

SOLID AND HAZARDOUS WASTE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies provisions related to solid and hazardous waste.

Highlighted Provisions:

This bill:

- ▶ modifies the definitions;
- ▶ clarifies role of board or director;
- ▶ addresses waste generated and disposed of on site; and
- ▶ makes technical corrections.

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 2017, Chapter 281

19-6-104, as last amended by Laws of Utah 2015, Chapter 451

19-6-108, as last amended by Laws of Utah 2017, Chapter 281

19-6-202, as last amended by Laws of Utah 2015, Chapter 451

19-6-502, as last amended by Laws of Utah 2017, Chapter 281

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

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

30 **19-6-102. Definitions.**

31 As used in this part:

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

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

38 (3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"
39 means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or
40 disposal.

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

43 (i) receives waste for recycling;

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

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

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

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

52 (b) does not include:

53 (i) asbestos;

54 (ii) contaminated soils or tanks resulting from remediation or cleanup at [any] a release
55 or spill;

56 (iii) waste paints;

57 (iv) solvents;

58 (v) sealers;

59 (vi) adhesives; or [similar]

60 (vii) hazardous or potentially hazardous materials similar to that described in

61 Subsections (4)(b)(i) through (vi).

62 ~~[(5) "Demolition waste" has the same meaning as the definition of construction waste~~

63 ~~in this section.]~~

64 ~~[(6) (5) "Director" means the director of the Division of Waste Management and~~

65 ~~Radiation Control.~~

66 ~~[(7) (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking,~~

67 ~~or placing of any solid or hazardous waste into or on [any] land or water so that the waste or~~

68 ~~any constituent of the waste may enter the environment, be emitted into the air, or discharged~~

69 ~~into any waters, including groundwaters.~~

70 ~~[(8) (7) "Division" means the Division of Waste Management and Radiation Control,~~

71 ~~created in Subsection 19-1-105(1)(d).~~

72 ~~[(9) (8) "Generation" or "generated" means the act or process of producing~~

73 ~~nonhazardous solid or hazardous waste.~~

74 ~~[(10) (9) (a) "Hazardous waste" means a solid waste or combination of solid wastes~~

75 ~~other than household waste [which] that, because of its quantity, concentration, or physical,~~

76 ~~chemical, or infectious characteristics may cause or significantly contribute to an increase in~~

77 ~~mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a~~

78 ~~substantial present or potential hazard to human health or the environment when improperly~~

79 ~~treated, stored, transported, disposed of, or otherwise managed.~~

80 (b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

81 ~~[(11) (10) "Health facility" means [hospitals,] a:~~

82 (a) hospital;

83 (b) psychiatric [hospitals,] hospital;

84 (c) home health [agencies, hospices,] agency;

85 (d) hospice;

- 86 (e) skilled nursing [~~facilities,~~] facility;
- 87 (f) intermediate care [~~facilities,~~] facility;
- 88 (g) intermediate care [~~facilities~~] facility for people with an intellectual disability[~~;~~];
- 89 (h) residential health care [~~facilities,~~] facility;
- 90 (i) maternity [~~homes~~] home or birthing [~~centers,~~] center;
- 91 (j) free standing ambulatory surgical [~~centers, facilities~~] center;
- 92 (k) facility owned or operated by a health maintenance [~~organizations, and~~]
- 93 organization;
- 94 (l) state renal disease treatment [~~centers~~] center, including a free standing hemodialysis
- 95 [~~units,~~] unit;
- 96 (m) the [~~offices of private physicians and dentists~~] office of a private physician or
- 97 dentist whether for individual or private practice[~~;~~];
- 98 (n) veterinary [~~clinics, and mortuaries~~] clinic; or
- 99 (o) mortuary.
- 100 [~~(12)~~] (11) "Household waste" means any waste material, including garbage, trash, and
- 101 sanitary wastes in septic tanks, derived from households, including single-family and
- 102 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,
- 103 campgrounds, picnic grounds, and day-use recreation areas.
- 104 [~~(13)~~] (12) "Infectious waste" means a solid waste that contains or may reasonably be
- 105 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by
- 106 a susceptible host could result in an infectious disease.
- 107 [~~(14)~~] (13) "Manifest" means the form used for identifying the quantity, composition,
- 108 origin, routing, and destination of hazardous waste during its transportation from the point of
- 109 generation to the point of disposal, treatment, or storage.
- 110 [~~(15)~~] (14) "Mixed waste" means [~~any~~] material that is a hazardous waste as defined in
- 111 this chapter and is also radioactive as defined in Section [19-3-102](#).
- 112 [~~(16)~~] (15) "Modification plan" means a plan under Section [19-6-108](#) to modify a
- 113 facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or

114 disposing of hazardous waste.

115 ~~[(17)]~~ (16) "Operation plan" or "nonhazardous solid or hazardous waste operation
116 plan" means a plan or approval under Section 19-6-108, including:

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

120 (b) a closure plan;

121 (c) a modification plan; or

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

123 ~~[(18)]~~ (17) "Permittee" means a person who is obligated under an operation plan.

124 ~~[(19)]~~ (18) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from
125 a waste treatment plant, water supply treatment plant, or air pollution control facility, or other
126 discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting
127 from industrial, commercial, mining, or agricultural operations and from community activities
128 but does not include solid or dissolved materials in domestic sewage or in irrigation return
129 flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality
130 Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

131 (b) "Solid waste" does not include ~~[any of the following wastes unless the waste causes~~
132 ~~a public nuisance or public health hazard or is otherwise determined to be a hazardous waste]~~
133 metal that is:

134 ~~[(i) certain large volume wastes, such as inert construction debris used as fill material;]~~

135 ~~[(ii) drilling muds, produced waters, and other wastes associated with the exploration,~~
136 ~~development, or production of oil, gas, or geothermal energy;]~~

137 ~~[(iii) solid wastes from the extraction, beneficiation, and processing of ores and~~
138 ~~minerals;]~~

139 ~~[(iv) cement kiln dust; or]~~

140 ~~[(v) metal that is:]~~

141 ~~[(A)]~~ (i) purchased as a valuable commercial commodity; and

142 ~~[(B)]~~ (ii) not otherwise hazardous waste or subject to conditions of the federal
143 hazardous waste regulations, including the requirements for recyclable materials found at 40
144 C.F.R. 261.6.

145 ~~[(20)]~~ (19) "Solid waste management facility" means the same as that term is defined
146 in Section 19-6-502.

147 ~~[(21)]~~ (20) "Storage" means the actual or intended containment of solid or hazardous
148 waste either on a temporary basis or for a period of years in such a manner as not to constitute
149 disposal of the waste.

150 ~~[(22)]~~ (21) (a) "Transfer" means the collection of nonhazardous solid waste from a
151 permanent, fixed, supplemental collection facility for movement to a vehicle for movement to
152 an offsite nonhazardous solid waste storage or disposal facility.

153 (b) "Transfer" does not mean:

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

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

158 ~~[(23)]~~ (22) "Transportation" means the off-site movement of solid or hazardous waste
159 to any intermediate point or to any point of storage, treatment, or disposal.

160 ~~[(24)]~~ (23) "Treatment" means a method, technique, or process designed to change the
161 physical, chemical, or biological character or composition of any solid or hazardous waste so as
162 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for
163 recovery, amenable to storage, or reduced in volume.

164 ~~[(25)]~~ (24) "Underground storage tank" means a tank ~~[which]~~ that is regulated under
165 Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

166 Section 2. Section **19-6-104** is amended to read:

167 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

168 (1) The board may:

169 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

170 Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

171 (b) recommend that the director:

172 (i) issue orders necessary to enforce the provisions of the Radiation Control Act;

173 (ii) enforce the orders by appropriate administrative and judicial proceedings; or

174 (iii) institute judicial proceedings to secure compliance with this part;

175 (c) (i) hold a hearing that is not an adjudicative proceeding; or

176 (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

177 (d) accept, receive, and administer grants or other funds or gifts from public and

178 private agencies, including the federal government, for the purpose of carrying out any of the

179 functions of the Radiation Control Act; or

180 (e) order the director to impound radioactive material in accordance with Section

181 [19-3-111](#).

182 (2) (a) The board shall promote the planning and application of pollution prevention

183 and radioactive waste minimization measures to prevent the unnecessary waste and depletion

184 of natural resources; and

185 (b) review the qualifications of, and issue certificates of approval to, individuals who:

186 (i) survey mammography equipment; or

187 (ii) oversee quality assurance practices at mammography facilities.

188 (3) The board shall:

189 (a) survey solid and hazardous waste generation and management practices within this

190 state and, after public hearing and after providing opportunities for comment by local

191 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a

192 waste management plan for the state;

193 (b) order the director to:

194 (i) issue orders necessary to effectuate the provisions of this part and rules made under

195 this part;

196 (ii) enforce the orders by administrative and judicial proceedings; or

197 (iii) initiate judicial proceedings to secure compliance with this part;

198 (c) promote the planning and application of resource recovery systems to prevent the
199 unnecessary waste and depletion of natural resources;

200 (d) meet the requirements of federal law related to solid and hazardous wastes to insure
201 that the solid and hazardous wastes program provided for in this part is qualified to assume
202 primacy from the federal government in control over solid and hazardous waste;

203 (e) (i) require any facility, including those listed in Subsection (3)(e)(ii), ~~[that is~~
204 ~~intended for disposing of nonhazardous solid waste or wastes listed in Subsection (3)(e)(ii)(B)]~~
205 to submit plans, specifications, and other information required by the board to the ~~[board]~~
206 director prior to construction, modification, installation, or establishment of a facility to allow
207 the ~~[board]~~ director to determine whether the proposed construction, modification, installation,
208 or establishment of the facility will be in accordance with rules made under this part;

209 (ii) facilities referred to in Subsection (3)(e)(i) include~~[-(A)]~~ any incinerator that is
210 intended for disposing of nonhazardous solid waste; and

211 ~~[(B) except for facilities that receive the following wastes solely for the purpose of~~
212 ~~recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,~~
213 ~~and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas~~
214 ~~emission control waste generated primarily from the combustion of coal or other fossil fuels;~~
215 ~~wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln~~
216 ~~dust wastes; and]~~

217 (iii) a facility referred to in Subsection (3)(e)(i) does not include a commercial facility
218 that is solely for the purpose of recycling, reuse, or reprocessing the following waste:

219 (A) fly ash waste;

220 (B) bottom ash waste;

221 (C) slag waste; or

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

224 (iv) a facility referred to in Subsection (3)(e)(i) does not include a facility when the
225 following waste is generated and the disposal occurs at an on-site location owned and operated

226 by the generator of the waste:
227 (A) waste from the extraction, beneficiation, and processing of ores and minerals listed
228 in 40 C.F.R. 261.4(b)(7)(ii); or
229 (B) cement kiln dust;
230 (f) to ensure compliance with applicable statutes and regulations:
231 (i) review a settlement negotiated by the director in accordance with Subsection
232 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and
233 (ii) approve or disapprove the settlement.
234 (4) The board may:
235 (a) (i) hold a hearing that is not an adjudicative proceeding; or
236 (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
237 or
238 (b) advise, consult, cooperate with, or provide technical assistance to other agencies of
239 the state or federal government, other states, interstate agencies, or affected groups, political
240 subdivisions, industries, or other persons in carrying out the purposes of this part.
241 (5) (a) The board shall establish a comprehensive statewide waste management plan
242 [~~by January 1, 1994~~].
243 (b) The plan shall:
244 (i) incorporate the solid waste management plans submitted by the counties;
245 (ii) provide an estimate of solid waste capacity needed in the state for the next 20
246 years;
247 (iii) assess the state's ability to minimize waste and recycle;
248 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste
249 needs and existing capacity;
250 (v) evaluate facility siting, design, and operation;
251 (vi) review funding alternatives for solid waste management; and
252 (vii) address other solid waste management concerns that the board finds appropriate
253 for the preservation of the public health and the environment.

254 (c) The board shall consider the economic viability of solid waste management
255 strategies prior to incorporating them into the plan and shall consider the needs of population
256 centers.

257 (d) The board shall review and modify the comprehensive statewide solid waste
258 management plan no less frequently than every five years.

259 (6) (a) The board shall determine the type of solid waste generated in the state and
260 tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid
261 waste management plan.

262 (b) The board shall review and modify the inventory no less frequently than once every
263 five years.

264 (7) Subject to the limitations contained in Subsection 19-6-102 [(19)] (18)(b), the
265 board shall establish siting criteria for nonhazardous solid waste disposal facilities, including
266 incinerators.

267 (8) The board may not issue, amend, renew, modify, revoke, or terminate any of the
268 following that are subject to the authority granted to the director under Section 19-6-107:

269 (a) a permit;

270 (b) a license;

271 (c) a registration;

272 (d) a certification; or

273 (e) another administrative authorization made by the director.

274 (9) A board member may not speak or act for the board unless the board member is
275 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

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

277 **19-6-108. New nonhazardous solid or hazardous waste operation plans for**
278 **facility or site -- Administrative and legislative approval required -- Exemptions from**
279 **legislative and gubernatorial approval -- Time periods for review -- Information required**
280 **-- Other conditions -- Automatic revocation of approval -- Periodic review.**

281 (1) For purposes of this section, the following items shall be treated as submission of a

282 new operation plan:

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

285 (b) an application for modification of a commercial hazardous waste incinerator if the
286 construction or the modification would increase the hazardous waste incinerator capacity above
287 the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in
288 the operation plan application as of January 1, 1990, if no operation plan approval has been
289 issued as of January 1, 1990;

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

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

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

303 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput
304 tonnage specified for the trial burn in the operation plan or the operation plan application if no
305 operation plan approval has been issued as of January 1, 1990, and on annual operations of
306 7,000 hours.

307 (3) (a) (i) ~~[No]~~ Except as specified in Subsection (3)(a)(ii)(C), a person may not own,
308 construct, modify, or operate any facility or site for the purpose of transferring, treating, or
309 disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste

310 without first submitting and receiving the approval of the director for an operation plan for that
311 facility or site.

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

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

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

319 (B) The director may not:

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

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

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

329 (b) (i) Except for facilities that receive the following wastes solely for the purpose of
330 recycling, reuse, or reprocessing, ~~no~~ a person may not own, construct, modify, or operate any
331 commercial facility that accepts for treatment or disposal, with the intent to make a profit, any
332 of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving
333 the approval of the director for an operation plan for that facility site.

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

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

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

338 (C) cement kiln dust wastes.

339 (c) (i) [~~No~~] A person may not construct a facility listed under Subsection (3)(c)(ii) until

340 the person receives:

341 (A) local government approval and the approval described in Subsection (3)(a);

342 (B) approval from the Legislature; and

343 (C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B),

344 approval from the governor.

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

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

347 (B) except for facilities that receive the following wastes solely for the purpose of

348 recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,

349 with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas

350 emission control waste generated primarily from the combustion of coal or other fossil fuels;

351 wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln

352 dust wastes; or

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

354 (iii) The required approvals described in Subsection (3)(c)(i) for a facility described in

355 Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

356 (A) the governor's approval is received on or after May 10, 2011, and the facility is not

357 operational within five years after the day on which the governor's approval is received; or

358 (B) the governor's approval is received before May 10, 2011, and the facility is not

359 operational on or before May 10, 2016.

360 (iv) The required approvals described in Subsection (3)(c)(i) for a facility described in

361 Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to

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

363 (d) [~~No~~] A person need not obtain gubernatorial or legislative approval for the

364 construction of a hazardous waste facility for which an operating plan has been approved by or

365 submitted for approval to the executive secretary of the board under this section before April

366 24, 1989, and which has been determined, on or before December 31, 1990, by the executive
367 secretary of the board to be complete, in accordance with state and federal requirements for
368 operating plans for hazardous waste facilities even if a different geographic site is subsequently
369 submitted.

370 (e) ~~[No]~~ A person need not obtain gubernatorial and legislative approval for the
371 construction of a commercial nonhazardous solid waste disposal facility for which an operation
372 plan has been approved by or submitted for approval to the executive secretary of the board
373 under this section on or before January 1, 1990, and which, on or before December 31, 1990,
374 the executive secretary of the board determines to be complete, in accordance with state and
375 federal requirements applicable to operation plans for nonhazardous solid waste facilities.

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

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

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

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

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

393 (b) Within 60 days after receipt of the plans, specifications, or other information

394 required by this section for a class I or II facility, the director shall determine whether the plan
395 is complete and contains all information necessary to process the plan for approval.

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

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

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

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

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

407 (ii) time required for public participation and hearings for issuance of plan approvals;
408 and

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

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

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

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

415 (ii) time required for public participation and hearings for issuance of plan approvals;
416 and

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

418 (7) If, within 365 days after receipt of a modification plan or closure plan for any
419 facility, the director determines that the proposed plan, or any part of it, will not comply with
420 applicable rules, the director shall issue an order prohibiting any action under the proposed plan
421 for modification or closure in whole or in part.

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

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

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

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

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

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

449 (e) plans, specifications, and other information that the director considers relevant to

450 determine whether the proposed nonhazardous solid or hazardous waste operation plan will
451 comply with this part and the rules of the board;

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

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

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

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

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

466 (i) land acquisition and leasing;

467 (ii) construction;

468 (iii) estimated annual operation;

469 (iv) equipment;

470 (v) ancillary structures;

471 (vi) roads;

472 (vii) transfer stations; and

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

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

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

- 480 (i) information on the source, quantity, and price charged for treating, storing, and
481 disposing of potential nonhazardous solid or hazardous waste in the state and regionally;
- 482 (ii) a market analysis of the need for a commercial facility given existing and potential
483 generation of nonhazardous solid or hazardous waste in the state and regionally; and
- 484 (iii) a review of other existing and proposed commercial nonhazardous solid or
485 hazardous waste facilities regionally and nationally that would compete for the treatment,
486 storage, or disposal of the nonhazardous solid or hazardous waste;

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

- 488 (i) the need in the state for the additional capacity for the management of nonhazardous
489 solid or hazardous waste;
- 490 (ii) the energy and resources recoverable by the proposed facility;
- 491 (iii) the reduction of nonhazardous solid or hazardous waste management methods,
492 which are less suitable for the environment, that would be made possible by the proposed
493 facility; and
- 494 (iv) whether any other available site or method for the management of hazardous waste
495 would be less detrimental to the public health or safety or to the quality of the environment;
496 and

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

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

- 504 (a) the probable beneficial environmental effect of the facility to the state outweighs
505 the probable adverse environmental effect; and

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

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

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

512 (14) The provisions of Subsections (10) and (11) do not apply to hazardous waste
513 facilities in existence or to applications filed or pending in the department prior to April 24,
514 1989, that are determined by the executive secretary of the board on or before December 31,
515 1990, to be complete, in accordance with state and federal requirements applicable to operation
516 plans for hazardous waste facilities.

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

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

528 (17) This section may not be construed to exempt any facility from applicable
529 regulation under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through
530 2114.

531 Section 4. Section **19-6-202** is amended to read:

532 **19-6-202. Definitions.**

533 As used in this part:

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

536 (2) "Disposal" means the final disposition of hazardous wastes into or onto the lands,
537 waters, and air of this state.

538 (3) "Hazardous wastes" means [~~wastes~~] hazardous waste as defined in Section
539 19-6-102.

540 (4) "Hazardous waste treatment, disposal, and storage facility" means a facility or site
541 used or intended to be used for the treatment, storage, or disposal of hazardous waste materials,
542 including physical, chemical, or thermal processing systems, incinerators, and secure landfills.

543 (5) "Site" means land used for the treatment, disposal, or storage of hazardous wastes.

544 (6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the
545 board pursuant to Sections 19-6-204 and 19-6-205.

546 (7) "Storage" means the containment of hazardous wastes for a period of more than 90
547 days.

548 (8) "Treatment" means any method, technique, or process designed to change the
549 physical, chemical, or biological character or composition of any hazardous waste to neutralize
550 or render it nonhazardous, safer for transport, amenable to recovery or storage, convertible to
551 another usable material, or reduced in volume and suitable for ultimate disposal.

552 Section 5. Section 19-6-502 is amended to read:

553 **19-6-502. Definitions.**

554 As used in this part:

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

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

558 (a) a municipality;

559 (b) a special service district;

560 (c) a municipal-type service district;

561 (d) a service area; or

- 562 (e) the territorial area of a county not lying within a municipality.
- 563 (3) "Long-term agreement" means an agreement or contract having a term of more than
564 five years but less than 50 years.
- 565 (4) "Municipal residential waste" means solid waste that is:
 - 566 (a) discarded or rejected at a residence within the public entity's jurisdiction; and
 - 567 (b) collected at or near the residence by:
 - 568 (i) a public entity; or
 - 569 (ii) a person with whom the public entity has as an agreement to provide solid waste
570 management.
- 571 (5) "Public entity" means:
 - 572 (a) a county;
 - 573 (b) a municipality;
 - 574 (c) a special service district under Title 17D, Chapter 1, Special Service District Act;
 - 575 (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or
 - 576 (e) a municipal-type service district created under Title 17, Chapter 34,
577 Municipal-Type Services to Unincorporated Areas.
- 578 (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that
579 imposes a legal duty on a person.
- 580 (7) "Residence" means an improvement to real property used or occupied as a primary
581 or secondary detached single-family dwelling.
- 582 (8) "Resource recovery" means the separation, extraction, recycling, or recovery of
583 usable material, energy, fuel, or heat from solid waste and the disposition of it.
- 584 (9) "Short-term agreement" means a contract or agreement having a term of five years
585 or less.
- 586 (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance
587 discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the
588 time of discard or rejection, including:
 - 589 (i) garbage;

- 590 (ii) refuse;
 - 591 (iii) industrial and commercial waste;
 - 592 (iv) sludge from an air or water control facility;
 - 593 (v) rubbish;
 - 594 (vi) ash;
 - 595 (vii) contained gaseous material;
 - 596 (viii) incinerator residue;
 - 597 (ix) demolition and construction debris;
 - 598 (x) a discarded automobile; and
 - 599 (xi) offal.
- 600 (b) "Solid waste" does not include sewage or another highly diluted water carried
601 material or substance and those in gaseous form.
- 602 (11) "Solid waste management" means the purposeful and systematic collection,
603 transportation, storage, processing, recovery, or disposal of solid waste.
- 604 (12) (a) "Solid waste management facility" means a facility employed for solid waste
605 management, including:
- 606 (i) a transfer station;
 - 607 (ii) a transport system;
 - 608 (iii) a baling facility;
 - 609 (iv) a landfill; and
 - 610 (v) a processing system, including:
 - 611 (A) a resource recovery facility;
 - 612 (B) a facility for reducing solid waste volume;
 - 613 (C) a plant or facility for compacting, or composting, of solid waste;
 - 614 (D) an incinerator;
 - 615 (E) a solid waste disposal, reduction, pyrolization, or conversion facility;
 - 616 (F) a facility for resource recovery of energy consisting of:
 - 617 (I) a facility for the production, transmission, distribution, and sale of heat and steam;

618 (II) a facility for the generation and sale of electric energy to a public utility,
619 municipality, or other public entity that owns and operates an electric power system on March
620 15, 1982; and

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

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

625 (I) is fueled by natural gas, landfill gas, or both;

626 (II) consists of a facility for the production, transmission, distribution, and sale of
627 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
628 military installation of the United States; and

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

632 (b) "Solid waste management facility" does not mean a facility that:

633 (i) accepts and processes metal, as ~~defined~~ described in Subsection
634 ~~19-6-102~~19-6-102~~(+19)~~(18)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting,
635 or sizing to produce a principle commodity grade product of prepared scrap metal for sale or
636 use for remelting purposes provided that any byproduct or residual that would qualify as solid
637 waste is managed at a solid waste management facility; or

638 (ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

639 (A) have been source-separated or otherwise diverted from the solid waste stream
640 before acceptance at the facility and that are not otherwise hazardous waste or subject to
641 conditions of federal hazardous waste regulations; and

642 (B) are reused or recycled as a valuable commercial commodity by separating,
643 shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle
644 commodity grade product, provided that any byproduct or residual that would qualify as solid
645 waste is managed at a solid waste management facility.

