

MEDICAL WASTE INCINERATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the duties of the Air Quality Board.

Highlighted Provisions:

This bill:

▶ requires the Air Quality Board to make rules for a facility that opens on or after January 1, 2015:

• prohibiting the incineration of infectious waste or chemotherapeutic agents unless there is no better alternative process or technique to protect human health and the environment; and

• requiring the best available control technology for a facility that treats infectious waste or chemotherapeutic agents; and

▶ makes technical changes.

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



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

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

30 **19-2-104. Powers of board.**

31 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

32 Administrative Rulemaking Act:

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

36 (b) establishing air quality standards;

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

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

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

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

43 (d) (i) implementing:

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

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

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

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

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

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

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

59 (h) with the approval of the governor, implementing in air quality nonattainment areas
60 employer-based trip reduction programs applicable to businesses having more than 100
61 employees at a single location and applicable to federal, state, and local governments to the
62 extent necessary to attain and maintain ambient air quality standards consistent with the state
63 implementation plan and federal requirements under the standards set forth in Subsection (2);
64 [and]

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

68 (j) for a facility that opens on or after January 1, 2015:

69 (i) prohibiting the incineration of infectious waste or chemotherapeutic agents unless
70 there is no better alternative process or technique to protect human health and the environment;
71 and

72 (ii) requiring the best available control technology for a facility that treats infectious
73 waste or chemotherapeutic agents.

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

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

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

78 (3) (a) The board may:

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

81 (ii) order the director to:

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

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

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

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

88 (b) The board shall:

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

- 90 (A) review a settlement negotiated by the director in accordance with Subsection
- 91 [19-2-107\(2\)\(b\)\(viii\)](#) that requires a civil penalty of \$25,000 or more; and
- 92 (B) approve or disapprove the settlement;
- 93 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
- 94 purposes of this chapter;
- 95 (iii) require the owner and operator of each new source which directly emits or has the
- 96 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
- 97 each existing source which by modification will increase emissions or have the potential of
- 98 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
- 99 sufficient to cover the reasonable costs of:
 - 100 (A) reviewing and acting upon the notice required under Section [19-2-108](#); and
 - 101 (B) implementing and enforcing requirements placed on the sources by any approval
 - 102 order issued pursuant to notice, not including any court costs associated with any enforcement
 - 103 action;
 - 104 (iv) meet the requirements of federal air pollution laws;
 - 105 (v) by rule, establish work practice, certification, and clearance air sampling
 - 106 requirements for persons who:
 - 107 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
 - 108 involving friable asbestos-containing materials, or asbestos inspections if:
 - 109 (I) the contract work is done on a site other than a residential property with four or
 - 110 fewer units; or
 - 111 (II) the contract work is done on a residential property with four or fewer units where a
 - 112 tested sample contained greater than 1% of asbestos;
 - 113 (B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general
 - 114 public has unrestrained access or in school buildings that are subject to the federal Asbestos
 - 115 Hazard Emergency Response Act of 1986;
 - 116 (C) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic
 - 117 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
 - 118 (D) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
 - 119 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
 - 120 (vi) establish certification requirements for persons required under 15 U.S.C.A. 2601 et

121 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
122 be accredited as inspectors, management planners, abatement project designers, asbestos
123 abatement contractors and supervisors, or asbestos abatement workers;

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

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

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

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

136 (xi) assist the State Board of Education in adopting school bus idling reduction
137 standards and implementing an idling reduction program in accordance with Section
138 41-6a-1308.

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

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

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

147 (i) the property's construction was completed before January 1, 1981; or

148 (ii) the testing is for:

149 (A) a sprayed acoustical ceiling;

150 (B) transite siding;

151 (C) vinyl floor tile;

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

Legislative Review Note
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Office of Legislative Research and General Counsel