
139 shall pay the following fees for waste received for treatment or disposal at the facility if the  
140 facility or incinerator is required to have operation plan approval under Section **19-6-108** and  
141 primarily receives waste generated by off-site sources not owned, controlled, or operated by the  
142 facility or site owner or operator:

- 143 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;
- 144 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of  
145 the following wastes in a cell exclusively designated for the waste being disposed:
- 146 (A) construction waste or demolition waste;
- 147 (B) yard waste, including vegetative matter resulting from landscaping, land  
148 maintenance, and land clearing operations;
- 149 (C) dead animals;
- 150 (D) waste tires and materials derived from waste tires disposed of in accordance with  
151 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

- 152 (E) petroleum contaminated soils that are approved by the director; and
- 153 (iii) \$2.50 per ton on:
- 154 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
- 155 (B) (I) fly ash waste;
- 156 (II) bottom ash waste;
- 157 (III) slag waste;
- 158 (IV) flue gas emission control waste generated primarily from the combustion of coal
- 159 or other fossil fuels;
- 160 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
- 161 (VI) cement kiln dust wastes.

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

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

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

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

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

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

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

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

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

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

183 year.

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

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

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

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

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

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

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

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

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

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

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

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

204 (b) Through December 31, 2018, and except as provided in Subsection (4), the owner  
205 or operator of a transfer station or recycling center shall pay to the department the following  
206 fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that  
207 is not subject to a fee under this section:

208 (i) \$1.25 per ton on:

209 (A) all nonhazardous solid waste; and

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

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

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

213 (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee

214 required under Subsection (3)(b)(i).

215 (4) The owner or operator of a waste disposal facility that receives nonhazardous solid  
216 waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those  
217 nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or  
218 reprocessing.

219 (5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility  
220 required to pay fees under this section shall:

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

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

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

229 (6) (a) In accordance with Section [63J-1-504](#), on or before July 1, 2018, and each fiscal  
230 year thereafter, the department shall establish a fee schedule for the treatment, transfer, and  
231 disposal of all nonhazardous solid waste.

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

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

237 [(i)] (A) create an equitable and fair, though not necessarily equal or uniform, fee to be  
238 paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a  
239 regulatory burden to the department, taking a facility's potential election to self-inspect under  
240 Section [19-6-109](#) into account, except as provided in Subsection (6)(d);

241 [(ii)] (B) cover the fully burdened costs of the program and provide for reasonable and  
242 timely oversight by the department;

243 [(iii)] (C) adequately meet the needs of industry, local government, and the department,  
244 including enabling the department to employ the appropriate number of qualified personnel to



245 appropriately oversee industry and local government regulation;

246 ~~[(iv)]~~ (D) provide stable funding for the Environmental Quality Restricted Account  
247 created in Section 19-1-108; and

248 ~~[(v)]~~ (E) ~~[give consideration to a fee differential regarding]~~ for solid waste managed at  
249 a transfer facility, be no greater than ~~[50 percent of the fee set for the treatment or disposal of~~  
250 ~~the same solid waste]~~ \$750 annually.

251 (ii) The fees imposed under this section shall be based on the actual regulatory services  
252 provided.

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

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

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

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

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

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

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

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

271 (9) The department shall:

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

274 (b) in preparing its budget for the governor and the Legislature, separately indicate the  
275 amount of the department's budget necessary to administer the solid and hazardous waste

276 program established by this part.

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

279 (a) the development of a solid waste management plan required under Section  
280 17-15-23; and

281 (b) pass-through of available funding.

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

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

287 Section 4. Section 19-6-126 is enacted to read:

288 **19-6-126. Division of Waste Management and Radiation Control Expendable**  
289 **Revenue Fund.**

290 (1) There is created the Division of Waste Management and Radiation Control  
291 Expendable Revenue Fund.

292 (2) The fund consists of money deposited in the fund pursuant to Section 19-1-108.

293 (3) The Division of Waste Management and Radiation Control may expend money in  
294 the fund to upgrade technology for permitting and compliance purposes, and other expenditures  
295 that will result in increased efficiency and reduced cost, as described in this section.

296 (4) The technology upgrade authorized in this section shall be designed to assist the  
297 division in the following ways:

298 (a) allowing forms to be digitized and accessible online for:

299 (i) completion and submission by a division employee; and

300 (ii) review by a regulated facility;

301 (b) tracking expenses of a division employee, including travel time to inspected  
302 facilities; and

303 (c) increasing employee efficiency and government transparency.

304 (5) The Division of Waste Management and Radiation Control may use money in the  
305 fund to create training materials for the owner or operator of a solid waste management facility  
306 to learn how to self-inspect the solid waste management facility.

307 (6) (a) Once the technology described in this section is in place, the Division of Waste  
308 Management and Radiation Control shall implement a method for a solid waste management  
309 facility to use the technology to self-inspect as described in Section 19-6-109.

310 (b) Before the technology described in this section is in place, an owner or operator  
311 who elects to self-inspect shall use the standard form used by a Division of Waste Management  
312 and Radiation Control employee to conduct an inspection.

313 (7) In implementing this section, the Division of Waste Management and Radiation  
314 Control shall work with the Department of Technology Services.

315 Section 5. Section **63I-2-219** is amended to read:

316 **63I-2-219. Repeal dates -- Title 19.**

317 [~~(1) Subsection 19-1-403(2)(c)(i), the language that states "minus the amount of any~~  
318 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

319 [~~(2) Subsection 19-1-403(2)(c)(ii), the language that states "minus the amount of any~~  
320 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

321 (1) (a) Subsection 19-1-108(3)(a) is repealed on July 1, 2019.

322 (b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and  
323 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make  
324 necessary changes to subsection numbering and cross references.

325 (2) Section 19-6-126 is repealed on January 1, 2020.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**