

UTAH CODE
(UNANNOTATED)

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF SOLID AND HAZARDOUS WASTE

**ENVIRONMENTAL QUALITY CODE - HAZARDOUS
SUBSTANCES**

PART 5
Solid Waste Management Act
(Title 19, Chapter 6, Part 5, Sections 501-507)
(Last Revised - 2008)



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Title 19 Chapter 6
ENVIRONMENTAL QUALITY CODE - HAZARDOUS
SUBSTANCES

PART 5
Solid Waste Management Act

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19-6-501. Short title.

This part is known as the "Solid Waste Management Act."

19-6-502. Definitions.

As used in this part:

- (1) "Governing body" means the governing board, commission, or council of a public entity.
- (2) "Jurisdiction" means the area within the incorporated limits of:
 - (a) a municipality;
 - (b) a special service district;
 - (c) a municipal-type service district;
 - (d) a service area; or
 - (e) the territorial area of a county not lying within a municipality.
- (3) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.
- (4) "Municipal residential waste" means solid waste that is:
 - (a) discarded or rejected at a residence within the public entity's jurisdiction; and
 - (b) collected at or near the residence by:
 - (i) a public entity; or
 - (ii) a person with whom the public entity has as an agreement to provide solid waste management.
- (5) "Public entity" means:
 - (a) a county;
 - (b) a municipality;
 - (c) a special service district under Title 17D, Chapter 1, Special Service District Act;
 - (d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or
 - (e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.
- (6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.
- (7) "Residence" means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.
- (8) "Resource recovery" means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.
- (9) "Short-term agreement" means a contract or agreement having a term of five years or less.
- (10) (a) "Solid waste" means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the time of discard or rejection, including:
 - (i) garbage;
 - (ii) refuse;
 - (iii) industrial and commercial waste;
 - (iv) sludge from an air or water control facility;
 - (v) rubbish;
 - (vi) ash;
 - (vii) contained gaseous material;
 - (viii) incinerator residue;

19-6-502.5. Solid waste management facility not a public utility.

A solid waste management facility is not a public utility as defined in Section 54-2-1.

19-6-503. Powers and duties of public entities.

- (1) Subject to the powers and rules of the department and except as provided by Section 19-6-507, a governing body of a public entity may:
 - (a) supervise and regulate the collection, transportation, and disposition of solid waste generated within its jurisdiction;
 - (b) provide a solid waste management facility to adequately handle solid waste generated or existing within or without its jurisdiction;
 - (c) assume, by agreement, responsibility for the collection and disposition of solid waste whether generated within or without its jurisdiction;
 - (d) enter into a short or long-term interlocal agreement to provide for or operate a solid waste management facility with:
 - (i) another public entity;
 - (ii) a public agency, as defined in Section 11-13-103;
 - (iii) a private person; or
 - (iv) a combination of persons listed in Subsections (1)(d)(i) through (iii);
 - (e) levy and collect a tax, fee, or charge or require a license as may be appropriate to discharge its responsibility for the acquisition, construction, operation, maintenance, and improvement of a solid waste management facility, including licensing a private collector operating within its jurisdiction;
 - (f) require that solid waste generated within its jurisdiction be delivered to a solid waste management facility;
 - (g) control the right to collect, transport, and dispose of solid waste generated within its jurisdiction;
 - (h) agree that, according to Section 19-6-505, the exclusive right to collect, transport, and dispose of solid waste within its jurisdiction may be assumed by:
 - (i) another public entity;
 - (ii) a private person; or
 - (iii) a combination of persons listed in Subsections (1)(h)(i) through (ii);
 - (i) accept and disburse funds derived from a federal or state grant, a private source, or moneys that may be appropriated by the Legislature for the acquisition, construction, ownership, operation, maintenance, and improvement of a solid waste management facility;
 - (j) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a solid waste management facility;
 - (k) establish one or more policies for the operation of a solid waste management facility, including:
 - (i) hours of operation;
 - (ii) character and kind of wastes accepted at a disposal site; and
 - (iii) another policy necessary for the safety of the operating personnel;

(l) sell or contract for the sale, according to a short or long-term agreement, of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste in a solid waste management facility, on terms in its best interest;

(m) pledge, assign, or otherwise convey as security for the payment of bonds, revenues and receipts derived from the sale or contract or from the operation and ownership of a solid waste management facility or an interest in it;

(n) issue a bond according to Title 11, Chapter 14, Local Government Bonding Act;

(o) issue industrial development revenue bonds according to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project consisting of a solid waste management facility on behalf of an entity that constitutes the users of a solid waste management facility project within the meaning of Section 11-17-2;

(p) agree to construct and operate or to provide for the construction and operation of a solid waste management facility project, which project manages the solid waste of a public entity or private person, according to one or more contracts and other arrangements provided for in a proceeding according to which a bond is issued; and

(q) issue a bond to pay the cost of establishing reserves to pay principal and interest on the bonds as provided for in the proceedings according to which the bonds are issued.

(2) The power to issue a bond under this section is in addition to the power to issue a bond under Title 11, Chapter 17, Utah Industrial Facilities and Development Act.

19-6-504. Assurance of sufficient revenue to pay bonds.

(1) If a public entity issues bonds to finance a solid waste management facility and the bonds mature more than ten years after the bonded facility begins operation, the public entity owning the facility or the public entity or entities contracting for solid waste management services with the owner of the facility shall assure that a supply of solid waste will be available to the facility in quantities sufficient to generate enough income, together with all other sources of revenue pledged for payment of the bonds, to pay all principal and interest on the bonds during the term of the bonded indebtedness. The assurance may take the form of:

(a) long-term contracts, at least equal to the period of the bonded indebtedness, with other public entities or other persons to supply enough solid waste to the facility to retire the bonded indebtedness of the facility; or

(b) ordinances, franchises, or other forms of regulation requiring that sufficient quantities of solid waste be delivered to the facility for disposal.

(2) The department shall make rules for periodic reporting by any public entity that establishes ordinances, franchises, or other forms of regulation pursuant to Subsection (1). The reports shall include information about the quantities of solid waste being received by the

facility and whether the charges made for processing the solid waste, together with all other sources of revenue pledged for the payment of principal and interest on the bonds, are sufficient to meet the debt-service on the bonds.

19-6-505. Long-term agreements for joint action -- Construction, acquisition, or sale of interest in management facilities -- Issuance of bonds.

(1) (a) Two or more public entities, which for the purposes of this section shall only include any political subdivision of the state, the state and its agencies, and the United States and its agencies, may enter into long-term agreements with one another pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and any one or more public entities may enter into long-term agreements with any private entity or entities for joint or cooperative action related to the acquisition, construction, ownership, operation, maintenance, and improvement of solid waste management facilities, regardless of whether the facilities are owned or leased by a public entity or entities, private entity or entities, or combination of them and pursuant to which solid waste of one or more public entities, any private entity or entities, or combination of them, are made available for solid waste management pursuant to the terms, conditions, and consideration provided in the agreement.

(b) Any payments made by a public entity for services received under the agreement are not an indebtedness of the public entity within the meaning of any constitutional or statutory restriction, and no election is necessary for the authorization of the agreement.

(c) Any public entity or any public entity in combination with a private entity agreeing to make solid waste management facilities available may, in the agreement, agree to make available to other public entities a specified portion of the capacity of the solid waste management facilities, without regard to its future need of the specified capacity for its own use and may in the agreement agree to increase the capacity of its solid waste management facilities from time to time, as necessary, in order to take care of its own needs and to perform its obligations to the other parties to the agreement.

(2) (a) Two or more public entities or any one or more public entities together with any private entity or entities may construct or otherwise acquire joint interests in solid waste management facilities, or any part of them, for their common use, or may sell to any other public or private entity or entities a partial interest or interests in its solid waste management facility.

(b) Any public entity otherwise qualifying under Title 11, Chapter 14, Local Government Bonding Act or Title 11, Chapter 17, Utah Industrial Facilities and Development Act may issue its bonds pursuant to these acts for the purpose of acquiring a joint interest in solid waste management facilities, or any part thereof, whether the joint interest is to be acquired through construction of new facilities or the purchase of an interest in existing facilities.

19-6-506. Schedule of fees -- Classification of property -- Collection of delinquent fees.

(1) (a) The governing body of any public entity may by ordinance or resolution establish a schedule of fees to be imposed and assessed on property within its jurisdiction the revenue from which shall be used for solid waste purposes.

(b) In establishing a schedule of fees, the governing body shall classify the property within its jurisdiction based upon the character and volume of waste occurring from the various property uses subject to this part.

(c) If the governing body makes solid waste facilities available to a public entity as provided in Section 19-6-505, it shall charge a fee to that public entity, calculated in the same way as fees assessed on property within the jurisdiction of the governing body.

(2) (a) The governing body may impose, assess, and collect a reasonable fee for each classification of property established and divide the property within its jurisdiction according to the classifications.

(b) It may also establish classifications of property for which services may be provided for no fee or a reduced fee and determine the eligibility requirements for inclusion in the classifications upon application by property owners on a case-by-case basis.

(c) The governing body shall impose and assess the appropriate fee established for each classification and division of property by ordinance or resolution, and provide therein for the billing and collection of the fees on an annual or more frequent basis as it shall determine to be necessary or appropriate.

(d) The ordinance or resolution may provide that the fees imposed and assessed may be billed and collected by the county treasurer as a part of the regular, ad valorem property tax notice, billing, and collection system of the county, if it is feasible to do so, unless the public entity imposing and assessing the fees has an existing service or utility billing and collection system which can be used for this purpose.

(3) County treasurers may include the fees certified to them pursuant to this part on the general, ad valorem tax notice and collect and remit the fees in the manner and as a part of the tax collection system including the collection of delinquent fees in the manner provided by law for tax delinquencies.

(4) Any governing body which uses the general property tax billing and collection system of a county to bill and collect the fees imposed and assessed under this part shall reimburse the county for the actual costs thereof annually, which costs include the materials, equipment, and supplies used and the labor involved plus a factor added for overhead and general and administrative expenses.

19-6-507. Flow control for solid waste prohibited -- Exceptions.

(1) Except as provided in Subsection (2), a public entity may not require solid waste discarded or rejected within the public entity's jurisdiction to be stored, recovered, or disposed of at a solid waste management facility owned or operated by a public entity.

(2) A public entity may require solid waste discarded or rejected within the public entity's jurisdiction

to be stored, recovered, or disposed of at a solid waste management facility owned or operated by a public entity if:

(a) the solid waste is municipal residential waste;
(b) no more than one landfill that may take the solid waste exists within:

(i) the public entity's jurisdiction; and
(ii) 125 miles outside the public entity's jurisdiction, as measured from the landfill's primary entrance by following the shortest route of ordinary travel by motor vehicle; or

(c) the solid waste management facility owned or operated by the public entity receives less than 75 tons of solid waste per day.

(3) A requirement described in Subsection (1) that is:

(a) in effect on January 1, 2008 is void as of January 1, 2013; and

(b) adopted on or after January 2, 2008 and in effect on May 4, 2008 is void as of May 5, 2008.

(4) A person engaged in solid waste management that is aggrieved by a violation of this section may seek judicial review of the violation in a court of competent jurisdiction.