

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 406

BY CHEW

AN ACT

1 RELATING TO SOLID WASTE DISPOSAL; AMENDING SECTION 39-7403, IDAHO CODE,  
2 TO PROVIDE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND AMEND-  
3 ING CHAPTER 74, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
4 39-7422, IDAHO CODE, TO PROVIDE AN ORDER OF PRIORITY FOR ORGANIC WASTE,  
5 TO DEFINE TERMS AND TO PROVIDE FOR PLANS.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 39-7403, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 39-7403. DEFINITIONS. As used in this chapter:

11 (1) "Active portion" means that part of a facility or unit that has re-  
12 ceived or is receiving wastes and that has not been closed in accordance with  
13 40 CFR 258.60.

14 (2) "Agricultural wastes" means wastes generated on farms resulting  
15 from the production of agricultural products including, but not limited  
16 to, manures and carcasses of dead animals weighing each or collectively in  
17 excess of fifteen (15) pounds but ~~de~~ does not include wastes that are clas-  
18 sified as hazardous.

19 (3) "Applicant" means the owner or the operator with the owner's writ-  
20 ten consent.

21 (4) "Aquifer" means a geological formation, group of formations, or a  
22 portion of a formation capable of yielding significant quantities of ground  
23 water to wells or springs.

24 (5) "Board" means the Idaho board of environmental quality.

25 (6) "Buffer zone" means that part of a facility that lies between the  
26 active portion and the property boundary.

27 (7) "Clean soils and clean dredge spoils" means soils and dredge spoils  
28 ~~which~~ that are not hazardous wastes or problem wastes as defined in this sec-  
29 tion.

30 (8) "Commercial solid waste" means all types of solid waste generated  
31 by stores, offices, restaurants, warehouses and other nonmanufacturing ac-  
32 tivities, excluding residential and industrial wastes.

33 (9) "Commercial solid waste facility" means a facility owned and oper-  
34 ated as an enterprise conducted with the intent of making a profit by any in-  
35 dividual, association, firm, or partnership for the disposal of solid waste,  
36 but excludes a facility owned or operated by a political subdivision, state  
37 or federal agency, municipality or a facility owned or operated by any in-  
38 dividual, association, firm or partnership exclusively for the disposal of  
39 solid waste generated by such individual, association, firm or partnership.

40 (10) "Construction/demolition waste" means the waste building materi-  
41 als, packaging and rubble resulting from construction, remodeling, repair  
42 and demolition operations on pavements, houses, commercial buildings and

1 other structures. Such waste includes, but is not limited to, bricks, con-  
 2 crete, other masonry materials, soil, rock, lumber, road spoils, rebar,  
 3 paving materials and tree stumps. Noninert wastes and asbestos wastes are  
 4 not considered to be demolition waste for the purposes of this chapter.

5 (11) "Contaminate" means to allow discharge of a substance from a land-  
 6 fill that would cause:

7 (a) The concentration of that substance in the ground water to exceed  
 8 the maximum contamination level (MCL) specified in 40 CFR 258.40, Idaho  
 9 drinking water standards; ~~or~~

10 (b) A statistically significant increase in the concentration of that  
 11 substance in the ground water where the existing concentration of that  
 12 substance exceeds the maximum contamination level specified in para-  
 13 graph (a) of this subsection; or

14 (c) A statistically significant increase above background in the con-  
 15 centration of a substance which:

16 (i) ~~is~~ is not specified in paragraph (a) of this subsection; and

17 (ii) ~~is~~ is a result of the disposal of solid waste; and

18 (iii) ~~has~~ has been determined by the department to present a substan-  
 19 tial risk to human health or the environment in the concentrations  
 20 found at the point of compliance.

21 (12) "County" means any county in the state of Idaho.

22 (13) "Cover material" means soil or other suitable material that is used  
 23 to protect the active portion of the MSWLF unit.

24 (14) "Director" means the director of the Idaho department of environ-  
 25 mental quality.

26 (15) "Existing MSWLF unit" means any municipal solid waste landfill  
 27 unit that is receiving solid waste as of the applicable date specified in 40  
 28 CFR 258.1(e).

29 (16) "Facility" means all contiguous land and structures, buffer zones,  
 30 and other appurtenances and improvements on the land used for the disposal of  
 31 solid waste.

32 (17) "Floodplain" means the area encompassed by the one hundred (100)  
 33 year flood as defined by applicable federal emergency management agency  
 34 (FEMA) flood insurance maps or, if no map exists, then as defined in 40 CFR  
 35 258.11.

36 (18) "Ground water" means water below the land surface in a zone of satu-  
 37 ration.

38 (19) "Health district" means one (1) of the seven (7) district health  
 39 departments of the state of Idaho.

40 (20) "Holocene fault" means a fault characterized as a fracture or a  
 41 zone of fractures in any material along which strata on one (1) side have been  
 42 displaced with respect to that on the other side and holocene being the most  
 43 recent epoch of the quaternary period, extending from the end of the pleis-  
 44 tocene epoch to the present.

45 (21) "Household waste" means any solid waste, including garbage, trash  
 46 and sanitary waste in septic tanks, derived from households, including  
 47 single and multiple residences, hotels and motels, bunkhouses, ranger sta-  
 48 tions, crew quarters, campgrounds, picnic grounds and day use recreation  
 49 areas.

1 (22) "Industrial solid waste" means solid waste generated by manufac-  
2 turing or industrial processes that is not a hazardous waste regulated under  
3 subtitle C of RCRA. Such waste may include, but is not limited to, waste  
4 resulting from the following manufacturing processes: electric power gen-  
5 eration; fertilizer and agricultural chemicals; food and related products  
6 and by-products; inorganic chemicals; iron and steel manufacturing; leather  
7 and leather products; nonferrous metals manufacturing/foundries; organic  
8 chemicals; plastics and resins manufacturing; pulp and paper industry;  
9 rubber and miscellaneous plastic products; stone, glass, clay and con-  
10 crete products; textile manufacturing; transportation equipment; and water  
11 treatment. This term does not include mining waste or oil and gas waste.

12 (23) "Inert wastes" means noncombustible, nonhazardous, nonputresci-  
13 ble, nonleaching solid wastes that are likely to retain their physical and  
14 chemical structure under expected conditions of disposal, including resis-  
15 tance to biological attack.

16 (24) "Landfill" means an area of land or an excavation in which wastes  
17 are placed for permanent disposal, and that is not a land application unit,  
18 surface impoundment, injection well or waste pile.

19 (25) "Landspreading disposal facility" or "land application unit"  
20 means a facility that applies sludges or other solid wastes onto or in-  
21 corporates solid waste into the soil surface, excluding manure-spreading  
22 operations, at greater than agronomic rates and soil conditioners and immo-  
23 bilization rates.

24 (26) "Lateral expansion" means a horizontal expansion of the waste  
25 boundaries of an existing MSWLF unit.

26 (27) "Leachate" means a liquid that has passed through or emerged from  
27 solid waste and contains soluble, suspended or miscible materials removed  
28 from such waste.

29 (28) "Limited purpose landfill" means a landfill that receives solid  
30 waste of limited type with known and consistent composition other than wood  
31 wastes, municipal solid waste, inert waste and construction/demolition  
32 waste.

33 (29) "Liquid waste" is as defined in 40 CFR 258.28(c) (1).

34 (30) "Monofill" means a landfill which contains a specific waste whose  
35 waste stream characteristics remain unchanged over time and may include spe-  
36 cial wastes, problem wastes or other consistent characteristic wastes but ~~do~~  
37 does not include wastes regulated under any other applicable regulations.

38 (31) "Municipal solid waste landfill unit" (MSWLF)" means a discrete  
39 area of land or an excavation that receives household waste, and that is not a  
40 land application unit, surface impoundment, injection well, or waste pile,  
41 as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive  
42 other types of RCRA subtitle D wastes, such as commercial solid waste, non-  
43 hazardous sludge, conditionally exempt small quantity generator waste and  
44 industrial solid waste. Such a landfill may be publicly or privately owned.  
45 A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral  
46 expansion.

47 (32) "New MSWLF unit" means any municipal solid waste landfill unit that  
48 has not received waste prior to October 9, 1993, or prior to October 9, 1995,  
49 if the MSWLF unit meets the conditions specified in 40 CFR 258.1(f) (1).

50 (33) "Open burning" means the combustion of solid waste without:

1 (a) eControl of combustion air to maintain adequate temperature for ef-  
2 ficient combustion;

3 (b) eContainment of the combustion reaction in an enclosed device to  
4 provide sufficient resident time and mixing for complete combustion;  
5 and

6 (c) eControl of the emission of the combustion products.

7 (34) "Operator" means the person(s) responsible for the overall opera-  
8 tion of a facility or part of a facility.

9 (35) "Organic waste material" means the organic material portion of the  
10 solid waste stream including, but not limited to, food scraps, food process-  
11 ing residuals, and soiled or unrecyclable paper that has been separated from  
12 nonorganic material.

13 (36) "Owner" means the person(s) who owns a facility or part of a facil-  
14 ity.

15 (367) "Permeability" means the capacity of a material to transmit a liq-  
16 uid. For the purposes of this chapter, permeability is expressed in terms of  
17 hydraulic conductivity of water in centimeters-per-second units of measure-  
18 ment.

19 (378) "Person" means an individual, association, firm, partnership,  
20 political subdivision, public or private corporation, state or federal  
21 agency, municipality, industry, or any other legal entity whatsoever.

22 (389) "Pile" or "waste pile" means any noncontainerized solid, nonflow-  
23 ing waste that is accumulated for treatment or storage.

24 (3940) "Plan of operation" means the written plan developed by an owner  
25 or operator of a MSWLF unit detailing how the facility is to be operated dur-  
26 ing its active life, during closure, and throughout the post-closure period.

27 (401) "Point of compliance" means a vertical surface located at the hy-  
28 draulically downgradient intercept with the uppermost aquifer at which a re-  
29 lease from a waste management unit measured as change in constituent values  
30 will trigger assessment monitoring. Point of compliance shall be used to de-  
31 fine the facility design, location and frequency of ground water-monit-  
32 oring wells and corrective action.

33 (412) "Post-closure" means the requirements placed upon the MSWLF unit  
34 after closure to ensure their environmental safety for a thirty (30) year  
35 period or until the site becomes stabilized in accordance with section  
36 39-7416, Idaho Code.

37 (423) "Processing" means an operation conducted on solid waste to pre-  
38 pare it for disposal.

39 (434) "Qualified professional" means a licensed professional geologist  
40 or licensed professional engineer, as appropriate, holding current profes-  
41 sional registration in compliance with applicable provisions of the Idaho  
42 Code.

43 (445) "RCRA" means the resource conservation and recovery act (42  
44 U.S.C. ~~see~~ 6901 et seq.), as amended.

45 (456) "~~Run-off~~Runoff" means any rainwater, leachate, or other liquid  
46 that drains over land from any part of a facility.

47 (467) "Run-on" means any rainwater, leachate, or other liquid that  
48 drains over land onto any part of a facility.

49 (478) "Saturated zone" means that part of the earth's crust in which all  
50 voids are filled with water.

1 (489) "Septage" means a semisolid consisting of settled sewage solids  
2 combined with varying amounts of water and dissolved materials generated  
3 from a septic tank system.

4 (4950) "Sludge" means any solid, semisolid, or liquid waste generated  
5 from a municipal, commercial, or industrial ~~waste-water~~ wastewater treat-  
6 ment plant, water supply treatment plant or air pollution control facility  
7 exclusive of the treated effluent from a ~~waste-water~~ wastewater treatment  
8 plant.

9 (501) "Solid waste" means any garbage or refuse, sludge from a ~~waste~~  
10 ~~water~~ wastewater treatment plant, water supply treatment plant, or air  
11 pollution control facility and other discarded material, including solid,  
12 liquid, semisolid, or contained gaseous material resulting from industrial,  
13 commercial, mining, and agricultural operations and from community activi-  
14 ties, but does not include solid or dissolved materials in domestic sewage,  
15 or solid or dissolved materials in irrigation return flows or industrial  
16 discharges that are point sources subject to permit under 33 U.S.C. 1342,  
17 or source, special nuclear, or by-product material as defined in the atomic  
18 energy act of 1954, as amended (68 Stat. 923). These regulations shall not  
19 apply to the following solid wastes:

20 (a) Overburden, waste dumps and low-grade stockpiles from mining oper-  
21 ations;

22 (b) Liquid wastes whose discharge or potential discharge is regulated  
23 under federal, state or local water pollution permits;

24 (c) Hazardous wastes as designated in the hazardous waste management  
25 act, chapter 44, title 39, Idaho Code;

26 (d) Wood waste used for ornamental, animal bedding, mulch and plant  
27 bedding and road-building purposes;

28 (e) Agricultural wastes, limited to manures and crop residues, re-  
29 turned to the soils at agronomic rates;

30 (f) Clean soils and clean dredge spoils as otherwise regulated under  
31 section 404 of the federal clean water act (P.L. 95-217);

32 (g) Septage taken to a sewage treatment plant permitted by either the  
33 U.S. environmental protection agency or the department; and

34 (h) Wood debris resulting from the harvesting of timber and the dis-  
35 posal of which is permitted under chapter 1, title 38, Idaho Code.

36 (512) "Special waste" means those wastes ~~which~~ that require special  
37 treatment or handling after ~~it arrives~~ arriving at the disposal site. The  
38 term includes, but is not limited to, asbestos-containing material, pe-  
39 troleum-contaminated soils, low-level PCB containing-material, low-level  
40 dioxin-containing material and uncut tires.

41 (523) "Statistically significant" means significant as determined by  
42 ANOVA analysis of variance as applied within 40 CFR 258.53(h) (2) or as pro-  
43 vided by 40 CFR 258.53(g) (5).

44 (534) "Uppermost aquifer" means the geological formation nearest the  
45 natural ground surface that is an aquifer as well as lower aquifers that are  
46 hydraulically interconnected with this aquifer within the facility's prop-  
47 erty boundary.

48 (545) "Waste management unit boundary" means a vertical surface located  
49 at the hydraulically downgradient limit of the unit. This vertical surface  
50 extends down into the uppermost aquifer.

1 (556) "Water quality standard" means a standard set for maximum allow-  
 2 able contamination in surface waters and ground water as set forth in the wa-  
 3 ter quality standards for waters for the state of Idaho.

4 (567) "Wetlands" is as defined in 40 CFR 232.2(r).

5 (578) "Wood waste" means solid waste consisting of wood pieces or parti-  
 6 cles generated as a by-product or waste from the manufacturing of wood prod-  
 7 ucts, handling and storage of raw materials and trees and stumps. This in-  
 8 cludes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog  
 9 fuel and log yard waste, but does not include wood pieces or particles con-  
 10 taining chemical preservatives such as creosote, pentachlorophenol, or cop-  
 11 per-chrome-arsenate.

12 Undefined terms shall be given their usual and ordinary meaning within  
 13 the context of the provisions of this chapter.

14 SECTION 2. That Chapter 74, Title 39, Idaho Code, be, and the same is  
 15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 16 ignated as Section 39-7422, Idaho Code, and to read as follows:

17 39-7422. ORGANIC WASTE MATERIAL ORDER OF PRIORITY. As used in this  
 18 section:

19 (1) "Closed-loop recycling" means a system in which a product made from  
 20 one type of material is reclaimed and reused in the production process or the  
 21 manufacturing of a new or separate product.

22 (2) "Food residual" means organic waste material that is source sep-  
 23 arated and uncontaminated material that is derived from processing or  
 24 discarding of food and that is recyclable, in a manner consistent with this  
 25 chapter and rules promulgated pursuant thereto. Food residual may include  
 26 preconsumer and postconsumer food scraps. "Food residual" does not mean  
 27 meat and meat-related products when the food residuals are composted by a  
 28 resident on-site.

29 (3) "Leaf and yard residual" means organic waste material that is  
 30 source separated, compostable untreated vegetative matter, including grass  
 31 clippings, leaves, kraft paper bags, and brush, that is free from noncom-  
 32 postable materials. It does not include such materials as preconsumer and  
 33 postconsumer food residuals, food processing residuals, or soiled paper.

34 (4) "Source separated" or "source separation" means the separation of  
 35 compostable and recyclable materials from noncompostable, nonrecyclable  
 36 materials at the point of generation.

37 (5) "Wood waste" means trees, untreated wood, and other natural woody  
 38 debris, including tree stumps, brush and limbs, root mats, and logs.

39 (6) The director and each city and county shall develop a plan that will  
 40 to the greatest feasibility promote: reduction in the amount of waste gener-  
 41 ated; use materials management, which furthers the development of products  
 42 that will generate less waste; the reuse and closed-loop recycling of waste  
 43 to reduce to the greatest extent feasible the volume remaining for process-  
 44 ing and disposal; the reduction of the state's reliance on waste disposal  
 45 to the greatest extent feasible; and the creation of an integrated waste  
 46 management system that promotes energy conservation, reduces greenhouse  
 47 gases, and limits adverse environmental impacts. In implementing the plan,  
 48 each city and county shall conduct an assessment of the feasibility and cost  
 49 of diverting each waste category from disposal, including, to the extent

1 the information is available to the agency, the cost to stakeholders such as  
2 municipalities, manufacturers, and customers. As used in this subsection,  
3 "waste category" means marketable recyclables, leaf and yard residuals,  
4 food residuals, construction and demolition residuals, household hazardous  
5 waste, and additional categories or subcategories of waste that the director  
6 identifies that may be diverted to meet the priorities set forth under this  
7 section.

8 (7) Each city and county shall conduct a coordinated education and  
9 outreach component that advances the objectives of the plan, including  
10 the source separation requirements, generator requirements to remove food  
11 residuals, and the landfill disposal bans contained within this chapter and  
12 provide performance and accountability measures to ensure that implementa-  
13 tion plans are effective in meeting the requirements of this section.

14 (8) Beginning July 1, 2019, cities and counties shall collect leaf and  
15 yard residuals separate from other solid waste and deliver leaf and yard  
16 residuals to a location that manages leaf and yard residuals in a manner  
17 consistent with the priority uses established in this section. Beginning  
18 July 1, 2020, cities and counties shall collect food residuals separate from  
19 other solid waste and deliver food residuals to a location that manages food  
20 residuals in a manner consistent with the priority uses established in this  
21 section.

22 (9) It is the policy of the state that food residuals collected under  
23 the requirements of this chapter shall be managed according to the following  
24 order of priority uses: reduction of the amount generated at the source;  
25 diversion for food consumption by humans; diversion for agricultural use,  
26 including consumption by animals; composting, land application, and diges-  
27 tion; and energy recovery. The following persons shall be subject to the  
28 requirements of this section: beginning July 1, 2019, a person whose acts  
29 or processes produce more than one hundred four (104) tons per year of food  
30 residuals; beginning July 1, 2020, a person whose acts or processes produce  
31 more than fifty-two (52) tons per year of food residuals; beginning July 1,  
32 2021, a person whose acts or processes produce more than twenty-six (26)  
33 tons per year of food residuals; beginning July 1, 2022, a person whose acts  
34 or processes produce more than eighteen (18) tons per year of food residu-  
35 als; and beginning July 1, 2023, any person who generates any amount of food  
36 residuals.