

**RECYCLING CENTER AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill enacts language related to a recycling center.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
  - ▶ prohibits a recycling center from receiving certain amounts of solid waste when extracted from recyclable material;
  - ▶ prohibits a recycling center from storing recyclable material for more than 12 months;
  - ▶ makes certain exemptions for a recycling center operated by a political subdivision;
- and
- ▶ makes technical and conforming amendments.

**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 2012, Chapter 360

**19-6-104**, as last amended by Laws of Utah 2012, Chapter 360



- 28 [19-6-105](#), as last amended by Laws of Utah 2012, Chapter 360
- 29 [19-6-107](#), as last amended by Laws of Utah 2012, Chapter 360
- 30 [19-6-108](#), as last amended by Laws of Utah 2013, Chapter 378
- 31 [19-6-109](#), as last amended by Laws of Utah 2012, Chapter 360
- 32 [19-6-115](#), as renumbered and amended by Laws of Utah 1991, Chapter 112
- 33 [19-6-117](#), as last amended by Laws of Utah 2012, Chapter 360
- 34 [19-6-119](#), as last amended by Laws of Utah 2012, Chapter 360

35 ENACTS:

36 [19-6-126](#), Utah Code Annotated 1953



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

39 Section 1. Section [19-6-102](#) is amended to read:

40 **[19-6-102. Definitions.](#)**

41 As used in this part:

42 (1) "Board" means the Solid and Hazardous Waste Control Board created in Section  
43 [19-1-106](#).

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

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

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

53 (i) receives waste for recycling;

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

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

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

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

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

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

67 (6) "Director" means the director of the Division of Solid and Hazardous Waste.

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

72 (8) "Division" means the Division of Solid and Hazardous Waste, created in  
73 Subsection [19-1-105\(1\)\(e\)](#).

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

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

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

89 (12) "Household waste" means any waste material, including garbage, trash, and

90 sanitary wastes in septic tanks, derived from households, including single-family and  
91 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,  
92 campgrounds, picnic grounds, and day-use recreation areas.

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

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

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

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

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

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

109 (b) a closure plan;

110 (c) a modification plan; or

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

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

113 (19) "Recycling center" means a facility that extracts valuable materials from a solid  
114 waste stream or transforms or remanufactures the material from a solid waste stream into a  
115 usable form, which usable form has a demonstrated or potential market value.

116 [~~(19)~~] (20) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from  
117 a waste treatment plant, water supply treatment plant, or air pollution control facility, or other  
118 discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting  
119 from industrial, commercial, mining, or agricultural operations and from community activities  
120 but does not include solid or dissolved materials in domestic sewage or in irrigation return

121 flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality  
 122 Act, or under the Water Pollution Control Act, 33 U.S.C.[~~Section~~] Sec. 1251, et seq.

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

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

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

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

130 (iv) solid wastes from the extraction, beneficiation, and processing of ores and  
 131 minerals; or

132 (v) cement kiln dust.

133 [~~(20)~~] (21) "Storage" means the actual or intended containment of solid or hazardous  
 134 waste either on a temporary basis or for a period of years in such a manner as not to constitute  
 135 disposal of the waste.

136 [~~(21)~~] (22) "Transportation" means the off-site movement of solid or hazardous waste  
 137 to any intermediate point or to any point of storage, treatment, or disposal.

138 [~~(22)~~] (23) "Treatment" means a method, technique, or process designed to change the  
 139 physical, chemical, or biological character or composition of any solid or hazardous waste so as  
 140 to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for  
 141 recovery, amenable to storage, or reduced in volume.

142 [~~(23)~~] (24) "Underground storage tank" means a tank which is regulated under Subtitle  
 143 I of the Resource Conservation and Recovery Act, 42 U.S.C.[~~Section~~] Sec. 6991, et seq.

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

145 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

146 (1) The board shall:

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

151 (b) order the director to:

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

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

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

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

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

161 (e) (i) require any facility, including those listed in Subsection (1)(e)(ii), that is  
162 intended for treating, storing, recovering, recycling, or disposing of nonhazardous solid waste  
163 or wastes listed in Subsection (1)(e)(ii)(B) to submit plans, specifications, and other  
164 information required by rules of the board to the [~~board~~] director prior to construction,  
165 modification, installation, or establishment of a facility to allow the board to determine whether  
166 the proposed construction, modification, installation, or establishment of the facility will be in  
167 accordance with rules made under this part;

168 (ii) facilities referred to in Subsection (1)(e)(i) include:

169 (A) any incinerator that is intended for disposing of nonhazardous solid waste; and

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

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

177 (i) review a settlement negotiated by the director in accordance with Subsection  
178 [19-6-107\(3\)\(a\)](#) that requires a civil penalty of \$25,000 or more; and

179 (ii) approve or disapprove the settlement.

180 (2) The board may:

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

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

183 or

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

187 (3) (a) The board shall establish a comprehensive statewide solid waste management  
188 plan by January 1, 1994.

189 (b) The plan shall:

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

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

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

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

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

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

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

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

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

205 (4) (a) The board shall determine the type of solid waste generated in the state and  
206 tonnage of solid waste treated, stored, recovered, recycled, or disposed of in the state in  
207 developing the comprehensive statewide solid waste management plan.

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

210 (5) Subject to the limitations contained in Subsection [19-6-102](#)~~(19)~~(20)(b), the board  
211 shall establish siting criteria for nonhazardous solid waste treatment, storage, recovery,  
212 recycling, or disposal facilities, including incinerators.

213 (6) The board may not issue, amend, renew, modify, revoke, or terminate any of the

214 following that are subject to the authority granted to the director under Section 19-6-107:

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

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

222 Section 3. Section 19-6-105 is amended to read:

223 **19-6-105. Rules of board.**

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

226 (a) establishing minimum standards for protection of human health and the  
227 environment, for the storage, collection, transport, recovery, treatment, and disposal of solid  
228 waste, including requirements for the approval by the director of plans for the construction,  
229 extension, operation, and closure of solid waste treatment, storage, recovery, recycling, or  
230 disposal sites;

231 (b) identifying wastes which are determined to be hazardous, including wastes  
232 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of  
233 1976, 42 U.S.C.[;] Sec. 6921, et seq.;

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

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

- 245 (e) specifying the terms and conditions under which the director shall approve,  
246 disapprove, revoke, or review hazardous wastes or solid waste operation plans;
- 247 (f) governing public hearings and participation under this part;
- 248 (g) establishing standards governing underground storage tanks, in accordance with  
249 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;
- 250 (h) relating to the collection, transportation, processing, treatment, storage, and  
251 disposal of infectious waste in health facilities in accordance with the requirements of Section  
252 [19-6-106](#);
- 253 (i) defining closure plans as major or minor;
- 254 (j) defining modification plans as major or minor; and
- 255 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or  
256 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,  
257 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or  
258 well.
- 259 (2) If any of the following are determined to be hazardous waste and are therefore  
260 subjected to the provisions of this part, the board shall, in the case of landfills or surface  
261 impoundments that receive the solid wastes, take into account the special characteristics of the  
262 wastes, the practical difficulties associated with applying requirements for other wastes to the  
263 wastes, and site specific characteristics, including the climate, geology, hydrology, and soil  
264 chemistry at the site, if the modified requirements assure protection of human health and the  
265 environment and are no more stringent than federal standards applicable to wastes:
- 266 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,  
267 including phosphate rock and overburden from the mining of uranium;
- 268 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste  
269 generated primarily from the combustion of coal or other fossil fuels; and
- 270 (c) cement kiln dust waste.
- 271 (3) The board shall establish criteria for siting commercial hazardous waste treatment,  
272 storage, and disposal facilities, including commercial hazardous waste incinerators. Those  
273 criteria shall apply to any facility or incinerator for which plan approval is required under  
274 Section [19-6-108](#).
- 275 Section 4. Section **19-6-107** is amended to read:

276 **19-6-107. Director -- Appointment -- Powers.**

277 (1) The executive director shall appoint the director. The director shall serve under the  
278 administrative direction of the executive director.

279 (2) The director shall:

280 (a) carry out inspections pursuant to Section 19-6-109;

281 (b) require submittal of specifications or other information relating to solid waste and  
282 hazardous waste operation plans for review, and approve, disapprove, revoke, or review the  
283 plans;

284 (c) develop programs for solid waste and hazardous waste management and control  
285 within the state;

286 (d) advise, consult, and cooperate with other agencies of the state, the federal  
287 government, other states and interstate agencies, and with affected groups, political  
288 subdivisions, and industries in furtherance of the purposes of this part;

289 (e) subject to the provisions of this part, enforce rules made or revised by the board  
290 through the issuance of orders;

291 (f) review plans, specifications or other data relative to solid waste and hazardous  
292 waste control systems or any part of the systems as provided in this part;

293 (g) under the direction of the executive director, represent the state in all matters  
294 pertaining to interstate solid waste and hazardous waste management and control including,  
295 under the direction of the board, entering into interstate compacts and other similar agreements;  
296 and

297 (h) as authorized by the board and subject to the provisions of this part, act as  
298 executive secretary of the board under the direction of the chairman of the board.

299 (3) The director may:

300 (a) subject to Subsection 19-6-104(1)(f), settle or compromise any administrative or  
301 civil action initiated to compel compliance with this part and any rules adopted under this part;

302 (b) employ full-time employees necessary to carry out this part;

303 (c) as authorized by the board pursuant to the provisions of this part, authorize any  
304 employee or representative of the department to conduct inspections as permitted in this part;

305 (d) encourage, participate in, or conduct studies, investigations, research, and  
306 demonstrations relating to solid waste and hazardous waste management and control necessary

307 for the discharge of duties assigned under this part;

308 (e) collect and disseminate information relating to solid waste and hazardous waste  
309 management control; and

310 (f) cooperate with any person in studies and research regarding solid waste and  
311 hazardous waste management and control.

312 Section 5. Section **19-6-108** is amended to read:

313 **19-6-108. New nonhazardous solid or hazardous waste operation plans for**  
314 **facility or site -- Administrative and legislative approval required -- Exemptions from**  
315 **legislative and gubernatorial approval -- Time periods for review -- Information required**  
316 **-- Other conditions -- Revocation of approval -- Periodic review.**

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

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

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

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

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

337 (e) a submission of an operation plan to construct a facility, if previous approvals of the

338 operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iii).

339 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput  
340 tonnage specified for the trial burn in the operation plan or the operation plan application if no  
341 operation plan approval has been issued as of January 1, 1990, and on annual operations of  
342 7,000 hours.

343 (3) (a) (i) No person may own, construct, modify, or operate any facility or site for the  
344 purpose of treating, storing, recovering, recycling, or disposing of nonhazardous solid waste or  
345 treating, storing, or disposing of hazardous waste without first submitting and receiving the  
346 approval of the director for an operation plan for that facility or site.

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

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

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

354 (B) The director may not:

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

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

360 (b) (i) Except for facilities that receive the following wastes solely for the purpose of  
361 recycling, reuse, or reprocessing, no person may own, construct, modify, or operate any  
362 commercial facility that accepts for treatment, storage, or disposal, with the intent to make a  
363 profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and  
364 receiving the approval of the director for an operation plan for that facility site.

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

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

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

369 (C) cement kiln dust wastes.

370 (c) (i) No person may construct a facility listed under Subsection (3)(c)(ii) until the  
371 person receives:

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

373 (B) approval from the Legislature; and

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

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

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

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

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

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

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

389 (B) the governor's approval is received before May 10, 2011, and the facility is not  
390 operational on or before May 10, 2016.

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

394 (d) No person need obtain gubernatorial or legislative approval for the construction of  
395 a hazardous waste facility for which an operating plan has been approved by or submitted for  
396 approval to the executive secretary of the board under this section before April 24, 1989, and  
397 which has been determined, on or before December 31, 1990, by the executive secretary of the  
398 board to be complete, in accordance with state and federal requirements for operating plans for  
399 hazardous waste facilities even if a different geographic site is subsequently submitted.

400 (e) No person need obtain gubernatorial and legislative approval for the construction of  
401 a commercial nonhazardous solid waste disposal facility for which an operation plan has been  
402 approved by or submitted for approval to the executive secretary of the board under this section  
403 on or before January 1, 1990, and which, on or before December 31, 1990, the executive  
404 secretary of the board determines to be complete, in accordance with state and federal  
405 requirements applicable to operation plans for nonhazardous solid waste facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

460 (9) The director may not approve a proposed nonhazardous solid or hazardous waste  
461 operation plan unless the plan contains the information [~~that the board requires~~] required by

462 rule, including:

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

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

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

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

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

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

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

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

492 (ii) is reviewed and approved by the Department of Transportation or a local highway

493 authority, whichever has jurisdiction over each road serving the proposed facility, with the cost  
494 of the review paid by the person who submits the proposed operation plan; and

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

498 (i) land acquisition and leasing;

499 (ii) construction;

500 (iii) estimated annual operation;

501 (iv) equipment;

502 (v) ancillary structures;

503 (vi) roads;

504 (vii) transfer stations; and

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

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

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

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

514 (ii) a market analysis of the need for a commercial facility given existing and potential  
515 generation of nonhazardous solid or hazardous waste in the state and regionally; and

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

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

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

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

523 (iii) the reduction of nonhazardous solid or hazardous waste management methods,

524 which are less suitable for the environment, that would be made possible by the proposed  
525 facility; and

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

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

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

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

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

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

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

544 (14) The provisions of Subsections (10) and (11) do not apply to hazardous waste  
545 facilities in existence or to applications filed or pending in the department prior to April 24,  
546 1989, that are determined by the executive secretary of the board on or before December 31,  
547 1990, to be complete, in accordance with state and federal requirements applicable to operation  
548 plans for hazardous waste facilities.

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

554 (16) Nonhazardous solid waste generated outside of this state that is defined as

555 hazardous waste in the state where it is generated and which is received for disposal in this  
556 state may not be disposed of at a nonhazardous waste disposal facility owned and operated by  
557 local government or a facility under contract with a local government solely for disposal of  
558 nonhazardous solid waste generated within the boundaries of the local government, unless  
559 disposal is approved by the director.

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

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

564 **19-6-109. Inspections authorized.**

565 Any duly authorized officer, employee, or representative of the director may, at any  
566 reasonable time and upon presentation of appropriate credentials, enter upon and inspect any  
567 property, premise, or place on or at which solid or hazardous wastes are generated, transported,  
568 stored, treated, recovered, recycled, or disposed of, and have access to and the right to copy any  
569 records relating to the wastes, for the purpose of ascertaining compliance with this part and the  
570 rules of the board. Those persons referred to in this section may also inspect any waste and  
571 obtain waste samples, including samples from any vehicle in which wastes are being  
572 transported or samples of any containers or labels. Any person obtaining samples shall give to  
573 the owner, operator, or agent a receipt describing the sample obtained and, if requested, a  
574 portion of each sample of waste equal in volume or weight to the portion retained. If any  
575 analysis is made of those samples, a copy of the results of that analysis shall be furnished  
576 promptly to the owner, operator, or agent in charge.

577 Section 7. Section **19-6-115** is amended to read:

578 **19-6-115. Imminent danger to health or environment -- Authority of executive**  
579 **director to initiate action to restrain.**

580 Notwithstanding any other provision of this part, upon receipt of evidence that the  
581 handling, transportation, treatment, storage, recovery, recycling, or disposal of any solid or  
582 hazardous waste, or a release from an underground storage tank, is presenting an imminent and  
583 substantial danger to health or the environment, the executive director may bring suit on behalf  
584 of this state in the district court to immediately restrain any person contributing, or who has  
585 contributed, to that action to stop the handling, storage, treatment, transportation, or disposal or

586 to take other action as appropriate.

587 Section 8. Section 19-6-117 is amended to read:

588 **19-6-117. Action against insurer or guarantor.**

589 (1) The state may assert a cause of action directly against an insurer or guarantor of an  
590 owner or operator if:

591 (a) a cause of action exists against an owner or operator of a treatment, storage,  
592 recovery, recycling, or disposal facility, based upon conduct for which the director requires  
593 evidence of financial responsibility under Section 19-6-108, and that owner or operator is in  
594 bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code; or

595 (b) jurisdiction over an owner or operator, who is likely to be solvent at the time of  
596 judgment, cannot be obtained in state or federal court.

597 (2) In that action, the insurer or guarantor may assert all rights and defenses available  
598 to the owner or operator, in addition to rights and defenses that would be available to the  
599 insurer or guarantor in an action brought against him by the owner or operator.

600 Section 9. Section 19-6-119 is amended to read:

601 **19-6-119. Nonhazardous solid waste disposal fees.**

602 (1) (a) Except as provided in Subsection (5), the owner or operator of a commercial  
603 nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste  
604 received for treatment or disposal at the facility if the facility or incinerator is required to have  
605 operation plan approval under Section 19-6-108 and primarily receives waste generated by  
606 off-site sources not owned, controlled, or operated by the facility or site owner or operator:

607 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;  
608 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of  
609 the following wastes in a cell exclusively designated for the waste being disposed:

- 610 (A) construction waste or demolition waste;
- 611 (B) yard waste, including vegetative matter resulting from landscaping, land  
612 maintenance, and land clearing operations;
- 613 (C) dead animals;
- 614 (D) waste tires and materials derived from waste tires disposed of in accordance with  
615 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and
- 616 (E) petroleum contaminated soils that are approved by the director; and

- 617 (iii) \$2.50 per ton on:
- 618 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
- 619 (B) (I) fly ash waste;
- 620 (II) bottom ash waste;
- 621 (III) slag waste;
- 622 (IV) flue gas emission control waste generated primarily from the combustion of coal
- 623 or other fossil fuels;
- 624 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
- 625 (VI) cement kiln dust wastes.

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

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

631 (2) (a) Except as provided in Subsections (2)(b) and (5), a waste facility that is owned  
632 by a political subdivision shall pay the following annual facility fee to the department by  
633 January 15 of each year:

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

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

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

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

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

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

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

648 (b) Except as provided in Subsection (5), a waste facility that is owned by a political  
649 subdivision shall pay \$2.50 per ton for:

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

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

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

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

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

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

657 (c) Waste received at a facility owned by a political subdivision under Subsection  
658 (2)(b) may not be counted as part of the total tonnage received by the facility under Subsection  
659 (2)(a).

660 (3) (a) As used in this Subsection (3): ~~(i) "Recycling center" means a facility that~~  
661 ~~extracts valuable materials from a waste stream or transforms or remanufactures the material~~  
662 ~~into a usable form that has demonstrated or potential market value. (ii) "Transfer], "transfer~~  
663 station" means a permanent, fixed, supplemental collection and transportation facility that is  
664 used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid  
665 waste handling or disposal facility.

666 (b) Except as provided in Subsection (5), the owner or operator of a transfer station or  
667 recycling center shall pay to the department the following fees on waste sent for disposal to a  
668 nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this  
669 section:

670 (i) \$1.25 per ton on:

671 (A) all nonhazardous solid waste; and

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

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

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

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

677 (4) If a facility required to pay fees under this section receives nonhazardous solid  
678 waste for treatment or disposal, and the fee required under this section is paid for that treatment

679 or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees  
680 under this section.

681 (5) The owner or operator of a waste disposal facility that receives waste described in  
682 Subsection (1)(a)(iii)(B) is not required to pay any fee on those wastes if received solely for the  
683 purpose of recycling, reuse, or reprocessing.

684 (6) Except as provided in Subsection (2)(a), a facility required to pay fees under this  
685 section shall:

686 (a) calculate the fees by multiplying the total tonnage of waste received during the  
687 calendar month, computed to the first decimal place, by the required fee rate;

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

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

693 (7) The department shall:

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

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

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

701 (a) the development of a solid waste management plan required under Section  
702 17-15-23; and

703 (b) pass-through of available funding.

704 (9) This section does not exempt any facility from applicable regulation under the  
705 Atomic Energy Act, 42 U.S.C. [~~See:~~] Secs. 2014 and 2021 through 2114.

706 Section 10. Section 19-6-126 is enacted to read:

707 **19-6-126. Recycling centers.**

708 (1) A recycling center may not receive solid waste unless, when extracted from  
709 material that may be reused or transformed or remanufactured into a usable form, the

710 remaining solid waste equals, subject to Subsection (2), 90% or less of the total solid waste  
711 received.

712 (2) For purposes of Subsection (1), the extracted solid waste is calculated:

713 (a) by measuring the incoming tons of solid waste less the outgoing tons of solid waste  
714 sent for disposal; and

715 (b) on a monthly basis.

716 (3) A recycling center may not store for more than 12 months from the day on which  
717 the material is received by the recycling center material that may be reused or transformed or  
718 remanufactured into a usable form.

719 (4) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
720 Rulemaking Act, adopt rules for:

721 (a) measuring and tracking solid waste and material that may be reused or transformed  
722 or remanufactured for purposes of Subsection (1); and

723 (b) tracking the storage of materials for purposes of Subsection (3).

724 (5) This section does not apply to a recycling center that is operated by a county,  
725 municipality, local district, special service district, an interlocal entity created under Title 11,  
726 Chapter 13, Interlocal Cooperation Act, or any other political subdivision.

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**Legislative Review Note**  
**as of 3-2-15 8:53 AM**

**Office of Legislative Research and General Counsel**