

HB0085S01 compared with HB0085

~~{Omitted text}~~ shows text that was in HB0085 but was omitted in HB0085S01

inserted text shows text that was not in HB0085 but was inserted into HB0085S01

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Environmental Permitting Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses provisions related to environmental permitting.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Air Quality (division) to:
- ▶ ~~{requires the Division of Air Quality (division) to }~~ develop and publish guidance and rules related to federal plantwide applicability limitations;
- ▶ ~~{requires the division to }~~ review the division's rules related to permit by rule registration;
- include at least five new categories of sources in the division's permit by rule program;
- and
- report to the Natural Resources, Agriculture, and Environment Interim Committee the results of the division's review of the permit by rule program;
- ▶ adds a repeal date for the sections related to plantwide applicability limitations and permit by rule registration; and
- ▶ makes technical and conforming changes.

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19 **Money Appropriated in this Bill:**

20 None

21 None

24 **AMENDS:**

25 **19-1-201** , as last amended by Laws of Utah 2024, Chapter 178 , as last amended by Laws of Utah
2024, Chapter 178

26 **19-2-102** , as last amended by Laws of Utah 2015, Chapter 154 , as last amended by Laws of Utah
2015, Chapter 154

27 **19-2-109.1** , as last amended by Laws of Utah 2020, Chapter 256 , as last amended by Laws of Utah
2020, Chapter 256

28 **63I-1-219** , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last
amended by Laws of Utah 2024, Third Special Session, Chapter 5

29 **ENACTS:**

30 **19-2-109.6** , Utah Code Annotated 1953 , Utah Code Annotated 1953

31 **19-2-109.7** , Utah Code Annotated 1953 , Utah Code Annotated 1953

32

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

34 Section 1. Section **19-1-201** is amended to read:

35 **19-1-201. Powers and duties of department -- Rulemaking authority -- Committee --**
Monitoring environmental impacts of inland port.

32 (1) The department shall:

33 (a) enter into cooperative agreements with the Department of Health and Human Services to delineate
specific responsibilities to assure that assessment and management of risk to human health from the
environment are properly administered;

36 (b) consult with the Department of Health and Human Services and enter into cooperative agreements,
as needed, to ensure efficient use of resources and effective response to potential health and safety
threats from the environment, and to prevent gaps in protection from potential risks from the
environment to specific individuals or population groups;

41 (c) coordinate implementation of environmental programs to maximize efficient use of resources by
developing, in consultation with local health departments, a Comprehensive Environmental Service
Delivery Plan that:

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- 44 (i) recognizes that the department and local health departments are the foundation for providing
environmental health programs in the state;
- 46 (ii) delineates the responsibilities of the department and each local health department for the efficient
delivery of environmental programs using federal, state, and local authorities, responsibilities, and
resources;
- 49 (iii) provides for the delegation of authority and pass through of funding to local health departments
for environmental programs, to the extent allowed by applicable law, identified in the plan, and
requested by the local health department; and
- 53 (iv) is reviewed and updated annually;
- 54 (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as
follows:
- 56 (i) for a board created in Section 19-1-106, rules regarding:
- 57 (A) board meeting attendance; and
- 58 (B) conflicts of interest procedures; and
- 59 (ii) procedural rules that govern:
- 60 (A) an adjudicative proceeding, consistent with Section 19-1-301; and
- 61 (B) a special adjudicative proceeding, consistent with Section 19-1-301.5;
- 62 (e) ensure that training or certification required of a public official or public employee, as those terms
are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and
Certification Requirements, if the training or certification is required:
- 66 (i) under this title;
- 67 (ii) by the department; or
- 68 (iii) by an agency or division within the department; and
- 69 (f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for
each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title
V program.
- 72 (2)
- . (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for
issuance of an approval order.

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- (b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.
- 78 (c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.
- 81 (d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.
- 83 (e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.
- 85 (f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.
- 87 (g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.
- 90 (h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection [~~19-2-109.1(4)~~] 19-2-109.1(3) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.
- 96 (3) The department shall establish a committee that consists of:
- 97 (a) the executive director or the executive director's designee;
- 98 (b) two representatives of the department appointed by the executive director; and
- 99 (c) three representatives of local health departments appointed by a group of all the local health departments in the state.
- 101 (4)
- . (a) The committee established in Subsection (3) shall:
- 102 (i) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

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- (ii) evaluate rules and department policies that affect local health departments in accordance with Subsection (4)(b);
- 107 (iii) consider policy changes proposed by the department or by local health departments;
- 109 (iv) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and
- 111 (v) review each department application for any grant from the federal government that affects a local health department before the department submits the application.
- 114 (b) When evaluating a policy or rule that affects a local health department, the committee shall:
 - 116 (i) compute an estimate of the cost a local health department will bear to comply with the policy or rule;
 - 118 (ii) specify whether there is any funding provided to a local health department to implement the policy or rule; and
 - 120 (iii) advise whether the policy or rule is still needed.
- 121 (c) Before November 1 of each year, the department shall provide a report to the Rules Review and General Oversight Committee regarding the determinations made under Subsection (4)(b).
- 124 (5) The committee shall create bylaws to govern the committee's operations.
- 125 (6) The department may:
 - 126 (a) investigate matters affecting the environment;
 - 127 (b) investigate and control matters affecting the public health when caused by environmental hazards;
 - 129 (c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;
 - 131 (d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;
 - 133 (e) use local health departments in the delivery of environmental health programs to the extent provided by law;
 - 135 (f) enter into contracts with local health departments or others to meet responsibilities established under this title;
 - 137 (g) acquire real and personal property by purchase, gift, devise, and other lawful means;
 - 138 (h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;
 - 140 (i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

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- 143 (j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to
timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus
interest on the fee computed at 12% annually;
- 146 (k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental
quality for local health departments;
- 148 (l) perform the administrative functions of the boards established by Section 19-1-106, including the
acceptance and administration of grants from the federal government and from other sources, public
or private, to carry out the board's functions;
- 151 (m) upon the request of a board or a division director, provide professional, technical, and clerical staff
and field and laboratory services, the extent of which are limited by the money available to the
department for the staff and services; and
- 154 (n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person
paying the fee agrees by contract to be charged for the service to efficiently use department
resources, protect department permitting processes, address extraordinary or unanticipated stress on
permitting processes, or make use of specialized expertise.
- 159 (7) In providing service under Subsection (6)(n), the department may not provide service in a manner
that impairs another person's service from the department.
- 161 (8)
- . (a) As used in this Subsection (8):
- 162 (i) "Environmental impacts" means:
- 163 (A) impacts on air quality, including impacts associated with air emissions; and
- 164 (B) impacts on water quality, including impacts associated with storm water runoff.
- 166 (ii) "Inland port" means the same as that term is defined in Section 11-58-102.
- 167 (iii) "Inland port area" means the area in and around the inland port that bears the environmental
impacts of destruction, construction, development, and operational activities within the inland
port.
- 170 (iv) "Monitoring facilities" means:
- 171 (A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-
grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal
data storage that are interconnected at all times to capture air quality readings and store data; and

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(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

178 (b) The department shall:

179 (i) develop and implement a sampling and analysis plan to:

180 (A) characterize the environmental baseline for air quality and water quality in the inland port area;

182 (B) characterize the environmental baseline for only air quality for the Salt Lake International Airport;
and

184 (C) define the frequency, parameters, and locations for monitoring;

185 (ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

188 (iii) publish the monitoring data on the department's website; and

189 (iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

191 (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

193 (B) the Legislative Management Committee.

199 Section 2. Section **19-2-102** is amended to read:

200 **19-2-102. Definitions.**

As used in this chapter:

197 (1) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

198 [(1)] (2) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

200 [(2)] (3) "Air pollutant source" means private and public sources of emissions of air pollutants.

202 [(3)] (4) "Air pollution" means the presence of an air pollutant in the ambient air in the quantities, for a duration, and under the conditions and circumstances that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.

207 [(4)] (5) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

209 [(5)] (6) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby amphibole.

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- 212 [(6)] (7) "Asbestos-containing material" means a material containing more than 1% asbestos, as
determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission Standard
for Asbestos.
- 215 [(7)] (8) "Asbestos inspection" means an activity undertaken to determine the presence or location, or
to assess the condition of, asbestos-containing material or suspected asbestos-containing material,
whether by visual or physical examination, or by taking samples of the material.
- 219 [(8)] (9) "Board" means the Air Quality Board.
- 220 [(9)] (10) "Clean school bus" means the same as that term is defined in 42 U.S.C. Sec. 16091.
- 222 [(10)] (11) "Director" means the director of the Division of Air Quality.
- 223 [(11)] (12) "Division" means the Division of Air Quality created in Section 19-1-105.
- 224 (13) "EPA" means the federal Environmental Protection Agency.
- 225 [(12)] (14) "Friable asbestos-containing material" means a material containing more than 1% asbestos,
as determined using the method adopted in 40 C.F.R. Part 61, Subpart M, National Emission
Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.
- 229 [(13)] (15) "Indirect source" means a facility, building, structure, or installation which attracts or may
attract mobile source activity that results in emissions of a pollutant for which there is a national
standard.
- 232 (16) "Operating permit" means a permit issued by the director to sources of air pollution that meet the
requirements of Titles IV and V of the 1990 Clean Air Act.
- 234 (17) "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act
and implementing federal regulations.
- 241 Section 3. Section **19-2-109.1** is amended to read:
- 242 **19-2-109.1. Operating permit required -- Fees -- Implementation.**
- 238 [(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:]
- 239 [(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.]
- 240 [(b) "EPA" means the federal Environmental Protection Agency.]
- 241 [(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the
requirements of Titles IV and V of the 1990 Clean Air Act.]
- 243 [(d) "Program" means the air pollution operating permit program established under this section to
comply with Title V of the 1990 Clean Air Act.]

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[~~(e)~~ "Regulated pollutant" means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.]

247 [~~(2)~~] (1) A person may not operate a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

250 [~~(3)~~] (2)

. (a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

254 (b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

257 (c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

261 (d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

262 [~~(4)~~] (3) If the owner or operator of a source subject to this section fails to timely pay a fee established under Subsection 19-1-201(1)(f), the director may:

264 (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

266 (b) revoke the operating permit.

267 [~~(5)~~] (4) The owner or operator of a source subject to this section may contest a fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection [~~(5)~~] (4).

271 (a) The owner or operator shall pay the fee under protest before being entitled to a hearing. Payment of a fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.

274 (b) A request for a hearing under this Subsection [~~(5)~~] (4) shall be made after payment of the fee and within six months after the fee was due.

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[(6)] (5) To reinstate an operating permit revoked under Subsection [(4)] (3) the owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and interest on the outstanding fees computed at 12% annually.

279 [(7)] (6) Failure of the director to act on an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or the permit's renewal without additional delay:

283 (a) the applicant;

284 (b) a person who participated in the public comment process; or

285 (c) a person who could obtain judicial review of that action under applicable law.

291 Section 4 is enacted to read:

292 **19-2-109.6. Plantwide applicability limitation -- Publication of guidance required -- Report to committee -- Rulemaking.**

289 (1) As used in this section:

290 (a) "Facility" means any building, structure, or installation that emits or may emit an air pollutant.

292 (b) "Plantwide applicability limitation" means the same as that term is defined in 40 C.F.R. Sec. 52.21.

294 (2) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations:

296 (a) develop written guidance on plantwide applicability limitations:

297 (i) consistent with the EPA's Guidance on Plantwide Applicability Limitation Provisions Under the New Source Review Regulations Memorandum, dated August 4, 2020;

300 (ii) describing the benefits and advantages for a facility that may qualify for a plantwide applicability limitation;

302 (iii) considering examples of relevant guidance materials published in other states; and

304 (iv) considering examples of relevant programs implemented in other states;

305 (b) make rules on plantwide applicability limitations in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

307 (i) establishing an application procedure for obtaining a plantwide applicability limitation;

309 (ii) establishing the circumstances under which a plantwide applicability limitation may be reopened and adjusted;

311 (iii) ensuring the division receives input from a facility when the facility's plantwide applicability limitation is modified or reopened;

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- 313 (iv) requiring public participation when a facility subject to a plantwide applicability limitation is
reopened; and
- 315 (v) in contrast to 40 C.F.R. Sec. 51.166(w)(10)(iv)(b), requiring the director to renew a plantwide
applicability limitation at the same level if the emissions level calculated upon renewal in
accordance with 40 C.F.R. Sec. 51.166(w)(6) is equal to or greater than 80% of the existing
plantwide applicability limitation level;
- 319 (c) publish the guidance described in Subsection (2)(a) on the division's website in a manner that is
easily accessible to members of industry and the public;
- 321 (d) identify any facilities in the state that may benefit from a plantwide applicability limitation and
share with the facilities the guidance described in Subsection (2)(a); and
- 324 (e) upon request by a facility, provide individual consultation on how to apply for a plantwide
applicability limitation.
- 326 (3) On or before November 30 of each year, the division shall submit a report to the Natural Resources,
Agriculture, and Environment Interim Committee:
- 328 (a) detailing the status of facilities adopting a plantwide applicability limitation in the state, including
the number of plantwide applicability limitation applications approved and rejected; and
- 331 (b) recommending improvements to the plantwide applicability limitation program.
- 332 (4) The division may make rules to implement the provisions of this section in accordance with Title
63G, Chapter 3, Utah Administrative Rulemaking Act.
- 339 Section 5 is enacted to read:
- 340 **19-2-109.7. Permit by rule registration expansion study.**
- 336 (1) As used in this section:
- 337 (a) "Permit by rule" means a permitting or registration process in which a stationary source submits a
written registration notice to the director to exempt the stationary source from the requirement to
obtain an approval order.
- 340 (b) "Permit by rule" includes a permitting or registration process designed to exempt a category of
similar stationary sources from the requirement to obtain an approval order.
- 343 (2) The division shall conduct a study on the feasibility of expanding the division's permit by rule
program by:
- 345 (a) reviewing successful permit by rule programs in other states;
- 346

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(b) identifying potential categories of sources suitable for inclusion in the permit by rule program,
including:

- 353 (i) abrasive cleaning;
- 354 (ii) aggregate processing;
- 355 (iii) asphalt plants;
- 356 (iv) auto body refinishing shops;
- 357 (v) boilers and combustion devices;
- 358 (vi) concrete batch plants;
- 359 (vii) crushing and screening operations;
- 360 (viii) degreasing operations;
- 361 (ix) dry cleaning;
- 362 (x) dust control;
- 363 (xi) emergency generators, pumps, and compressors;
- 364 (xii) fuel dispensing;
- 365 (xiii) internal combustion engines;
- 366 (xiv) mineral processing;
- 367 (xv) natural gas-fired boilers and heaters;
- 368 (xvi) printing operations;
- 348 ~~{(i)}~~ (xvii)(xvii) sand and gravel operations;
- 349 ~~{(ii) specific types of equipment or processes with predictable and low environmental impact;}~~
- 351 ~~{(iii) low-impact construction activities;}~~
- 352 ~~{(iv) gasoline dispensing operations;}~~
- 353 ~~{(v) grain elevators;}~~
- 370 (xviii) surface coating;
- 371 (xix) landfills; and
- 354 ~~{(vi)}~~ (xx) ~~{grain}~~ wood processing ; and ~~{milling;}~~
- 355 ~~{(vii) emergency electrical generators, pumps, and compressors;}~~
- 356 ~~{(viii) small crushing and screening plants;}~~
- 357 ~~{(ix) auto body refinishing shops;}~~
- 358 ~~{(x) natural gas fired boilers and heaters; and}~~
- 359 ~~{(xi) small and mid-size printing facilities; and}~~

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- 360 (c) assessing the environmental and economic impacts of expanding the program.
- 374 (3) On or before November 30, 2025, the division shall:
- 375 (a) make rules to include at least five categories of sources listed in Subsection (2)(b) in the division's
permit by rule program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
Act; and
- 361 ~~{(3)}{(b)}~~ {On or before November 30, 2025, the division shall } report to the Natural Resources,
Agriculture, and Environment Interim Committee:
- 363 ~~{(a)}{(i)}~~ {(i)} the division's recommendations for expanding the permit by rule program, including:
- 364 ~~{(i)}{(A)}~~ {(A)} the addition of new categories of sources, if any, to the program; and
- 365 ~~{(ii)}{(B)}~~ {(B)} changes to statute or rules necessary to implement the program; and
- 366 ~~{(b)}{(ii)}~~ {(ii)} the estimated impacts of expanding the permit by rule program on:
- 367 ~~{(i)}{(A)}~~ {(A)} air quality;
- 368 ~~{(ii)}{(B)}~~ {(B)} permitting efficiency; and
- 369 ~~{(iii)}{(C)}~~ {(C)} regulated sources.
- 387 Section 6. Section **63I-1-219** is amended to read:
- 388 **63I-1-219. Repeal dates: Title 19.**
- 372 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.
- 373 (2) Section 19-2-109.6, Plantwide applicability limitation -- Publication of guidance required -- Report
to committee -- Rulemaking, is repealed July 1, 2026.
- 375 (3) Section 19-2-109.7, Permit by rule registration expansion study, is repealed July 1, 2026.
- 376 ~~[(2)]~~ (4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.
- 377 ~~[(3)]~~ (5) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1,
2027.
- 379 ~~[(4)]~~ (6) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.
- 380 ~~[(5)]~~ (7) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.
- 382 ~~[(6)]~~ (8) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.
- 384 ~~[(7)]~~ (9) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.
- 385 ~~[(8)]~~ (10) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.
- 386 ~~[(9)]~~ (11) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.
- 387 ~~[(10)]~~ (12) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.
- 388 ~~[(11)]~~ (13) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

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407 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

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