

HB0310S01 compared with HB0310

~~deleted text~~ shows text that was in HB0310 but was deleted in HB0310S01.

Inserted text shows text that was not in HB0310 but was inserted into HB0310S01.

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Representative Keven J. Stratton proposes the following substitute bill:

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;
- ▶ addresses waste generated and disposed of on site; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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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:

19-6-102. Definitions.

As used in this part:

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

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

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

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

(i) receives waste for recycling;

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

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

(4) "Construction waste or demolition waste":

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

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

(b) does not include:

(i) asbestos;

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

(iii) waste paints;

(iv) solvents;

(v) sealers;

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

(vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

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

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

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

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

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

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

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

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

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- (a) hospital;
- (b) psychiatric [~~hospitals,~~] hospital;
- (c) home health [~~agencies, hospices,~~] agency;
- (d) hospice;
- (e) skilled nursing [~~facilities,~~] facility;
- (f) intermediate care [~~facilities,~~] facility;
- (g) intermediate care [~~facilities~~] facility for people with an intellectual disability[~~;~~];
- (h) residential health care [~~facilities,~~] facility;
- (i) maternity [~~homes~~] home or birthing [~~centers,~~] center;
- (j) free standing ambulatory surgical [~~centers, facilities~~] center;
- (k) facility owned or operated by a health maintenance [~~organizations, and~~

organization;

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

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

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

(o) mortuary.

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

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

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

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

[~~(16)~~] (15) "Modification plan" means a plan under Section 19-6-108 to modify a

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facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

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

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

(b) a closure plan;

(c) a modification plan; or

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

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

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

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

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

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

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

~~[(iv) cement kiln dust, or]~~

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

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

~~[(B)]~~ (ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40

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C.F.R. 261.6.

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

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

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

(b) "Transfer" does not mean:

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

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

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

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

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

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

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

(1) The board may:

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

(b) recommend that the director:

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

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

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

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(c) (i) hold a hearing that is not an adjudicative proceeding; or
(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or

(e) order the director to impound radioactive material in accordance with Section 19-3-111.

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

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

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

(3) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) order the director to:

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

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

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

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

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

(e) (i) require any facility, including those listed in Subsection (3)(e)(ii), ~~[that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection (3)(e)(ii)(B)]~~ to submit plans, specifications, and other information required by the board to the ~~[board]~~

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director prior to construction, modification, installation, or establishment of a facility to allow the ~~[board]~~ director to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

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

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

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

(A) ~~receives~~ fly ash waste~~,,~~

(B) bottom ash waste~~,,~~

(C) slag waste~~,,~~ or

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

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

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

~~(C)~~(B) cement kiln dust;

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

(i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement.

(4) The board may:

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- (a) (i) hold a hearing that is not an adjudicative proceeding; or
- (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

or

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

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

(b) The plan shall:

- (i) incorporate the solid waste management plans submitted by the counties;
- (ii) provide an estimate of solid waste capacity needed in the state for the next 20

years;

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

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

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

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.

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

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

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

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

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

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incinerators.

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

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

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

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

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

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

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

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

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

(d) an application for modification of a commercial nonhazardous solid or hazardous

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waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or

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

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

(3) (a) (i) ~~No~~ Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate any facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

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

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

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

(B) The director may not:

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

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

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an

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on-site location owned and operated by the generator of the waste.

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

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

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

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

(C) cement kiln dust wastes.

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

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

(B) approval from the Legislature; and

(C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.

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

(A) a commercial nonhazardous solid waste disposal facility;

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

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

(iii) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

(A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or

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

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operational on or before May 10, 2016.

(iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d) ~~No~~ A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

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

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

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

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

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

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applicable rules of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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for modification or closure in whole or in part.

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

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

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

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

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

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

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

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

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

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

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

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

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

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

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

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

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

(ii) a market analysis of the need for a commercial facility given existing and potential

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generation of nonhazardous solid or hazardous waste in the state and regionally; and

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

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

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

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

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

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

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

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

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

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

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

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

(14) The provisions of Subsections (10) and (11) do not apply to hazardous waste facilities in existence or to applications filed or pending in the department prior to April 24,

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1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.

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

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

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

Section ~~3}4~~. Section **19-6-202** is amended to read:

19-6-202. Definitions.

As used in this part:

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

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

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

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

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

(6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the

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board pursuant to Sections 19-6-204 and 19-6-205.

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

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

Section ~~4~~5. Section **19-6-502** is amended to read:

19-6-502. Definitions.

As used in this part:

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

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

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

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

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

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

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

(b) collected at or near the residence by:

(i) a public entity; or

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

(5) "Public entity" means:

(a) a county;

(b) a municipality;

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

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

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

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

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

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

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

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

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

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

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

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

- (i) a transfer station;

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- (ii) a transport system;
- (iii) a baling facility;
- (iv) a landfill; and
- (v) a processing system, including:
 - (A) a resource recovery facility;
 - (B) a facility for reducing solid waste volume;
 - (C) a plant or facility for compacting, or composting, of solid waste;
 - (D) an incinerator;
 - (E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;
 - (F) a facility for resource recovery of energy consisting of:
 - (I) a facility for the production, transmission, distribution, and sale of heat and steam;
 - (II) a facility for the generation and sale of electric energy to a public utility,

municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and

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

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

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

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

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

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

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

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

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

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