

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 44
SOLID WASTE DISPOSAL SITES

31-4401. PURPOSE AND POLICY OF LAW. It is hereby declared to be the public policy of the state of Idaho that solid waste disposal systems be established, maintained and operated in each of the several counties of the state for the purpose of reducing the threat to health posed by uncollected garbage, refuse and scrap; for the purpose of maintaining the natural and esthetic setting of our land, water and air resources; for the purpose of providing a means for reclamation of otherwise unusable land areas; and for the purposes of such other cultural, social, economic and sanitation reasons as may be necessary from time to time.

[31-4401, added 1970, ch. 104, sec. 1, p. 259; am. 1971, ch. 61, sec. 1, p. 137; am. 1987, ch. 213, sec. 1, p. 454.]

31-4401A. DEFINITIONS. In this chapter:

(1) "Major solid waste generator" means any person who generates two per cent (2%) or more of the total solid waste originating in any county.

(2) "Person" means any natural person, firm, corporation, or other entity, but does not include a municipality, a state agency or a state educational institution.

(3) "Significant effect" means any change in the amount of solid waste to be sent to any waste disposal site which exceeds either five per cent (5%) of the total monthly amount of waste disposal at any particular solid waste disposal site during the most recent calendar year, or five per cent (5%) of the projected processing capacity of any new solid waste disposal site.

(4) "State agency" means each state board, commission, department or officer authorized by law to make rules or to determine contested cases.

(5) "State educational institution" means a public educational facility or institution regulated by the state board of education or the board of regents of the university of Idaho.

(6) "System" means lands, sites, facilities, equipment and manpower necessary for collection, transportation, storage, treatment, processing, reuse, recycling or other means necessary for the disposal of solid waste.

(7) "Waste processing facility" means any waste disposal site or any public work at which solid waste is compacted, incinerated, or otherwise treated prior to disposal. It shall not include the placement of portable collection facilities or similar equipment used solely to facilitate collection of solid waste.

[31-4401A, added 1987, ch. 213, sec. 2, p. 455.]

31-4402. AUTHORITY OF COUNTY COMMISSIONERS. The board of county commissioners in each of the several counties is hereby authorized to acquire, establish, maintain and operate such solid waste disposal systems as are necessary and to provide reasonable and convenient access to such disposal systems by all the citizens of the county. For the purpose of establishing systems for solid waste disposal, the board of county commissioners may purchase, lease, condemn or receive as gifts such areas as are suitable, or the board may exchange land with any other unit or units of government

under such terms as are mutually advantageous. In order that a county may acquire sites or systems as expeditiously and advantageously as possible, a county may use funds from current revenues, may use funds made available through the issuance of bonds, or may use funds made available from county building construction funds, and the provisions of [chapter 10, title 31](#), Idaho Code, are hereby made applicable for the acquisition of solid waste disposal systems and a solid waste disposal system is declared to be a public building within the definition of [chapter 10, title 31](#), Idaho Code, except that notwithstanding any other provisions of law, no board of county commissioners or other public authority shall be required to contract out the establishment, acquisition, operation or maintenance of a solid waste disposal system, but if it should elect to do so, it may waive the giving of a bond or other security in connection with such contract upon such terms and conditions as it deems appropriate, and provided further that any county may itself, without contracting out to any other party, establish, acquire, operate and maintain a solid waste disposal system.

[31-4402, added 1970, ch. 104, sec. 2, p. 259; am. 1971, ch. 61, sec. 2, p. 137; am. 1979, ch. 109, sec. 1, p. 346.]

31-4403. OPERATION AND MAINTENANCE. It shall be the duty of the board of county commissioners in each of the several counties to acquire sites or facilities, and maintain and operate solid waste disposal systems. Such maintenance and operation may, by exclusive or nonexclusive means, be performed through or by:

(1) Employees, facilities, equipment and supplies hired by or acquired by the board of county commissioners;

(2) Contracts, franchises or otherwise, entered into by the board to have the maintenance and operation performed by private persons;

(3) Contracts entered into by the board to have the maintenance and operation performed by another unit of government;

(4) Contracts, franchises or otherwise, granted pursuant to law by the board, for all or any part or parts of the county;

(5) Any combination of subsections (1), (2), (3) and (4) of this section;

(6) Notwithstanding any other provision of law to the contrary, in order to provide for the public health, safety, and well-being, the board of county commissioners and/or another unit of state government, may determine whether solid waste disposal systems services are to be provided by means of a contract, franchise or otherwise, provided for under subsection (2) of this section, or any contract, franchise or otherwise, awarded under subsection (4) of this section, with or without compulsory competitive bidding;

(7) The board of county commissioners before entering into such contracts, franchises or otherwise may require such security for the performance thereof as it deems appropriate or may waive such undertaking.

[31-4403, added 1970, ch. 104, sec. 3, p. 259; am. 1971, ch. 61, sec. 3, p. 137; am. 1979, ch. 109, sec. 2, p. 346; am. 1986, ch. 19, sec. 2, p. 60; am. 2004, ch. 144, sec. 1, p. 474.]

31-4404. FUNDING OF OPERATIONS. For the purpose of providing funds to acquire sites, facilities, operate and/or maintain solid waste disposal systems, a board of county commissioners may in addition to the authority granted in sections [31-4402](#) and [31-4403](#), Idaho Code:

- (1) Levy a tax of not to exceed four hundredths percent (.04%) of the market value for assessment purposes on all taxable property within the county, provided that property located within the corporate limits of any city that is operating and maintaining a solid waste disposal site shall not be levied against for the purposes of the county solid waste disposal system;
or,
- (2) Collect fees from the users of the solid waste disposal facilities;
or,
- (3) Finance the solid waste disposal facilities from current revenues;
or,
- (4) Receive and expend moneys from any other source;
- (5) Establish solid waste collection systems where necessary or desirable and provide a method for collection of service fees, among which shall be certification of a special assessment on the property served;
- (6) Use any combination of subsections (1), (2), (3), (4), and (5) of this section.

[31-4404, added 1970, ch. 104, sec. 4, p. 259; am. 1971, ch. 61, sec. 4, p. 137; am. 1995, ch. 82, sec. 10, p. 224.]

31-4405. RULES AND REGULATIONS -- NOTICE OF VIOLATION -- MISDEMEANOR -- INJUNCTION. All solid waste disposal systems shall be located, maintained and operated according to rules and regulations promulgated and adopted by the state board of environmental quality. Every person who violates any of the provisions of this act, or of any order, rule or regulation of the state board of environmental quality issued pursuant thereto, where a copy of the order, rule or regulation has been served upon said person by certified mail, and said person fails to comply therewith within the time provided in the order, rule or regulation, or within ten (10) days of such service if not otherwise provided, shall be guilty of a misdemeanor. In the event of a continuing violation, each day that the violation continues constitutes a separate and distinct offense. In addition to the criminal penalties provided by this act, whenever it appears to the state board of environmental quality that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or of any rule or regulation promulgated and adopted under the provisions of this act, the board may bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this act or any rule or regulation hereunder. Upon a showing that a person has engaged or is about to engage in an act or practice constituting a violation of this act or any rule or regulation hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The board of environmental quality shall not be required to furnish bond.

[31-4405, added 1970, ch. 104, sec. 5, p. 259; am. 1971, ch. 61, sec. 5, p. 137; am. 1974, ch. 23, sec. 9, p. 633; am. 2001, ch. 103, sec. 10, p. 263.]

31-4406. ORDINANCES REGULATING OPERATIONS AND MAINTENANCE -- CRIMINAL PENALTIES -- INJUNCTION. The board of county commissioners shall by ordinance provide for the necessary rules and regulations for the operation and maintenance of solid waste disposal systems. In addition to the criminal penalties provided for violation of a county ordinance, whenever it appears to the board of county commissioners that any person has engaged or is about

to engage in any act or practice constituting a violation of any provision of this act or of a county ordinance enacted pursuant to this act, the board may bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this act or any ordinance hereunder. Upon a showing that a person has engaged or is about to engage in an act or practice constituting a violation of this act or ordinance hereunder, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The board of county commissioners shall not be required to furnish bond.

[31-4406, added 1970, ch. 104, sec. 6, p. 259; am. 1971, ch. 61, sec. 6, p. 137.]

31-4407. EXISTING AND FUTURE MUNICIPAL FACILITIES TO CONFORM TO CHAPTER. Solid waste disposal facilities now in existence or hereafter established and maintained and/or operated by any city shall conform in the same manner as county solid waste disposal facilities as provided in section [31-4405](#), Idaho Code.

[31-4407, added 1970, ch. 104, sec. 7, p. 259; am. 1971, ch. 61, sec. 7, p. 137.]

31-4407A. CHANGES IN STATUS OF MAJOR WASTE GENERATORS AND MUNICIPALITIES -- PROCEDURES. (1) Major solid waste generators and municipalities operating solid waste collection or disposal systems pursuant to the authority conferred by law or desiring to initiate or abandon such systems shall conform to the procedures and standards set forth in this section before taking any action which would significantly affect the amount or distribution of solid waste within any county. The board of county commissioners of any county may waive operation of the procedure called for in this section by passage of a resolution indicating their intent to do so.

(2) Whenever a county shall propose the establishment of a new solid waste processing facility within the boundaries of the county or in conjunction with adjoining counties, it shall give notice to all municipalities within its boundaries that it intends to establish a processing facility. In conjunction with the notice, the county shall provide a copy of a feasibility study prepared by a licensed professional engineer concerning the proposed processing facility which shall address the estimated capital cost of the facility, estimated costs of operation of the facility, and the estimated life span of the facility. The notice shall be provided to potentially affected municipalities at least one hundred eighty (180) days prior to the scheduled initiation of construction of any solid waste processing facility.

(3) Within ninety (90) days of receipt of the notice, each affected municipality shall respond to the notice provided by the county, indicating in its response the intention of the municipality to participate in the use of the proposed facility or to develop or continue operation of an independent solid waste processing facility of its own for the projected duration of the proposed county project.

(4) Pursuant to the responses received from affected municipalities, the county proposing development of the solid waste processing facility may tender contracts to participating municipalities assuring the availability of waste disposal capacity at the proposed facility for any duration promised by contract and securing commitments from the municipalities

to participate in use of the facility for the duration of its projected life. The contracts shall not constitute guarantees of costs or duration of serviceability of the proposed facility. The contracts may provide for annual adjustments to reflect changes in the relative contribution rates of municipalities to the waste stream feeding the disposal facility. No capital contribution obligation shall extend beyond fifteen (15) years. Additional contracts for capital participation may be proposed and entered into after the expiration of the initial agreement.

(5) Any municipality which indicates its intent not to participate in a proposed facility shall be barred from later participation without the consent of the board of county commissioners and without payment of a capital contribution adequate to finance the cost of additional capacity adequate to accommodate the waste stream generated within the municipality. The amount and method of payment of the capital contribution shall be established by the board of county commissioners.

(6) Any municipality which elects to participate in a given solid waste processing facility, but later elects to withdraw from said project, may do so, but shall remain obligated for any capital costs incurred in its behalf, but may receive partial credit for operational economies created by its withdrawal. The burden of proof of the extent of operational economies shall rest upon the withdrawing municipality.

(7) Major solid waste generators located outside participating municipalities shall be treated in the same manner as municipalities concerning commitments to waste facility capacity. Boards of county commissioners are authorized to enter into contracts with major solid waste generators for the expected duration of operation of any solid waste processing facility.

[31-4407A, added 1987, ch. 213, sec. 3, p. 455.]

31-4408. EXISTING AND FUTURE SYSTEMS -- JURISDICTION OF COMMISSIONERS -- DISPOSITION OF WASTE ON OWN LAND. Solid waste disposal systems now in existence or hereafter established and maintained and/or operated by other than a city shall come under the jurisdiction of the board of county commissioners, and shall be maintained and/or operated only as provided in this act. Every owner of land who disposes of solid waste on his own land shall obtain a written permit from the board of county commissioners for such disposal.

[31-4408, added 1970, ch. 104, sec. 8, p. 259; am. 1971, ch. 61, sec. 8, p. 137.]

31-4409. JOINT OPERATION BY COUNTIES. Any maintenance and/or operation of a solid waste disposal system required by this act may be done jointly with any other county or counties.

[31-4409, added 1970, ch. 104, sec. 9, p. 259; am. 1971, ch. 61, sec. 9, p. 137.]

31-4410. DISPOSAL OF WASTE AT PLACE OTHER THAN WASTE DISPOSAL SYSTEM -- MISDEMEANOR -- CIVIL DAMAGES -- VENUE OF ACTION. It shall be a misdemeanor, except at solid waste disposal systems located, maintained and operated as provided by this act, for any person to throw away, dump or discard any type or nature of solid waste on any public lands, rights of way of any kind, or private land of another. In addition to the criminal penalties for violation

of this section, civil damages in an amount of three (3) times the actual damage shall be imposed upon the person so convicted to be used to restore the lands to their original state. Such civil actions shall be brought in and for the county in which the violation occurred, and any remainder of damages collected after restoration shall be used for maintenance and operation of solid waste disposal systems.

[31-4410, added 1970, ch. 104, sec. 10, p. 259; am. 1971, ch. 61, sec. 10, p. 137.]

31-4411. PREEXISTING CONTRACTS -- VALIDATION. Any contract for the acquisition, establishment, operation or maintenance of a solid waste disposal system, heretofore entered into by any public agency, and all acts and proceedings heretofore taken by the county commissioners or other contracting authority of any public agency in connection therewith, are hereby validated, ratified and declared to be binding and effective in accordance with their terms, notwithstanding any failure of such contract, or said board of county commissioners or other contracting authority to comply with the terms of this act, [chapter 10, title 31](#), or [chapter 19, title 54](#), Idaho Code.

[31-4411, added 1979, ch. 109, sec. 3, p. 347.]