

Senator Mark B. Madsen proposes the following substitute bill:

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;
- ▶ exempts a scrap metal processor from certain provisions;
- ▶ 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; 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



- 26 19-6-104, as last amended by Laws of Utah 2012, Chapter 360
- 27 19-6-105, as last amended by Laws of Utah 2012, Chapter 360
- 28 19-6-107, as last amended by Laws of Utah 2012, Chapter 360
- 29 19-6-108, as last amended by Laws of Utah 2013, Chapter 378
- 30 19-6-109, as last amended by Laws of Utah 2012, Chapter 360
- 31 19-6-115, as renumbered and amended by Laws of Utah 1991, Chapter 112
- 32 19-6-117, as last amended by Laws of Utah 2012, Chapter 360
- 33 19-6-119, as last amended by Laws of Utah 2012, Chapter 360

34 ENACTS:

- 35 19-6-102.2, Utah Code Annotated 1953
- 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, residential, or agricultural operations and from
120 community activities but does not include solid or dissolved materials in domestic sewage or in
121 irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5,
122 Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C.[, ~~Section~~] Sec. 1251,
123 et seq.

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

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

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

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

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

133 (v) cement kiln dust.

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

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

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

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

145 Section 2. Section **19-6-102.2** is enacted to read:

146 **19-6-102.2. Application.**

147 A scrap metal processor as that term is defined in Section [76-6-1402](#) is not subject to
148 the provisions of this part.

149 Section 3. Section **19-6-104** is amended to read:

150 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

151 (1) The board shall:

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

156 (b) order the director to:

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

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

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

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

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

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

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

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

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

- 181 (f) to ensure compliance with applicable statutes and regulations:
- 182 (i) review a settlement negotiated by the director in accordance with Subsection
- 183 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and
- 184 (ii) approve or disapprove the settlement.
- 185 (2) The board may:
- 186 (a) (i) hold a hearing that is not an adjudicative proceeding; or
- 187 (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
- 188 or
- 189 (b) advise, consult, cooperate with, or provide technical assistance to other agencies of
- 190 the state or federal government, other states, interstate agencies, or affected groups, political
- 191 subdivisions, industries, or other persons in carrying out the purposes of this part.
- 192 (3) (a) The board shall establish a comprehensive statewide solid waste management
- 193 plan by January 1, 1994.
- 194 (b) The plan shall:
- 195 (i) incorporate the solid waste management plans submitted by the counties;
- 196 (ii) provide an estimate of solid waste capacity needed in the state for the next 20
- 197 years;
- 198 (iii) assess the state's ability to minimize waste and recycle;
- 199 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste
- 200 needs and existing capacity;
- 201 (v) evaluate facility siting, design, and operation;
- 202 (vi) review funding alternatives for solid waste management; and
- 203 (vii) address other solid waste management concerns that the board finds appropriate
- 204 for the preservation of the public health and the environment.
- 205 (c) The board shall consider the economic viability of solid waste management
- 206 strategies prior to incorporating them into the plan and shall consider the needs of population
- 207 centers.
- 208 (d) The board shall review and modify the comprehensive statewide solid waste
- 209 management plan no less frequently than every five years.
- 210 (4) (a) The board shall determine the type of solid waste generated in the state and
- 211 tonnage of solid waste treated, stored, recovered, recycled, or disposed of in the state in

212 developing the comprehensive statewide solid waste management plan.

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

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

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

220 (a) a permit;

221 (b) a license;

222 (c) a registration;

223 (d) a certification; or

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

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

227 Section 4. Section 19-6-105 is amended to read:

228 **19-6-105. Rules of board.**

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

231 (a) establishing minimum standards for protection of human health and the
232 environment, for the storage, collection, transport, recovery, treatment, and disposal of solid
233 waste, including requirements for the approval by the director of plans for the construction,
234 extension, operation, and closure of solid waste treatment, storage, recovery, recycling, or
235 disposal sites;

236 (b) identifying wastes which are determined to be hazardous, including wastes
237 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
238 1976, 42 U.S.C.[;] Sec. 6921, et seq.;

239 (c) governing generators and transporters of hazardous wastes and owners and
240 operators of hazardous waste treatment, storage, and disposal facilities, including requirements
241 for keeping records, monitoring, submitting reports, and using a manifest, without treating
242 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling

243 muds, and oil production brines in a manner more stringent than they are treated under federal
244 standards;

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

250 (e) specifying the terms and conditions under which the director shall approve,
251 disapprove, revoke, or review hazardous wastes or solid waste operation plans;

252 (f) governing public hearings and participation under this part;

253 (g) establishing standards governing underground storage tanks, in accordance with
254 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

255 (h) relating to the collection, transportation, processing, treatment, storage, and
256 disposal of infectious waste in health facilities in accordance with the requirements of Section
257 19-6-106;

258 (i) defining closure plans as major or minor;

259 (j) defining modification plans as major or minor; and

260 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
261 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,
262 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or
263 well.

264 (2) If any of the following are determined to be hazardous waste and are therefore
265 subjected to the provisions of this part, the board shall, in the case of landfills or surface
266 impoundments that receive the solid wastes, take into account the special characteristics of the
267 wastes, the practical difficulties associated with applying requirements for other wastes to the
268 wastes, and site specific characteristics, including the climate, geology, hydrology, and soil
269 chemistry at the site, if the modified requirements assure protection of human health and the
270 environment and are no more stringent than federal standards applicable to wastes:

271 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,
272 including phosphate rock and overburden from the mining of uranium;

273 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste

274 generated primarily from the combustion of coal or other fossil fuels; and

275 (c) cement kiln dust waste.

276 (3) The board shall establish criteria for siting commercial hazardous waste treatment,
277 storage, and disposal facilities, including commercial hazardous waste incinerators. Those
278 criteria shall apply to any facility or incinerator for which plan approval is required under
279 Section 19-6-108.

280 Section 5. Section 19-6-107 is amended to read:

281 **19-6-107. Director -- Appointment -- Powers.**

282 (1) The executive director shall appoint the director. The director shall serve under the
283 administrative direction of the executive director.

284 (2) The director shall:

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

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

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

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

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

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

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

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

304 (3) The director may:

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

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

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

310 (d) encourage, participate in, or conduct studies, investigations, research, and
311 demonstrations relating to solid waste and hazardous waste management and control necessary
312 for the discharge of duties assigned under this part;

313 (e) collect and disseminate information relating to solid waste and hazardous waste
314 management control; and

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

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

318 **19-6-108. New nonhazardous solid or hazardous waste operation plans for**
319 **facility or site -- Administrative and legislative approval required -- Exemptions from**
320 **legislative and gubernatorial approval -- Time periods for review -- Information required**
321 **-- Other conditions -- Revocation of approval -- Periodic review.**

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

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

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

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

336 approved operation plan if the initial approval is subsequent to January 1, 1990;

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

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

344 (2) Capacity under Subsection (1)(b) shall be calculated based on the throughput
345 tonnage specified for the trial burn in the operation plan or the operation plan application if no
346 operation plan approval has been issued as of January 1, 1990, and on annual operations of
347 7,000 hours.

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

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

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

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

359 (B) The director may not:

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

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

365 (b) (i) Except for facilities that receive the following wastes solely for the purpose of
366 recycling, reuse, or reprocessing, no person may own, construct, modify, or operate any

367 commercial facility that accepts for treatment, storage, or disposal, with the intent to make a
368 profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and
369 receiving the approval of the director for an operation plan for that facility site.

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

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

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

374 (C) cement kiln dust wastes.

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

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

378 (B) approval from the Legislature; and

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

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

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

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

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

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

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

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

396 (iv) The required approvals described in Subsection (3)(c)(i) for a facility described in
397 Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

457 (8) Any person who owns or operates a facility or site required to have an approved
458 hazardous waste operation plan under this section and who has pending a permit application
459 before the United States Environmental Protection Agency shall be treated as having an

460 approved plan until final administrative disposition of the permit application is made under this
461 section, unless the director determines that final administrative disposition of the application
462 has not been made because of the failure of the owner or operator to furnish any information
463 requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource
464 Conservation and Recovery Act, 42 U.S.C. [~~Section~~] Sec. 6925 (e).

465 (9) The director may not approve a proposed nonhazardous solid or hazardous waste
466 operation plan unless the plan contains the information [~~that the board requires~~] required by
467 rule, including:

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

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

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

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

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

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

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

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

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

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

503 (i) land acquisition and leasing;

504 (ii) construction;

505 (iii) estimated annual operation;

506 (iv) equipment;

507 (v) ancillary structures;

508 (vi) roads;

509 (vii) transfer stations; and

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

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

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

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

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

521 (iii) a review of other existing and proposed commercial nonhazardous solid or

522 hazardous waste facilities regionally and nationally that would compete for the treatment,
523 storage, or disposal of the nonhazardous solid or hazardous waste;

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

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

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

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

529 which are less suitable for the environment, that would be made possible by the proposed

530 facility; and

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

533 and

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

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

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

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

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

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

549 (14) The provisions of Subsections (10) and (11) do not apply to hazardous waste
550 facilities in existence or to applications filed or pending in the department prior to April 24,
551 1989, that are determined by the executive secretary of the board on or before December 31,
552 1990, to be complete, in accordance with state and federal requirements applicable to operation

553 plans for hazardous waste facilities.

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

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

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

568 Section 7. Section **19-6-109** is amended to read:

569 **19-6-109. Inspections authorized.**

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

582 Section 8. Section **19-6-115** is amended to read:

583 **19-6-115. Imminent danger to health or environment -- Authority of executive**

584 **director to initiate action to restrain.**

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

592 Section 9. Section **19-6-117** is amended to read:

593 **19-6-117. Action against insurer or guarantor.**

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

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

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

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

605 Section 10. Section **19-6-119** is amended to read:

606 **19-6-119. Nonhazardous solid waste disposal fees.**

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

612 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;

613 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of
614 the following wastes in a cell exclusively designated for the waste being disposed:

- 615 (A) construction waste or demolition waste;
- 616 (B) yard waste, including vegetative matter resulting from landscaping, land
- 617 maintenance, and land clearing operations;
- 618 (C) dead animals;
- 619 (D) waste tires and materials derived from waste tires disposed of in accordance with
- 620 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and
- 621 (E) petroleum contaminated soils that are approved by the director; and
- 622 (iii) \$2.50 per ton on:
 - 623 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
 - 624 (B) (I) fly ash waste;
 - 625 (II) bottom ash waste;
 - 626 (III) slag waste;
 - 627 (IV) flue gas emission control waste generated primarily from the combustion of coal
 - 628 or other fossil fuels;
 - 629 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
 - 630 (VI) cement kiln dust wastes.
- 631 (b) A commercial nonhazardous solid waste disposal facility or incinerator subject to
- 632 the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii)
- 633 for those wastes described in Subsections (1)(a)(i) and (ii).
- 634 (c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall
- 635 pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.
- 636 (2) (a) Except as provided in Subsections (2)(b) and (5), a waste facility that is owned
- 637 by a political subdivision shall pay the following annual facility fee to the department by
- 638 January 15 of each year:
 - 639 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal
 - 640 waste each year;
 - 641 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of
 - 642 municipal waste each year;
 - 643 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of
 - 644 municipal waste each year;
 - 645 (iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of

646 municipal waste each year;

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

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

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

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

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

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

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

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

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

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

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

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

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

675 (i) \$1.25 per ton on:

676 (A) all nonhazardous solid waste; and

- 677 (B) waste described in Subsection (1)(a)(iii)(B);
678 (ii) 10 cents per ton on all construction and demolition waste; and
679 (iii) 5 cents per ton on all municipal waste or municipal incinerator ash.
680 (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee
681 required under Subsection (3)(b)(i).
682 (4) If a facility required to pay fees under this section receives nonhazardous solid
683 waste for treatment or disposal, and the fee required under this section is paid for that treatment
684 or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees
685 under this section.
686 (5) The owner or operator of a waste disposal facility that receives waste described in
687 Subsection (1)(a)(iii)(B) is not required to pay any fee on those wastes if received solely for the
688 purpose of recycling, reuse, or reprocessing.
689 (6) Except as provided in Subsection (2)(a), a facility required to pay fees under this
690 section shall:
691 (a) calculate the fees by multiplying the total tonnage of waste received during the
692 calendar month, computed to the first decimal place, by the required fee rate;
693 (b) pay the fees imposed by this section to the department by the 15th day of the month
694 following the month in which the fees accrued; and
695 (c) with the fees required under Subsection (6)(b), submit to the department, on a form
696 prescribed by the department, information that verifies the amount of waste received and the
697 fees that the owner or operator is required to pay.
698 (7) The department shall:
699 (a) deposit all fees received under this section into the Environmental Quality
700 Restricted Account created in Section [19-1-108](#); and
701 (b) in preparing its budget for the governor and the Legislature, separately indicate the
702 amount of the department's budget necessary to administer the solid and hazardous waste
703 program established by this part.
704 (8) The department may contract or agree with a county to assist in performing
705 nonhazardous solid waste management activities, including agreements for:
706 (a) the development of a solid waste management plan required under Section
707 [17-15-23](#); and

708 (b) pass-through of available funding.

709 (9) This section does not exempt any facility from applicable regulation under the

710 Atomic Energy Act, 42 U.S.C. [Sec.] Secs. 2014 and 2021 through 2114.

711 Section 11. Section **19-6-126** is enacted to read:

712 **19-6-126. Recycling centers.**

713 (1) A recycling center may not receive solid waste unless 70% or more of the received
714 solid waste stream may be reused or transformed or remanufactured into a usable form, which
715 usable form has a demonstrated or potential market value.

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

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

719 (b) on a monthly basis.

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

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

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

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