

SOLID AND HAZARDOUS WASTE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

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; 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

19-6-202, 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:



28 **19-6-102. Definitions.**

29 As used in this part:

30 (1) "Board" means the Waste Management and Radiation Control Board created in
31 Section [19-1-106](#).

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

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

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

41 (i) receives waste for recycling;

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

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

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

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

50 (b) does not include:

51 (i) asbestos;

52 (ii) contaminated soils or tanks resulting from remediation or cleanup at ~~[any]~~ a release
53 or spill;

54 (iii) waste paints;

55 (iv) solvents;

56 (v) sealers;

57 (vi) adhesives; or ~~[similar]~~

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

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

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

62 [~~(6)~~] (5) "Director" means the director of the Division of Waste Management and
63 Radiation Control.

64 [~~(7)~~] (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking,
65 or placing of any solid or hazardous waste into or on [~~any~~] land or water so that the waste or
66 any constituent of the waste may enter the environment, be emitted into the air, or discharged
67 into any waters, including groundwaters.

68 [~~(8)~~] (7) "Division" means the Division of Waste Management and Radiation Control,
69 created in Subsection 19-1-105(1)(d).

70 [~~(9)~~] (8) "Generation" or "generated" means the act or process of producing
71 nonhazardous solid or hazardous waste.

72 [~~(10)~~] (9) (a) "Hazardous waste" means a solid waste or combination of solid wastes
73 other than household waste [~~which~~] that, because of its quantity, concentration, or physical,
74 chemical, or infectious characteristics may cause or significantly contribute to an increase in
75 mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a
76 substantial present or potential hazard to human health or the environment when improperly
77 treated, stored, transported, disposed of, or otherwise managed.

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

79 [~~(11)~~] (10) "Health facility" means [~~hospitals,~~] a:

80 (a) hospital;

81 (b) psychiatric [~~hospitals,~~] hospital;

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

83 (d) hospice;

84 (e) skilled nursing [~~facilities,~~] facility;

85 (f) intermediate care [~~facilities,~~] facility;

86 (g) intermediate care [~~facilities~~] facility for people with an intellectual disability[~~;~~];

87 (h) residential health care [~~facilities,~~] facility;

88 (i) maternity [~~homes~~] home or birthing [~~centers,~~] center;

89 (j) free standing ambulatory surgical [~~centers, facilities~~] center;

90 (k) facility owned or operated by a health maintenance [~~organizations, and~~
91 organization;

92 (l) state renal disease treatment [~~centers~~] center, including a free standing hemodialysis
93 [~~units;~~] unit;

94 (m) the [~~offices of private physicians and dentists~~] office of a private physician or
95 dentist whether for individual or private practice[;];

96 (n) veterinary [~~clinics, and mortuaries~~] clinic; or

97 (o) mortuary.

98 [(12)] (11) "Household waste" means any waste material, including garbage, trash, and
99 sanitary wastes in septic tanks, derived from households, including single-family and
100 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,
101 campgrounds, picnic grounds, and day-use recreation areas.

102 [(13)] (12) "Infectious waste" means a solid waste that contains or may reasonably be
103 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by
104 a susceptible host could result in an infectious disease.

105 [(14)] (13) "Manifest" means the form used for identifying the quantity, composition,
106 origin, routing, and destination of hazardous waste during its transportation from the point of
107 generation to the point of disposal, treatment, or storage.

108 [(15)] (14) "Mixed waste" means [any] material that is a hazardous waste as defined in
109 this chapter and is also radioactive as defined in Section 19-3-102.

110 [(16)] (15) "Modification plan" means a plan under Section 19-6-108 to modify a
111 facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or
112 disposing of hazardous waste.

113 [(17)] (16) "Operation plan" or "nonhazardous solid or hazardous waste operation
114 plan" means a plan or approval under Section 19-6-108, including:

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

118 (b) a closure plan;

119 (c) a modification plan; or

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

121 ~~[(18)]~~ (17) "Permittee" means a person who is obligated under an operation plan.

122 ~~[(19)]~~ (18) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from
123 a waste treatment plant, water supply treatment plant, or air pollution control facility, or other
124 discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting
125 from industrial, commercial, mining, or agricultural operations and from community activities
126 but does not include solid or dissolved materials in domestic sewage or in irrigation return
127 flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality
128 Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

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

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

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

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

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

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

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

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

143 ~~[(20)]~~ (19) "Solid waste management facility" means the same as that term is defined
144 in Section [19-6-502](#).

145 ~~[(21)]~~ (20) "Storage" means the actual or intended containment of solid or hazardous
146 waste either on a temporary basis or for a period of years in such a manner as not to constitute
147 disposal of the waste.

148 ~~[(22)]~~ (21) (a) "Transfer" means the collection of nonhazardous solid waste from a
149 permanent, fixed, supplemental collection facility for movement to a vehicle for movement to
150 an offsite nonhazardous solid waste storage or disposal facility.

151 (b) "Transfer" does not mean:

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

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

156 [~~(23)~~] (22) "Transportation" means the off-site movement of solid or hazardous waste
157 to any intermediate point or to any point of storage, treatment, or disposal.

158 [~~(24)~~] (23) "Treatment" means a method, technique, or process designed to change the
159 physical, chemical, or biological character or composition of any solid or hazardous waste so as
160 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for
161 recovery, amenable to storage, or reduced in volume.

162 [~~(25)~~] (24) "Underground storage tank" means a tank [~~which~~] that is regulated under
163 Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

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

165 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

166 (1) The board may:

167 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
168 Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

169 (b) recommend that the director:

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

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

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

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

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

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

176 private agencies, including the federal government, for the purpose of carrying out any of the
177 functions of the Radiation Control Act; or

178 (e) order the director to impound radioactive material in accordance with Section
179 [19-3-111](#).

180 (2) (a) The board shall promote the planning and application of pollution prevention
181 and radioactive waste minimization measures to prevent the unnecessary waste and depletion
182 of natural resources; and

- 183 (b) review the qualifications of, and issue certificates of approval to, individuals who:
184 (i) survey mammography equipment; or
185 (ii) oversee quality assurance practices at mammography facilities.
- 186 (3) The board shall:
- 187 (a) survey solid and hazardous waste generation and management practices within this
188 state and, after public hearing and after providing opportunities for comment by local
189 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a
190 waste management plan for the state;
- 191 (b) order the director to:
- 192 (i) issue orders necessary to effectuate the provisions of this part and rules made under
193 this part;
- 194 (ii) enforce the orders by administrative and judicial proceedings; or
195 (iii) initiate judicial proceedings to secure compliance with this part;
- 196 (c) promote the planning and application of resource recovery systems to prevent the
197 unnecessary waste and depletion of natural resources;
- 198 (d) meet the requirements of federal law related to solid and hazardous wastes to insure
199 that the solid and hazardous wastes program provided for in this part is qualified to assume
200 primacy from the federal government in control over solid and hazardous waste;
- 201 (e) (i) require any facility, including those listed in Subsection (3)(e)(ii), ~~[that is~~
202 ~~intended for disposing of nonhazardous solid waste or wastes listed in Subsection (3)(e)(ii)(B)]~~
203 to submit plans, specifications, and other information required by the board to the ~~[board]~~
204 director prior to construction, modification, installation, or establishment of a facility to allow
205 the ~~[board]~~ director to determine whether the proposed construction, modification, installation,
206 or establishment of the facility will be in accordance with rules made under this part;
- 207 (ii) facilities referred to in Subsection (3)(e)(i) include~~[-(A)]~~ any incinerator that is
208 intended for disposing of nonhazardous solid waste; and
- 209 ~~[(B) except for facilities that receive the following wastes solely for the purpose of~~
210 ~~recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal,~~
211 ~~and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas~~
212 ~~emission control waste generated primarily from the combustion of coal or other fossil fuels;~~
213 ~~wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln~~

214 dust wastes; and]

215 (iii) a facility referred to in Subsection (3)(e)(i) does not include a commercial facility
216 that solely for the purpose of recycling, reuse, or reprocessing the following waste, or a facility
217 when the following waste is generated and the disposal occurs at an on-site disposal location
218 owned and operated by the generator of the waste:

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

221 (B) waste from the extraction, beneficiation, and processing of ores and minerals listed
222 in 40 C.F.R. 261.4(b)(7)(ii); or

223 (C) cement kiln dust;

224 (f) to ensure compliance with applicable statutes and regulations:

225 (i) review a settlement negotiated by the director in accordance with Subsection

226 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

227 (ii) approve or disapprove the settlement.

228 (4) The board may:

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

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

231 or

232 (b) advise, consult, cooperate with, or provide technical assistance to other agencies of
233 the state or federal government, other states, interstate agencies, or affected groups, political
234 subdivisions, industries, or other persons in carrying out the purposes of this part.

235 (5) (a) The board shall establish a comprehensive statewide waste management plan
236 [~~by January 1, 1994~~].

237 (b) The plan shall:

238 (i) incorporate the solid waste management plans submitted by the counties;

239 (ii) provide an estimate of solid waste capacity needed in the state for the next 20
240 years;

241 (iii) assess the state's ability to minimize waste and recycle;

242 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste
243 needs and existing capacity;

244 (v) evaluate facility siting, design, and operation;

245 (vi) review funding alternatives for solid waste management; and
246 (vii) address other solid waste management concerns that the board finds appropriate
247 for the preservation of the public health and the environment.

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

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

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

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

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

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

- 263 (a) a permit;
- 264 (b) a license;
- 265 (c) a registration;
- 266 (d) a certification; or
- 267 (e) another administrative authorization made by the director.

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

270 Section 3. Section 19-6-202 is amended to read:

271 **19-6-202. Definitions.**

272 As used in this part:

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

275 (2) "Disposal" means the final disposition of hazardous wastes into or onto the lands,

276 waters, and air of this state.

277 (3) "Hazardous wastes" means [~~wastes~~] hazardous waste as defined in Section
278 19-6-102.

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

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

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

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

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

291 Section 4. Section 19-6-502 is amended to read:

292 **19-6-502. Definitions.**

293 As used in this part:

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

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

297 (a) a municipality;

298 (b) a special service district;

299 (c) a municipal-type service district;

300 (d) a service area; or

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

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

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

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

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

307 (i) a public entity; or
308 (ii) a person with whom the public entity has as an agreement to provide solid waste
309 management.

310 (5) "Public entity" means:

311 (a) a county;

312 (b) a municipality;

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

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

315 (e) a municipal-type service district created under Title 17, Chapter 34,

316 Municipal-Type Services to Unincorporated Areas.

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

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

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

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

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

328 (i) garbage;

329 (ii) refuse;

330 (iii) industrial and commercial waste;

331 (iv) sludge from an air or water control facility;

332 (v) rubbish;

333 (vi) ash;

334 (vii) contained gaseous material;

335 (viii) incinerator residue;

336 (ix) demolition and construction debris;

337 (x) a discarded automobile; and

- 338 (xi) offal.
- 339 (b) "Solid waste" does not include sewage or another highly diluted water carried
- 340 material or substance and those in gaseous form.
- 341 (11) "Solid waste management" means the purposeful and systematic collection,
- 342 transportation, storage, processing, recovery, or disposal of solid waste.
- 343 (12) (a) "Solid waste management facility" means a facility employed for solid waste
- 344 management, including:
 - 345 (i) a transfer station;
 - 346 (ii) a transport system;
 - 347 (iii) a baling facility;
 - 348 (iv) a landfill; and
 - 349 (v) a processing system, including:
 - 350 (A) a resource recovery facility;
 - 351 (B) a facility for reducing solid waste volume;
 - 352 (C) a plant or facility for compacting, or composting, of solid waste;
 - 353 (D) an incinerator;
 - 354 (E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;
 - 355 (F) a facility for resource recovery of energy consisting of:
 - 356 (I) a facility for the production, transmission, distribution, and sale of heat and steam;
 - 357 (II) a facility for the generation and sale of electric energy to a public utility,
 - 358 municipality, or other public entity that owns and operates an electric power system on March
 - 359 15, 1982; and
 - 360 (III) a facility for the generation, sale, and transmission of electric energy on an
 - 361 emergency basis only to a military installation of the United States; and
 - 362 (G) an auxiliary energy facility that is connected to a facility for resource recovery of
 - 363 energy as described in Subsection (12)(a)(v)(F), that:
 - 364 (I) is fueled by natural gas, landfill gas, or both;
 - 365 (II) consists of a facility for the production, transmission, distribution, and sale of
 - 366 supplemental heat and steam to meet all or a portion of the heat and steam requirements of a
 - 367 military installation of the United States; and
 - 368 (III) consists of a facility for the generation, transmission, distribution, and sale of

369 electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a
370 political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

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

372 (i) accepts and processes metal, as ~~defined~~ described in Subsection
373 19-6-102~~(19)~~(18)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting,
374 or sizing to produce a principle commodity grade product of prepared scrap metal for sale or
375 use for remelting purposes provided that any byproduct or residual that would qualify as solid
376 waste is managed at a solid waste management facility; or

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

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

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