

AIR EMISSIONS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lynn N. Hemingway

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ authorizes the Air Quality Board to establish rules:
 - requiring the Division of Air Quality to evaluate air pollution controls at a facility;
 - authorizing the Division of Air Quality to require the implementation of additional air pollution controls at a facility under certain circumstances; and
 - providing exemptions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-104, as last amended by Laws of Utah 2012, Chapters 43 and 360

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

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



28 **19-2-104. Powers of board.**

29 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
30 Administrative Rulemaking Act:

31 (a) regarding the control, abatement, and prevention of air pollution from all sources
32 and the establishment of the maximum quantity of air contaminants that may be emitted by any
33 air contaminant source;

34 (b) establishing air quality standards;

35 (c) requiring persons engaged in operations which result in air pollution to:

36 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

37 (ii) file periodic reports containing information relating to the rate, period of emission,
38 and composition of the air contaminant; and

39 (iii) provide access to records relating to emissions which cause or contribute to air
40 pollution;

41 (d) (i) implementing:

42 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
43 Response, 15 U.S.C. 2601 et seq.;

44 (B) 40 C.F.R. Part 763, Asbestos; and

45 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,
46 Subpart M, National Emission Standard for Asbestos; and

47 (ii) reviewing and approving asbestos management plans submitted by local education
48 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency
49 Response, 15 U.S.C. 2601 et seq.;

50 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
51 program for diesel-powered motor vehicles;

52 (f) implementing an operating permit program as required by and in conformity with
53 Titles IV and V of the federal Clean Air Act Amendments of 1990;

54 (g) establishing requirements for county emissions inspection and maintenance
55 programs after obtaining agreement from the counties that would be affected by the
56 requirements;

57 (h) with the approval of the governor, implementing in air quality nonattainment areas
58 employer-based trip reduction programs applicable to businesses having more than 100

59 employees at a single location and applicable to federal, state, and local governments to the
60 extent necessary to attain and maintain ambient air quality standards consistent with the state
61 implementation plan and federal requirements under the standards set forth in Subsection (2);
62 [~~and~~]

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

66 (j) establishing a process whereby the division shall:

67 (i) evaluate air pollution controls at a facility, not more often than once every eight
68 years, to identify the availability of additional air pollution controls that are reasonably
69 achievable to reduce the emission of air contaminants at the facility;

70 (ii) evaluate the energy, environmental, economic, and legal impacts of additional
71 pollution controls identified under Subsection (1)(j)(i);

72 (iii) evaluate the estimated cost per unit of emissions reduced by the additional
73 pollution controls identified under Subsection (1)(j)(i);

74 (iv) based on the evaluations under Subsections (1)(j)(i), (ii), and (iii), determine
75 whether to require the facility to implement additional pollution controls; and

76 (v) exempt a facility from evaluation under the rule established by this Subsection
77 (1)(j) if the facility has, within an eight-year period, been reviewed by the division under the
78 requirements of Section [19-2-108](#).

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

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

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

83 (3) (a) The board may:

84 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or
85 matter in, the administration of this chapter;

86 (ii) order the director to:

87 (A) issue orders necessary to enforce the provisions of this chapter;

88 (B) enforce the orders by appropriate administrative and judicial proceedings; or

89 (C) institute judicial proceedings to secure compliance with this chapter; or

90 (iii) advise, consult, contract, and cooperate with other agencies of the state, local
91 governments, industries, other states, interstate or interlocal agencies, the federal government,
92 or interested persons or groups.

93 (b) The board shall:

94 (i) to ensure compliance with applicable statutes and regulations:

95 (A) review a settlement negotiated by the director in accordance with Subsection
96 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

97 (B) approve or disapprove the settlement;

98 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
99 purposes of this chapter;

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

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

106 (B) implementing and enforcing requirements placed on the sources by any approval
107 order issued pursuant to notice, not including any court costs associated with any enforcement
108 action;

109 (iv) meet the requirements of federal air pollution laws;

110 (v) by rule, establish work practice, certification, and clearance air sampling
111 requirements for persons who:

112 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
113 involving friable asbestos-containing materials, or asbestos inspections if:

114 (I) the contract work is done on a site other than a residential property with four or
115 fewer units; or

116 (II) the contract work is done on a residential property with four or fewer units where a
117 tested sample contained greater than 1% of asbestos;

118 (B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general
119 public has unrestrained access or in school buildings that are subject to the federal Asbestos
120 Hazard Emergency Response Act of 1986;

121 (C) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic
122 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

123 (D) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
124 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

125 (vi) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
126 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
127 be accredited as inspectors, management planners, abatement project designers, asbestos
128 abatement contractors and supervisors, or asbestos abatement workers;

129 (vii) establish certification requirements for asbestos project monitors, which shall
130 provide for experience-based certification of persons who, prior to establishment of the
131 certification requirements, had received relevant asbestos training, as defined by rule, and had
132 acquired at least 1,000 hours of experience as project monitors;

133 (viii) establish certification procedures and requirements for certification of the
134 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
135 tax credit granted in Section 59-7-605 or 59-10-1009;

136 (ix) establish a program to certify private sector air quality permitting professionals
137 (AQPP), as described in Section 19-2-109.5;

138 (x) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
139 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
140 inspectors, risk assessors, supervisors, project designers, or abatement workers; and

141 (xi) assist the State Board of Education in adopting school bus idling reduction
142 standards and implementing an idling reduction program in accordance with Section
143 41-6a-1308.

144 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
145 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

146 (5) Nothing in this chapter authorizes the board to require installation of or payment for
147 any monitoring equipment by the owner or operator of a source if the owner or operator has
148 installed or is operating monitoring equipment that is equivalent to equipment which the board
149 would require under this section.

150 (6) (a) The board may not require testing for asbestos or related materials on a
151 residential property with four or fewer units, unless:

- 152 (i) the property's construction was completed before January 1, 1981; or
- 153 (ii) the testing is for:
 - 154 (A) a sprayed acoustical ceiling;
 - 155 (B) transite siding;
 - 156 (C) vinyl floor tile;
 - 157 (D) thermal-system insulation or tape on a duct or furnace; or
 - 158 (E) vermiculite type insulation materials.
- 159 (b) A residential property with four or fewer units is subject to an abatement rule made
- 160 under Subsection (1) or (3)(b)(v) if:
 - 161 (i) a sample from the property is tested for asbestos; and
 - 162 (ii) the sample contains asbestos measuring greater than 1%.
- 163 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
- 164 following that are subject to the authority granted to the director under Section [19-2-107](#) or
- 165 [19-2-108](#):
 - 166 (a) a permit;
 - 167 (b) a license;
 - 168 (c) a registration;
 - 169 (d) a certification; or
 - 170 (e) another administrative authorization made by the director.
- 171 (8) A board member may not speak or act for the board unless the board member is
- 172 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
- 173 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
- 174 board by a federally enforceable state implementation plan.

Legislative Review Note
as of 2-25-14 4:39 PM

Office of Legislative Research and General Counsel