

# HB0499S02 compared with HB0499S01

~~{Omitted text}~~ shows text that was in HB0499S01 but was omitted in HB0499S02  
inserted text shows text that was not in HB0499S01 but was inserted into HB0499S02

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## Department of Environmental Quality Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor:

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### LONG TITLE

#### General Description:

This bill addresses the Department of Environmental Quality.

#### Highlighted Provisions:

This bill:

- modifies the qualifications of Air Quality Board members;
- provides a transition for the Air Quality Board;
- ~~{addresses adjacency between certain generation facilities;}~~
- removes regulations for water heaters in certain areas; and
- makes technical and conforming changes.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

None

#### AMENDS:

HB0499S01

## HB0499S01 compared with HB0499S02

**19-2-103** , as last amended by Laws of Utah 2024, Chapter 529 , as last amended by Laws of Utah 2024, Chapter 529

**19-2-107.7** , as enacted by Laws of Utah 2016, Chapter 247 , as enacted by Laws of Utah 2016, Chapter 247

~~{19-2-108 , as last amended by Laws of Utah 2020, Chapter 256 , as last amended by Laws of Utah 2020, Chapter 256}~~

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

Section 1. Section **19-2-103** is amended to read:

**19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.**

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

~~[(A) is not connected with industry;]~~

~~[(B)]~~ (A) is an expert in air quality matters; and

~~[(C)]~~ (B) is [a Utah-licensed physician,] a Utah-licensed professional engineer[,], or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government[;] ;

(A) one of whom resides in a county of the first or second class; and

(B) one of whom resides in a county of the third, fourth, fifth, or sixth class;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who~~[-represents]~~:

(A) represents a nongovernmental organization; and

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- 48 (B) does not represent industry interests; and  
49 ~~[(A) an environmental nongovernmental organization; or]~~  
50 ~~[(B) a nongovernmental organization that represents community interests and does not represent~~  
industry interests; and]  
52 (vii) one representative ~~[from the public]~~ who is:  
53 (A) [-]trained and experienced in public health[-] ; or  
54 (B) a Utah-licensed physician.  
55 (2) A member of the board shall:  
56 (a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional  
accreditation, or documented experience;  
58 (b) be a resident of Utah;  
59 (c) attend board meetings in accordance with the attendance rules made by the department under  
Subsection 19-1-201(1)(d)(i)(A); and  
61 (d) comply with ~~[all]~~ the applicable statutes, rules, and policies, including the conflict of interest  
provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and the conflict of  
interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).  
65 (3) No more than five of the appointed members of the board shall belong to the same political party.  
67 (4) A majority of the members of the board may not derive any significant portion of their income from  
persons subject to permits or orders under this chapter.  
69 (5)  
(a) ~~[Members shall be appointed]~~ The governor shall appoint a member for a term of four years.  
71 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of  
appointment or reappointment, adjust the length of terms to ensure that the terms of board members  
are staggered so that half of the appointed board is appointed every two years.  
75 (c) The terms of the members of the board who are members of the board on May 7, 2025, and who  
do not meet the criteria described in Subsections (1)(b)(i), (ii), (vi), and (vii), expire June 30,  
2025. Subject to Title 63G, Chapter 24, Part 2, Vacancies, the governor shall appoint members in  
accordance with Subsection (1)(b) effective July 1, 2025, and stagger the terms of the members in  
accordance with Subsection (5)(b).  
80 (6) A member may serve more than one term.  
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(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

84 (8) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

87 (9) The board shall elect annually a chair and a vice chair from [its] the board's members.

88 (10)

(a) The board shall meet at least quarterly.

89 (b) [~~Special-~~] The chair may call special meetings [~~may be called by the chair~~] upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

92 (c) Three days' notice shall be given to each member of the board before a meeting.

93 (11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

95 (12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

97 (a) Section 63A-3-106;

98 (b) Section 63A-3-107; and

99 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

100 Section 2. Section **19-2-107.7** is amended to read:

101 **19-2-107.7. Water heater regulations.**

103 (1) As used in this section:

104 (a) "Natural gas-fired water heater" means a device that heats water by the combustion of natural gas to a thermostatically-controlled temperature not exceeding 210 degrees Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge.

108 (b) "Ozone nonattainment area" means an area that does not meet the primary or secondary air quality standards for ozone under the national ambient air quality standards described in 42 U.S.C. Sec. 7407(d).

111 ~~{(b)}~~ {(c)} "PM2.5 nonattainment area" means an area that does not meet the primary or secondary air quality standards for fine particulate matter, PM2.5, under the national ambient air quality standards described in 42 U.S.C. Sec. 7407(d).

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~~[(b)]~~ (d) "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy.

(2) A person may not sell or purchase a natural gas-fired water heater that is manufactured after July 1, 2018 with the intent to install it in Utah if the natural gas-fired water heater exceeds the applicable nitrogen oxide emission rate limit set in Title 15A, State Construction and Fire Codes Act.

(3) A manufacturer in Utah shall display the model number and nitrogen oxide emission rate of a water heater complying with this section on:

(a) the shipping carton for the water heater; and

(b) the permanent rating plate of each water heater unit.

(4) This section does not apply to a water heater unit that:

(a) uses a fuel other than natural gas;

(b) is used in a recreational vehicle; ~~[or]~~

(c) is manufactured in Utah for shipment and use outside of Utah~~[-]~~ ; or

(d) is intended to be installed in an area of Utah that is not included in an ozone nonattainment area~~or a~~  
PM2.5 nonattainment area.

~~{Section 3. Section 19-2-108 is amended to read: }~~

**19-2-108. Notice of construction or modification of installations required -- Authority of director to prohibit construction -- Hearings -- Limitations on authority of director -- Inspections authorized.**

(1) Notice shall be given to the director by a person planning to:

(a) construct a new installation that will or might reasonably be expected to be a source or indirect source of air pollution;

(b) make modifications to an existing installation that will or might reasonably be expected to increase the amount of or change the character or effect of air pollutants discharged, so that the installation may be expected to be a source or indirect source of air pollution; or

(c) install an air cleaning device or other equipment intended to control emission of air pollutants.

(2) A person may not operate a source of air pollution required to have a permit by a rule adopted under Section 19-2-104 or 19-2-107 without having obtained a permit from the director under procedures the board establishes by rule.

(3)

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(a) The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air pollutant source or indirect source, the submission of plans, specifications, and other information as the director finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter, and the payment of a new source review fee established under Subsection 19-1-201(6)(i).

(b) If within 90 days after the receipt of plans, specifications, or other information required under this Subsection (3), the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information, the director shall issue an order prohibiting the construction, installation, or establishment of the air pollutant source or sources in whole or in part.

(c)

(i) For purposes of this Subsection (3)(c), "data center" means a centralized repository for the storage, management, and dissemination of data.

(ii) When assessing whether one or more facilities that include fossil-fuel fired generating equipment and provide energy to a data center is a source, the director shall apply a threshold of no greater than one quarter of a mile between the facilities to determine adjacency.

(iii) The director shall measure the quarter of a mile distance described in Subsection (3)(c)(ii) from the center of the fossil-fuel fired generating equipment.

(4) In addition to any other remedies but before invoking any other remedies, a person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, upon request, in accordance with the rules of the department, is entitled to a special adjudicative proceeding conducted by an administrative law judge as provided by Section 19-1-301.5.

(5) A feature, machine, or device constituting a part of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

(6) This section does not authorize the director to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices, or equipment otherwise available.

(7)

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(a) An authorized officer, employee, or representative of the director may enter and inspect a property, premise, or place on or at which an air pollutant source is located or is being constructed, modified, installed, or established at a reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under this chapter.

(b)

(i) A person may not refuse entry or access to an authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with an inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth the facts found that relate to compliance status.

Section 3. **Effective date.**

This bill takes effect on May 7, 2025.

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