

AIR QUALITY AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions in the Air Conservation Act relating to siting a source of pollution.

Highlighted Provisions:

This bill:

- ▶ authorizes the Air Quality Board to enact a rule establishing siting criteria for certain pollution sources;
- ▶ prohibits the Air Quality Board from issuing a permit for a pollution source that does not meet the siting criteria; and
- ▶ repeals the amendments and enactments in this bill on July 1, 2011.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Laws of Utah 2008, Chapters 68 and 382

ENACTS:

19-2-128, Utah Code Annotated 1953

63I-2-219, Utah Code Annotated 1953



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

Section 1. Section **19-2-104** is amended to read:

19-2-104. Powers of board.

- (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source;
 - (b) establishing air quality standards;
 - (c) requiring persons engaged in operations which result in air pollution to:
 - (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
 - (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and
 - (iii) provide access to records relating to emissions which cause or contribute to air pollution;
 - (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management plans submitted by local education agencies under that act;
 - (e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;
 - (f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;
 - (g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;
 - (h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state implementation plan and federal requirements under the standards set forth in Subsection (2);

59 [and]

60 (i) implementing lead-based paint remediation training, certification, and performance
61 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
62 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406[:]; and

63 (j) establishing siting criteria for an air contaminant source described in Section
64 19-2-128.

65 (2) When implementing Subsection (1)(h) the board shall take into consideration:

66 (a) the impact of the business on overall air quality; and

67 (b) the need of the business to use automobiles in order to carry out its business
68 purposes.

69 (3) The board may:

70 (a) hold hearings relating to any aspect of or matter in the administration of this chapter
71 and compel the attendance of witnesses and the production of documents and other evidence,
72 administer oaths and take testimony, and receive evidence as necessary;

73 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
74 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
75 secure compliance with this chapter;

76 (c) settle or compromise any civil action initiated to compel compliance with this
77 chapter and the rules made under this chapter;

78 (d) secure necessary scientific, technical, administrative, and operational services,
79 including laboratory facilities, by contract or otherwise;

80 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
81 and control of air pollution in this state;

82 (f) encourage voluntary cooperation by persons and affected groups to achieve the
83 purposes of this chapter;

84 (g) encourage local units of government to handle air pollution within their respective
85 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

86 (h) encourage and conduct studies, investigations, and research relating to air
87 contamination and air pollution and their causes, effects, prevention, abatement, and control;

88 (i) determine by means of field studies and sampling the degree of air contamination
89 and air pollution in all parts of the state;

90 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
91 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
92 respect to them;

93 (k) collect and disseminate information and conduct educational and training programs
94 relating to air contamination and air pollution;

95 (l) advise, consult, contract, and cooperate with other agencies of the state, local
96 governments, industries, other states, interstate or interlocal agencies, the federal government,
97 and with interested persons or groups;

98 (m) consult, upon request, with any person proposing to construct, install, or otherwise
99 acquire an air contaminant source in the state concerning the efficacy of any proposed control
100 device, or system for this source, or the air pollution problem which may be related to the
101 source, device, or system, but a consultation does not relieve any person from compliance with
102 this chapter, the rules adopted under it, or any other provision of law;

103 (n) accept, receive, and administer grants or other funds or gifts from public and
104 private agencies, including the federal government, for the purpose of carrying out any of the
105 functions of this chapter;

106 (o) require the owner and operator of each new source which directly emits or has the
107 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
108 each existing source which by modification will increase emissions or have the potential of
109 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
110 sufficient to cover the reasonable costs of:

111 (i) reviewing and acting upon the notice required under Section 19-2-108; and

112 (ii) implementing and enforcing requirements placed on the sources by any approval
113 order issued pursuant to notice, not including any court costs associated with any enforcement
114 action;

115 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
116 Clean Air Act, 42 U.S.C. Sec. 7420;

117 (q) meet the requirements of federal air pollution laws;

118 (r) establish work practice, certification, and clearance air sampling requirements for
119 persons who:

120 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work

- 121 involving friable asbestos-containing materials, or asbestos inspections;
- 122 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
123 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
124 Emergency Response Act of 1986;
- 125 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
126 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 127 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
128 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 129 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
130 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
131 be accredited as inspectors, management planners, abatement project designers, asbestos
132 abatement contractors and supervisors, or asbestos abatement workers;
- 133 (t) establish certification requirements for asbestos project monitors, which shall
134 provide for experience-based certification of persons who, prior to establishment of the
135 certification requirements, had received relevant asbestos training, as defined by rule, and had
136 acquired at least 1,000 hours of experience as project monitors;
- 137 (u) establish certification procedures and requirements for certification of the
138 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
139 tax credit granted in Section 59-7-605 or 59-10-1009;
- 140 (v) establish a program to certify private sector air quality permitting professionals
141 (AQPP), as described in Section 19-2-109.5;
- 142 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
143 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
144 inspectors, risk assessors, supervisors, project designers, or abatement workers; and
- 145 (x) assist the State Board of Education in adopting school bus idling reduction
146 standards and implementing an idling reduction program in accordance with Section
147 41-6a-1308.
- 148 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
149 laws, if any, relating to control of motor vehicles or motor vehicle emissions.
- 150 (5) Nothing in this chapter authorizes the board to require installation of or payment for
151 any monitoring equipment by the owner or operator of a source if the owner or operator has

152 installed or is operating monitoring equipment that is equivalent to equipment which the board
153 would require under this section.

154 Section 2. Section **19-2-128** is enacted to read:

155 **19-2-128. Siting criteria for a pollution source within a non-attainment area.**

156 Unless a permanent air contaminant source meets the siting criteria established by the
157 board under Subsection 19-2-104(1)(j), the board may not issue an order granting a request to
158 construct or an operating permit for a permanent air contaminant source that:

159 (1) generates electricity by burning a fuel that is not natural gas; and

160 (2) is located within an area that:

161 (a) does not meet a national ambient air quality standard for particulate matter; or

162 (b) in the board's opinion, is not likely to meet a national ambient air quality standard
163 for particulate matter by July 1, 2011.

164 Section 3. Section **63I-2-219** is enacted to read:

165 **63I-2-219. Repeal dates -- Title 19.**

166 (1) Subsection 19-2-104(1)(j) is repealed July 1, 2011.

167 (2) Section 19-2-128 is repealed July 1, 2011.

168 Section 4. **Effective date.**

169 If approved by two-thirds of all the members elected to each house, this bill takes effect
170 upon approval by the governor, or the day following the constitutional time limit of Utah
171 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
172 the date of veto override.

Legislative Review Note
as of 2-11-09 8:43 AM

Office of Legislative Research and General Counsel

H.B. 393 - Air Quality Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Certain local entities or businesses planning to construct and operate electrical generating facilities may be impacted.
