

ARTICLE 20
INTEGRATED SOLID WASTE MANAGEMEN

13-2001.	Act, how cited.	
13-2002.	Legislative findings and declarations.	
13-2003.	Definitions, where found.	
13-2004.	Agency, defined.	
13-2005.	Council, defined.	
13-2006.	County, defined.	
13-2007.	County solid waste jurisdiction area, defined.	
13-2008.	Department, defined.	
13-2009.	Director, defined.	
13-2010.	Facility, defined.	
13-2011.	Integrated solid waste management, defined.	
13-2012.	Municipal solid waste jurisdiction area, defined.	
13-2013.	Municipality, defined.	
13-2014.	Solid waste, defined.	
13-2015.	Solid waste management plan, defined.	
13-2016.	System, defined.	
13-2017.	Yard waste, defined.	
13-2018.	Policy of the state.	
13-2019.	Solid waste management hierarchy; established; cooperat- fished.	fram, estab-
13-2020.	Tribal governments; assume responsibility for integrated agreement department duties.	waste man-
13-2021.	County, municipality, or agency; provide or contract for waste; joint ownership of facility; governing body; powe and charges.	sal of solid futures; rates
13-2022.	County, municipality, or agency; facility or system; power end and limited referendum provisions; applicability County, municipality, or agency; closure of facility; po investigative and corrective action; powers and duties funds.	utes; refer- e care, and pecial trust
13-2023.	County, municipality, or agency; regulations authorize compliance fee.	itions; non-
13-2024.	County or municipality; service agreement with agency; sions; special tax authorized.	ized provi-
13-2025.	County, municipality, or agency; service agreement; amount.	id charges;
13-2025.01.	Joint entity or agency; reporting of budget filing require Municipalities, counties, and agencies; regulate solid wa when.	angement;
13-2027.	Municipalities, counties, and agencies; regulation of cor trust; exemption.	n and ant-
13-2028.	Exemption limitation.	
13-2029.	Counties and municipalities; statement of intent; filings; fi Counties and municipalities; certification of facility and s ing required; department approval; restrict access to fac when.); file; affect agency; fil- nd systems,
13-2030.	Counties and municipalities; statement of intent; filings; fi Counties and municipalities; certification of facility and s ing required; department approval; restrict access to fac when.); file; affect agency; fil- nd systems,
13-2031.	Integrated solid waste management plan; filing; approva Integrated solid waste management plan; minimum re reduction and recycling program; priorities; updated pla Dumping or depositing solid waste; permit; council; p exemptions; extension of deadline.	ents; waste and duties;
13-2032.	Integrated solid waste management plan; filing; approva Integrated solid waste management plan; minimum re reduction and recycling program; priorities; updated pla Dumping or depositing solid waste; permit; council; p exemptions; extension of deadline.	ents; waste and duties;
13-2033.	Integrated solid waste management plan; filing; approva Integrated solid waste management plan; minimum re reduction and recycling program; priorities; updated pla Dumping or depositing solid waste; permit; council; p exemptions; extension of deadline.	ents; waste and duties;
13-2034.	Rules and regulations.	

INTEGRATED SOLID WASTE MANAGEMENT § 13-2002

13-2035.	Applicant for facility permit; exemption from siting approval requirements; when; application; contents.	
13-2036.	Applications for permits; contents; department powers and duties; con- tested cases; variance.	
13-2037.	Comprehensive state plan for solid waste management; department duties; rules and regulations; requirements; approval of state plan.	
13-2038.	Definition of certain solid wastes; council; adopt rules and regulations.	
13-2039.	Land disposal of certain solid wastes; prohibited; when; exceptions.	
13-2040.	Licenses issued under prior law; department review; expiration; permits issued under act; expiration.	
13-2041.	Integrated Solid Waste Management Cash Fund; created; use; investment; application fee schedule; council; establish; permit holder; annual fee.	
13-2042.	Landfill disposal fee; payment; exemptions; interest; use; grants; council; duties.	
13-2042.01.	Landfill disposal fee; rebate to municipality or county; application; Depart- ment of Environmental Quality; material division of Department of Admin- istrative Services; municipality; county; duties; suspension or denial of rebate; appeal rules and regulations.	
13-2043.	Construction of act.	
13-2001.	Act, how cited. Sections 13-2001 to 13-2043 shall be known and may be cited as the Integrated Solid Waste Management Act Source: Laws 1992, LB 1207, § 1; Laws 1994, LB 1207, § 1.	
13-2002.	Legislative findings and declarations. The Legislature hereby finds and declares that: (1) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addi- tion, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades; if not centuries, without decon- position. (2) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the envi- ronment and to the public health and welfare; (3) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination has caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost. (4) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public. (5) Local governments are currently authorized to provide solid waste management services. As a group, counties and municipalities are best posi- tioned to develop efficient solid waste management programs. (6) An assignment of responsibility for integrated solid waste manage- ment should not prohibit governmental entities from procuring services from other units of governments or from private persons. It is the intent of the Legislature that natural resources districts, interlocal cooperative enti- ties, tribal governments, and other statutory and voluntary regional organi-	

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§ 13-2003 CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

zations be encouraged to cooperatively provide financing or services to governmental entities responsible for solid waste management; and

(7) A variety of benefits results from a policy of integrated solid waste management, including the following environmental, economic, governmental, and public benefits:

(a) Not producing waste in the first instance is the most certain means for avoiding the widely recognized health and environmental damage associated with waste. Although waste reduction will never eliminate all wastes, to the extent that waste reduction is achieved it results in the most certain form of direct risk reduction;

(b) The government is better able to administer programs which offer a variety of benefits to industry and which reduce the overall cost of government involvement than to administer programs which offer few benefits to industry and require increasingly extensive, complex, and costly governmental actions; and

(c) Public confidence in environmental policies of the government is important for the effectiveness of these policies. Waste reduction and recycling pose no adverse environmental and public health effects and do not therefore lead to increased public concern. Waste reduction and recycling also increase the public confidence that government and industry are doing all that is possible to protect the environment and the public health and welfare.

Source: Laws 1992, LB 1257, § 2.

13-2003. Definitions, where found. For purposes of the Integrated Solid Waste Management Act, the definitions found in sections 13-2004 to 13-2016.01 shall be used.

Source: Laws 1992, LB 1257, § 3; Laws 1994, LB 1207, § 4.

13-2004. Agency, defined. Agency shall mean any combination of two or more municipalities or counties acting together under the Interlocal Cooperation Act, a natural resources district acting alone or together with one or more counties and municipalities under the act, or any joint entity as defined in section 13-803.

Source: Laws 1992, LB 1257, § 4.

Interlocal Cooperation Act, see section 13-801. **Cross Reference**

13-2005. Council, defined. Council shall mean the Environmental Quality Council.

Source: Laws 1992, LB 1257, § 5.

13-2006. County, defined. County shall mean any county in the State of Nebraska.

Source: Laws 1992, LB 1257, § 6.

13-2007. County solid waste jurisdiction area, defined. County solid waste jurisdiction area shall mean all areas of a county not located within the corporate limits of a municipality except a facility which does not serve unincorporated areas of the county.

Source: Laws 1992, LB 1257, § 7.

INTEGRATED SOLID WASTE MANAGEMENT § 13-2017

13-2008. Department, defined. Department shall mean the Department of Environmental Quality.

Source: Laws 1992, LB 1257, § 8.

13-2009. Director, defined. Director shall mean the Director of Environmental Quality.

Source: Laws 1992, LB 1257, § 9.

13-2010. Facility, defined. Facility shall mean any site owned and operated or utilized by any person for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste and shall include a solid waste landfill.

Source: Laws 1992, LB 1257, § 10.

13-2011. Integrated solid waste management, defined. Integrated solid waste management shall mean solid waste management which is focused on planned development of programs and facilities that reduce waste toxicity and volume, recycle marketable materials, and provide for safe disposal of residuals.

Source: Laws 1992, LB 1257, § 11.

13-2012. Municipal solid waste jurisdiction area, defined. Municipal solid waste jurisdiction area shall mean all the incorporated areas of a city or of a village.

Source: Laws 1992, LB 1257, § 12.

13-2013. Municipality, defined. Municipality shall mean any city or village incorporated under the laws of this state.

Source: Laws 1992, LB 1257, § 13.

13-2014. Solid waste, defined. Solid waste shall have the definition found in section 81-1502.

Source: Laws 1992, LB 1257, § 14.

13-2015. Solid waste management plan, defined. Solid waste management plan shall mean a plan adopted by a county or municipality, including a joint plan adopted by an agency, for integrated solid waste management.

Source: Laws 1992, LB 1257, § 15.

13-2016. System, defined. System shall mean any equipment, vehicles, facilities, personnel, or contractors utilized for the purpose of collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste.

Source: Laws 1992, LB 1257, § 16.

13-2016.01. Yard waste, defined. Yard waste shall mean grass and leaves.

Source: Laws 1994, LB 1207, § 5.

13-2017. Policy of the state. It is the policy of this state:

(1) To encourage the development of integrated solid waste management programs, including waste volume reduction and recycling programs and

education, at the local governmental level through incentives, technical assistance, grants, and other practical measures;

(2) To support and encourage the development of new uses and markets for recycled goods, placing emphasis on the development in Nebraska of businesses relating to waste reduction and recycling;

(3) To provide education concerning the components of integrated solid waste management, at the elementary level through the high school level and through community organizations, to enhance the success of local programs requiring public involvement; and

(4) To support and encourage manufacturing methods which are environmentally sustainable, technologically safe, and ecologically sound and which enhance waste reduction by creating products which have longer usage life and which are adaptable to secondary uses, require less input material, and decrease resource consumption.

Source: Laws 1992, LB 1257, § 17.

13-2018. Solid waste management hierarchy; established; cooperative program; established. (1) An effective and efficient program of integrated solid waste management protects the environment and the public and provides the most practical and beneficial use of the solid waste material. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following solid waste management hierarchy, in descending order of preference, is established as the integrated solid waste management policy of the state:

- (a) Volume reduction at the source;
- (b) Recycling, reuse, and vegetative waste composting;
- (c) Land disposal;
- (d) Incineration with energy resource recovery; and
- (e) Incineration for volume reduction.

(2) In the implementation of the integrated solid waste management policy, the state shall establish and maintain a cooperative state and local program of project planning and technical assistance to encourage integrated solid waste management.

Source: Laws 1992, LB 1257, § 18.

13-2019. Tribal governments; assume responsibility for integrated solid waste management; department; duties. Because of the rights of both tribal sovereignty and Nebraska citizenship of individuals under the jurisdiction of federally recognized tribal governments, such tribal governments are recognized as localities which can assume responsibility for integrated solid waste management. The department shall present the state's comprehensive solid waste management plan completed pursuant to section 81-15.166 to the federally recognized tribal governments in Nebraska and encourage such tribes to adopt the state's laws, rules, regulations, and standards for integrated solid waste management.

Source: Laws 1992, LB 1257, § 19.

13-2020. County, municipality, or agency; provide or contract for disposal of solid waste; joint ownership of facility; governing body; powers and duties; rates and charges. (1) Effective October 1, 1993, each county and municipality shall provide or contract for facilities and systems as necessary for the safe and sanitary disposal of solid waste generated within its solid waste jurisdiction area. Such disposal shall comply with rules and regulations adopted and promulgated by the council for integrated solid waste management programs.

(2) A county, municipality, or agency may jointly own, operate, or own and operate with any person any facility or system and may enter into cooperative agreements as necessary and appropriate for the ownership, operation, or ownership and operation of any facility or system.

(3) A county, municipality, or agency may, either alone or in combination with any other county, municipality, or agency, contract with any person to provide any service, facility, or system required by the Integrated Solid Waste Management Act.

(4) The governing body of a county, municipality, or agency may make all necessary rules and regulations governing the use, operation, and control of a facility or system. Such governing body may establish just and equitable rates or charges to be paid to it for the use of such facility or system by each person whose premises are served by the facility or system, including charges for late payments, except that no city of the metropolitan class shall impose any rate or charge upon individual residences unless a majority of those voting in a regular or special election vote affirmatively to approve or authorize establishment of such a rate or charge. If the service charge so established is not paid when due, such sum may be recovered by the county, municipality, or agency in a civil action or, following notice by regular United States mail to the last-known address of the property owner of record and an opportunity for a hearing, may be certified by the governing body of the county, municipality, or agency to the county treasurer and assessed against the premises served and collected or returned in the same manner as other taxes are certified, assessed, collected, and returned.

(5) If the county, municipality, or agency enters into a contract with a person to provide a facility or system, such contract may authorize the person to charge the owners of premises served such a service rate therefor as the governing body determines to be just and reasonable or the county, municipality, or agency may pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract or assess the owners of the premises served a reasonable charge therefor to be collected as provided in this section and paid into a fund to be used to defray such contract charges.

Source: Laws 1992, LB 1257, § 20.

13-2021. County, municipality, or agency; facility or system; powers and duties; referendum and limited referendum provisions; applicability. A county, municipality, or agency may purchase, plan, develop, construct, equip, maintain, and improve facilities and systems and may lease or acquire land in fee by gift, grant, purchase, or condemnation as necessary for the construction and operation of a facility or system. A county, municipality, or

agency may also make and enter into contracts with any person for the planning, development, construction, maintenance, or operation of such facility or system or any part thereof. Measures adopted or enacted by municipalities with respect to any facility or system shall constitute measures subject to limited referendum under subsection (2) of section 18-2528, and a municipality shall be authorized to exempt all subsequent measures relating to the same project from referendum and limited referendum as provided under subsection (4) of such section.

Source: Laws 1992, LB 1257, § 21.

13-2022. County, municipality, or agency; closure of facility, post-closure care, and investigative and corrective action; powers and duties; tax special trust funds. A county, municipality, or agency shall close a facility, provide postclosure care, and undertake investigative and corrective action in accordance with rules and regulations adopted by the council. The costs associated with or reasonably anticipated for such closure, postclosure care, and investigative and corrective action may be included within the rates and charges authorized by section 13-2020 and within the amounts payable under service agreements adopted pursuant to section 13-2024.

Every county, municipality, and agency may approve, execute, and deliver contractual agreements to assume financial responsibility for the payment of costs of closure, postclosure care, or investigative or corrective action with respect to any facility. Such agreements may provide for a binding general obligation of such county, municipality, or agency obligating payments in future years.

For the payment or performance of the terms of any such agreement, any county or municipality may agree to levy or cause to be levied an annual tax upon the taxable property within such county or municipality in an amount sufficient for such purposes. Any such tax shall for all purposes of Nebraska law, including limitations upon budget, revenue, and expenditures of public funds, have the same status as a tax levied for the purpose of paying the bonded indebtedness of such county or municipality.

Every county, municipality, and agency may also approve, execute, and deliver one or more trust agreements, with any bank having trust powers or a trust company, providing for the creation of one or more special trust funds to provide for the payment of costs of closure, postclosure care, or investigative or corrective action.

No county, municipality, or agency shall be required to provide proof of financial responsibility to obtain or renew a permit for a facility which is not used for disposal of solid waste.

Source: Laws 1992, LB 1257, § 22; Laws 1994, LB 1207, § 6.

13-2023. County, municipality, or agency; regulations authorized; limitations; noncompliance fee. A county, municipality, or agency may, by ordinance or resolution, adopt regulations governing collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste within its solid waste jurisdiction area as necessary to protect the public health and welfare and the environment. Regulations authorized by this section shall be equal to or more stringent than the provisions of the

Integrated Solid Waste Management Act and rules and regulations adopted and promulgated by the council as authorized by the act. Any person who violates any such regulation shall be subject to a noncompliance fee not to exceed five hundred dollars.

Source: Laws 1992, LB 1257, § 23.

13-2024. County or municipality; service agreement with agency; authorized provisions; special tax authorized. Notwithstanding any other provision of Nebraska law, any county or municipality may enter into a service agreement with an agency which owns and operates or proposes to own and operate any solid waste management facility or system for obtaining solid waste management services from such agency. Any such service agreement may provide for the following:

- (1) The payment of fixed or variable periodic amounts for service or the right to obtain service;
- (2) That such service agreement may extend for a term of years as determined by the governing body of the county or municipality and be binding upon such county or municipality over such term of years;
- (3) That variable or fixed amounts payable under such contracts may be determined based upon one or more of the following factors:

- (a) Operating and maintenance expenses of the agency, including contract renewal and replacement for plant and equipment;
- (b) Amounts payable by the agency with respect to debt service on its bonds or other obligations, including margins of coverage if deemed appropriate; and
- (c) Amounts necessary for the agency to build or maintain operating reserves, capital reserves, and debt-service reserves;

(4) That any such service agreement may require payment to be made in the agreed fixed or variable amounts irrespective of whether such facility or system is completed or operational and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the services of such facility or system; and

(5) Such other provisions as the agency and county or municipality deem appropriate in connection with providing and obtaining solid waste management services.

In order to provide for the payments due under any such service agreement, any county or municipality may pledge the revenue received from any and all rates and charges received or to be received from provision of solid waste management services or from contracts with any other persons or entities, private or public, and may further provide, if determined appropriate by the governing body, that any deficiency in such revenue may be made up from a special tax levied for such purpose upon all taxable property within such county or municipality, which special tax shall for all purposes of Nebraska law, including limitations upon budget, revenue, and expenditures of public funds, have the same status as a tax levied for the purpose of paying the bonded indebtedness of such county or municipality.

Source: Laws 1992, LB 1257, § 24.

13-2025. County, municipality, or agency; service agreement; fees and charges; amount. Any county, municipality, or agency entering into any service agreement under section 13-2024 shall fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities furnished to its customers and users by and through its system as will be sufficient to:

- (1) Pay (a) the cost of operating and maintaining the system and renewals or replacements thereto, including all amounts due and payable under such service agreement, and (b) the interest on and principal of any outstanding bonds or other indebtedness of the county, municipality, or agency relative to the service agreement, whether at maturity or upon sinking-fund redemption, which are payable from the revenue of its system; and
- (2) Provide, as may be required by any resolution, ordinance, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for such operating and maintenance expenses and for any margins or coverages over and above debt service.

Source: Laws 1992, LB 1257, § 25.

13-2025.01. Joint entity or agency; reporting of budget; filing required. Any joint entity or agency created to fulfill the purposes of the Integrated Solid Waste Management Act pursuant to the Interlocal Cooperation Act shall comply with the Municipal Proprietary Function Act for purposes of reporting its budgets. Proprietary budget statements for the joint entity or agency shall be placed on file with the office of the municipal clerk of each member which is a municipality as required by the Municipal Proprietary Function Act and with the county clerk of each member which is a county.

Source: Laws 1994, LB 1267, § 2.

Cross References

Interlocal Cooperation Act, see section 13-801.

Municipal Proprietary Function Act, see section 18-2801.

13-2026. Municipalities, counties, and agencies; regulate solid waste management; when. In furtherance of the policy of the state as set forth in the Integrated Solid Waste Management Act, municipalities, counties, and agencies may by ordinance or resolution adopt rules and regulations or may adopt bylaws or enter into written agreements between and among themselves or other persons which regulate and govern solid waste management within their solid waste jurisdiction areas, including the establishment of conditions to assure that a specified amount and type of solid waste will be delivered to a specific facility.

Source: Laws 1984, LB 911, § 2, R.S. 1943, (1987), § 81-1572; Laws 1992, LB 1257, § 26.

13-2027. Municipalities, counties, and agencies; regulation of competition and antitrust exemption. In exercising the powers granted in the Integrated Solid Waste Management Act, municipalities, counties, and agencies shall be exempt from all rules and regulations of state regulatory competition. It is intended that municipalities, counties, or agencies carrying out the activities described in the act receive full exemption and immunity from state and federal antitrust laws in light of the public purpose and regulatory provisions provided by the act. The exemption granted pursuant to this

section shall not be construed to diminish any other exemption for similar activities authorized through grants of authority to other public bodies even though such exemption may not be stated in terms of antitrust.

Source: Laws 1984, LB 911, § 3, R.S. 1943, (1987), § 81-1573; Laws 1992, LB 1257, § 27.

13-2028. Exemption; limitation. The exemption granted under section 13-2027 shall not constitute a waiver of or exemption from the bidding provisions of sections 16-321 and 17-568.01 or any other similar provision.

Source: Laws 1984, LB 911, § 4, R.S. 1943, (1987), § 81-1574; Laws 1992, LB 1257, § 28.

13-2029. Counties and municipalities; statement of intent; filings; failure to file; effect. On or before October 1, 1992, each county and municipality shall file a statement of intent with the department describing the way in which it intends to fulfill its responsibility for integrated solid waste management. If a municipality or county intends to enter into a cooperative relationship with another entity to fulfill such responsibility, documentation of the reciprocal intent of those entities shall be included with the statement. If no statement of intent is filed by a municipality or county, the responsibility for integrated solid waste management shall remain with the nonfiling county or municipality.

Source: Laws 1992, LB 1257, § 29.

13-2030. Counties and municipalities; certification of facility and system capacity; filing required; department approval, restricted access to facilities and systems; when. On or before October 1, 1993, a certification shall be filed with the department on behalf of each county and municipality with respect to (1) facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area and (2) facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste. Such certification shall be approved by the department if it is found to be in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Source: Laws 1992, LB 1257, § 30.

13-2031. Integrated solid waste management plan; filing; approval. On or before October 1, 1994, an integrated solid waste management plan shall be filed with the department on behalf of each county and municipality. Such plan shall be approved by the department if it is found to be in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Source: Laws 1992, LB 1257, § 31.

13-2032. Integrated solid waste management plan; minimum requirements; waste reduction and recycling program; priorities; updated plan. (1) Each integrated solid waste management plan filed pursuant to section 13-2031 shall at a minimum:

(a) Certify facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area for the twenty years following October 1, 1994;

(b) Certify facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area for the twenty years following October 1, 1994. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste;

(c) Incorporate and reflect the waste management hierarchy of the state integrated solid waste management policy;

(d) State the extent to which solid waste generated within the area covered by the plan is or can be recycled;

(e) State the economic and technical feasibility of using other existing disposal facilities in lieu of initiating new disposal facilities or of continuing the use of disposal facilities in use at the time the plan is filed;

(f) State the expected environmental impact of alternative solid waste disposal methods, including the use of landfills;

(g) State a specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact; and

(h) State such additional information, data, and studies as may be required pursuant to rules and regulations adopted by the council.

(2) The integrated solid waste management plan shall provide for a local waste reduction and recycling program. If technically and economically feasible, the volume of materials disposed of in landfills as of July 1, 1994, shall be reduced by twenty-five percent as of July 1, 1996, by forty percent as of July 1, 1999, and by fifty percent as of July 1, 2002. Any county, municipality, or agency which had in effect a recycling or waste reduction program prior to July 1, 1994, shall be credited with the waste-stream reduction achieved prior to July 1, 1994, with respect to the July 1, 1996, goal. The following wastes shall be given first priority when developing reduction and recycling programs and related timetables in relation to an integrated solid waste management plan:

- (a) Yard wastes;
 - (b) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act;
 - (c) Discarded tires;
 - (d) Waste oil;
 - (e) Lead-acid batteries; and
 - (f) Discarded household appliances.
- In addition, such plan shall provide a methodology for implementing a program of separation of wastes, including, but not limited to, glass, plastic, paper, and metal.

(3) The solid waste management plan shall be updated for compliance with federal and state laws and regulations as required by the department

and may be updated, subject to approval by the department, at any time to reflect local needs and conditions.

Source: Laws 1992, LB 1257, § 32.

Code Reference
Environmental Protection Act, see section 81-1532.

13-2033. Dumping or depositing solid waste; permit; council; powers and duties; exemptions; extension of deadline. (1) Except as provided in subsections (2) and (3) of this section, after October 1, 1993, no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility. The council may adopt and promulgate rules and regulations regarding the permitting of this activity, which rules and regulations shall protect the public interest but may be based upon criteria less stringent than those regulating a landfill. The council may adopt and promulgate rules and regulations exempting from permit requirements under this section (a) the use of dirt, stone, brick, or some inorganic compound for landfill, landscaping excavation, or grading purposes, (b) the placement of tires, posts, or ferrous objects, not contaminated with other wastes, for bank or blowout stabilization, or (c) such other waste placement or depositing activities that are found not to pose a threat to the public health or welfare.

(2) No person shall be found to be in violation of this section if (a) the solid waste generated by an individual is disposed of on such individual's property, (b) such property is outside the corporate limits of a municipality, and (c) the department determines that the county has not provided integrated solid waste management facilities for its residents.

(3) Any person, county, municipality, or agency may apply to the department for an extension of the deadline contained in subsection (1) of this section. The department shall determine whether or not to grant such extension based upon the good faith efforts of the person, county, municipality, or agency to comply with the Integrated Solid Waste Management Act.

Source: Laws 1992, LB 1257, § 33.

13-2034. Rules and regulations. The council shall adopt and promulgate rules and regulations which shall include the following:

- (1) A permit program for facilities providing for permits to be issued to owners and operators;
- (2) Requirements for the collection, source separation, storage, transportation, transfer, processing, recycling, resource recovery, treatment, and disposal of solid wastes as well as developmental and operational plans for facilities. Regulations concerning operations may include waste characterization, composition, and source identification, site improvements, air and methane gas monitoring, ground water and surface water monitoring, daily cover, insect and rodent control, salvage operations, waste tire disposal, safety and restricted access, inspection of loads and any other necessary inspection or verification requirements, reporting of monitoring analysis, record-keeping requirements and other reporting requirements, handling and disposal of wastes with special characteristics, and any other operational