

1                   **DEPARTMENT OF ENVIRONMENTAL QUALITY**

2                                   **AMENDMENTS**

3                                           2008 GENERAL SESSION

4                                           STATE OF UTAH

5                                   **Chief Sponsor: Christine A. Johnson**

6                                           Senate Sponsor: Patricia W. Jones

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends provisions relating to the authority of the Department of  
11   Environmental Quality.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ updates the chapters for which a division is responsible for administering;
- 15           ▶ clarifies that the department may take a soil or groundwater sample in certain  
16   circumstances;
- 17           ▶ authorizes the department to address a facility containing a hazardous substances  
18   regardless if the facility is on the priority list;
- 19           ▶ gives a title name to a part; and
- 20           ▶ makes technical changes.

21   **Monies Appropriated in this Bill:**

22           None

23   **Other Special Clauses:**

24           None

25   **Utah Code Sections Affected:**

26   AMENDS:

27           **19-1-105**, as enacted by Laws of Utah 1991, Chapter 112



28           **19-6-304**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
 29           **19-6-311**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
 30           **19-6-601**, as enacted by Laws of Utah 1991, Chapter 122 and renumbered and amended  
 31 by Laws of Utah 1991, Chapter 112



33 *Be it enacted by the Legislature of the state of Utah:*

34           Section 1. Section **19-1-105** is amended to read:

35           **19-1-105. Divisions of department -- Control by division directors.**

36           (1) The following divisions are created within the department:

37           (a) the Division of Air Quality, to administer [~~Title 19;~~] Chapter 2, Air Conservation  
 38 Act;

39           (b) the Division of Drinking Water, to administer [~~Title 19;~~] Chapter 4, Safe Drinking  
 40 Water Act;

41           (c) the Division of Environmental Response and Remediation, to administer [~~Title~~  
 42 ~~19;~~];

43           (i) the following parts in Chapter 6[~~, Parts 3 and 4;~~];

44           (A) Part 3, Hazardous Substances Mitigation Act;

45           (B) Part 4, Underground Storage Tank Act; and

46           (C) Part 9, Illegal Drug Operations Site Reporting and Decontamination Act;

47           (ii) Chapter 8, Voluntary Cleanup Program; and

48           (iii) Chapter 10, Environmental Institutional Control Act;

49           (d) the Division of Radiation Control, to administer [~~Title 19;~~] Chapter 3, Radiation  
 50 Control Act;

51           (e) the Division of Solid and Hazardous Waste, to administer [~~Title 19;~~];

52           (i) the following parts in Chapter 6[~~, Parts 1, 2, and 5; and~~];

53           (A) Part 1, Solid and Hazardous Waste Act;

54           (B) Part 2, Hazardous Waste Facility Siting Act;

55           (C) Part 5, Solid Waste Management Act;

56           (D) Part 6, Lead Acid Battery Disposal Act;

57           (E) Part 7, Used Oil Management Act;

58           (F) Part 8, Waste Tire Recycling Act; and

59 (G) Part 10, Mercury Switch Removal Act; and  
 60 (ii) Chapter 9, Hazardous Waste Facilities Management Act; and  
 61 (f) the Division of Water Quality, to administer [~~Title 19;~~] Chapter 5, Water Quality  
 62 Act.

63 (2) Each division is under the immediate direction and control of a division director  
 64 appointed by the executive director.

65 (3) (a) Each division director shall possess the necessary administrative skills and  
 66 training to adequately qualify ~~[him for his]~~ the division director for the position. ~~[He]~~

67 (b) The division director shall have graduated from an accredited college or university  
 68 with:

69 ~~[(a)]~~ (i) a four-year degree in physical or biological science or engineering;

70 ~~[(b)]~~ (ii) a related degree; or

71 ~~[(c)]~~ (iii) a degree in law.

72 (4) Each director may be removed at the will of the executive director.

73 Section 2. Section **19-6-304** is amended to read:

74 **19-6-304. Inspections.**

75 (1) Upon presentation of appropriate credentials and at ~~[any]~~ a reasonable time, ~~[any]~~  
 76 an authorized officer, employee, or representative of the department may:

77 (a) enter and inspect ~~[any]~~ a property, premises, or place where ~~[he]~~ the officer,  
 78 employee, or representative has reason to believe there is a hazardous ~~[materials or substances]~~  
 79 material or substance release;

80 (b) copy ~~[any records]~~ a record relating to ~~[those hazardous materials or substances]~~ a  
 81 hazardous material or substance to determine compliance with this part and the rules made  
 82 under authority of this part; and

83 (c) inspect and take ~~[samples of any]~~ one or more samples of a suspected hazardous  
 84 material or substance, including a soil or groundwater sample.

85 (2) If the department's representative takes ~~[samples of any]~~ a sample of a suspected  
 86 hazardous material or substance under authority of this section, ~~[he]~~ the representative shall:

87 (a) give a receipt describing the sample taken to the owner, operator, or agent who has  
 88 control of the suspected hazardous material or substance;

89 (b) if requested and if possible, give the owner, operator, or agent a split sample of the

90 suspected hazardous material or substance equal in volume or weight to the portion ~~he~~ the  
91 representative retains; and

92 (c) if an analysis of ~~any~~ a sample is made, upon request, promptly furnish a copy of  
93 the ~~results~~ result of the analysis to the owner, operator, or agent.

94 Section 3. Section **19-6-311** is amended to read:

95 **19-6-311. Hazardous substances priority list.**

96 (1) The executive director shall develop and, as frequently as is necessary, revise a  
97 hazardous substances priority list by making a rule that:

98 (a) identifies separately;

99 (i) national priority list sites~~;~~;

100 (ii) proposed national priority list sites~~;~~; and

101 (iii) scored sites that pose a significant threat to the public health or the environment;

102 and

103 (b) declares ~~those~~ the sites identified in the rule to be eligible to be addressed under  
104 the authority granted by this part.

105 (2) ~~The~~ Except as provided by Subsections 19-6-307(4)(a), (c), and (d), the executive  
106 director may not spend fund monies ~~[or use the authority granted by this part]~~ to address ~~any~~  
107 ~~facilities~~ a facility containing a hazardous ~~[substances that are]~~ substance that is not on the  
108 hazardous substances priority list.

109 (3) The executive director shall remove ~~facilities~~ a facility from the hazardous  
110 substances priority list when appropriate.

111 Section 4. Section **19-6-601** is amended to read:

112 **Part 6. Lead Acid Battery Disposal Act**

113 **19-6-601. Title -- Definition.**

114 (1) This part is known as the "Lead Acid Battery Disposal Act."

115 (2) As used in this part, "board" means the Solid and Hazardous Waste Control Board  
116 appointed under Title 19, Chapter 6.

**Legislative Review Note**  
as of 1-16-08 2:41 PM

**Office of Legislative Research and General Counsel**

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**H.B. 353 - Department of Environmental Quality Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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