

**Environmental Permitting Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tyler Clancy**

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**LONG TITLE****General Description:**

This bill addresses provisions related to environmental permitting.

**Highlighted Provisions:**

This bill:

- 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;

- adds a repeal date for the sections related to plantwide applicability limitations and permit by rule registration; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

## AMENDS:

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

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

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

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

## ENACTS:

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

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

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

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

**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  
34 Services to delineate specific responsibilities to assure that assessment and  
35 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  
37 cooperative agreements, as needed, to ensure efficient use of resources and effective  
38 response to potential health and safety threats from the environment, and to prevent  
39 gaps in protection from potential risks from the environment to specific individuals  
40 or population groups;
- 41 (c) coordinate implementation of environmental programs to maximize efficient use of  
42 resources by developing, in consultation with local health departments, a  
43 Comprehensive Environmental Service Delivery Plan that:
- 44 (i) recognizes that the department and local health departments are the foundation for  
45 providing environmental health programs in the state;
- 46 (ii) delineates the responsibilities of the department and each local health department  
47 for the efficient delivery of environmental programs using federal, state, and local  
48 authorities, responsibilities, and resources;
- 49 (iii) provides for the delegation of authority and pass through of funding to local  
50 health departments for environmental programs, to the extent allowed by  
51 applicable law, identified in the plan, and requested by the local health  
52 department; and
- 53 (iv) is reviewed and updated annually;
- 54 (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
55 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,  
63 as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter  
64 22, State Training and Certification Requirements, if the training or certification is  
65 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  
70 Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a  
71 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  
73 Subsection (6)(i) for issuance of an approval order.
- 74 (b) In establishing a fee under Subsection (1)(f), the department shall comply with  
75 Section 63J-1-504 that requires a public hearing and requires the established fee to be  
76 submitted to the Legislature for the Legislature's approval as part of the department's  
77 annual appropriations request.
- 78 (c) A fee established under this section shall cover the reasonable direct and indirect  
79 costs required to develop and administer the Title V program and the small business  
80 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  
82 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  
84 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  
86 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  
88 source elects, before the issuance or renewal of a permit, to base the fee during the  
89 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  
91 under Subsection [~~19-2-109.1(4)~~] 19-2-109.1(3) shall be deposited into the General  
92 Fund as the Air Pollution Operating Permit Program dedicated credit to be used  
93 solely to pay for the reasonable direct and indirect costs incurred by the department  
94 in developing and administering the program and the small business assistance  
95 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

- 100 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  
103 and the local health departments, including whether funds allocated by contract  
104 were allocated in accordance with the formula described in Section 26A-1-116;
- 105 (ii) evaluate rules and department policies that affect local health departments in  
106 accordance with Subsection (4)(b);
- 107 (iii) consider policy changes proposed by the department or by local health  
108 departments;
- 109 (iv) coordinate the implementation of environmental quality programs to maximize  
110 environmental quality resources; and
- 111 (v) review each department application for any grant from the federal government  
112 that affects a local health department before the department submits the  
113 application.
- 114 (b) When evaluating a policy or rule that affects a local health department, the  
115 committee shall:
- 116 (i) compute an estimate of the cost a local health department will bear to comply with  
117 the policy or rule;
- 118 (ii) specify whether there is any funding provided to a local health department to  
119 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  
122 Review and General Oversight Committee regarding the determinations made under  
123 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  
128 environmental hazards;
- 129 (c) prepare, publish, and disseminate information to inform the public concerning issues  
130 involving environmental quality;
- 131 (d) establish and operate programs, as authorized by this title, necessary for protection of  
132 the environment and public health from environmental hazards;
- 133 (e) use local health departments in the delivery of environmental health programs to the

- 134 extent provided by law;
- 135 (f) enter into contracts with local health departments or others to meet responsibilities  
136 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  
139 submitted by the governor to the Legislature;
- 140 (i) in accordance with Section 63J-1-504, establish a schedule of fees that may be  
141 assessed for actions and services of the department that are reasonable, fair, and  
142 reflect the cost of services provided;
- 143 (j) for an owner or operator of a source subject to a fee established by Subsection (6)(i)  
144 who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in  
145 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  
147 environmental quality for local health departments;
- 148 (l) perform the administrative functions of the boards established by Section 19-1-106,  
149 including the acceptance and administration of grants from the federal government  
150 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,  
152 and clerical staff and field and laboratory services, the extent of which are limited by  
153 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  
155 that the person paying the fee agrees by contract to be charged for the service to  
156 efficiently use department resources, protect department permitting processes,  
157 address extraordinary or unanticipated stress on permitting processes, or make use of  
158 specialized expertise.
- 159 (7) In providing service under Subsection (6)(n), the department may not provide service in  
160 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  
165 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

168 environmental impacts of destruction, construction, development, and operational  
 169 activities within the inland port.

170 (iv) "Monitoring facilities" means:

171 (A) for monitoring air quality, a sensor system consisting of monitors to measure  
 172 levels of research-grade particulate matter, ozone, and oxides of nitrogen, and  
 173 data logging equipment with internal data storage that are interconnected at all  
 174 times to capture air quality readings and store data; and

175 (B) for monitoring water quality, facilities to collect groundwater samples,  
 176 including in existing conveyances and outfalls, to evaluate sediment, metals,  
 177 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  
 181 inland port area;

182 (B) characterize the environmental baseline for only air quality for the Salt Lake  
 183 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  
 186 in the inland port area arising from destruction, construction, development, and  
 187 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  
 190 monitoring data to:

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

193 (B) the Legislative Management Committee.

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

195 **19-2-102 . Definitions.**

196 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  
 199 U.S.C. Sec. 7602.

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

- 202 [(3)] (4) "Air pollution" means the presence of an air pollutant in the ambient air in the  
203 quantities, for a duration, and under the conditions and circumstances that are injurious  
204 to human health or welfare, animal or plant life, or property, or would unreasonably  
205 interfere with the enjoyment of life or use of property, as determined by the rules  
206 adopted by the board.
- 207 [(4)] (5) "Ambient air" means that portion of the atmosphere, external to buildings, to which  
208 the general public has access.
- 209 [(5)] (6) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite  
210 (crocidolite), cummingtonite-grunerite, anthophyllite, actinolite-tremolite, and libby  
211 amphibole.
- 212 [(6)] (7) "Asbestos-containing material" means a material containing more than 1%  
213 asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M,  
214 National Emission Standard for Asbestos.
- 215 [(7)] (8) "Asbestos inspection" means an activity undertaken to determine the presence or  
216 location, or to assess the condition of, asbestos-containing material or suspected  
217 asbestos-containing material, whether by visual or physical examination, or by taking  
218 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.  
221 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  
226 1% asbestos, as determined using the method adopted in 40 C.F.R. Part 61, Subpart M,  
227 National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or  
228 reduce to powder when dry.
- 229 [(13)] (15) "Indirect source" means a facility, building, structure, or installation which  
230 attracts or may attract mobile source activity that results in emissions of a pollutant for  
231 which there is a national standard.
- 232 (16) "Operating permit" means a permit issued by the director to sources of air pollution  
233 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  
235 Clean Air Act and implementing federal regulations.

- 236 Section 3. Section **19-2-109.1** is amended to read:
- 237 **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~~
- 242 ~~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~~
- 244 ~~section to comply with Title V of the 1990 Clean Air Act.]~~
- 245 [~~(e) "Regulated pollutant" means the same as that term is defined in Title V of the 1990~~
- 246 ~~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
- 248 Title V of the 1990 Clean Air Act without having obtained an operating permit from the
- 249 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
- 251 unless the director makes a written finding, after public comment and hearing, and
- 252 based on substantial evidence in the record, that an operating permit term of less than
- 253 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
- 255 public notice, an opportunity for public comment, and an opportunity for a public
- 256 hearing.
- 257 (c) The director shall, in conformity with the 1990 Clean Air Act and implementing
- 258 federal regulations, revise the conditions of issued operating permits to incorporate
- 259 applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean
- 260 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
- 263 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
- 265 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
- 268 assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter
- 269 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection [



270 (5)] (4).

271 (a) The owner or operator shall pay the fee under protest before being entitled to a  
272 hearing. Payment of a fee or penalty under protest is not a waiver of the right to  
273 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  
275 the fee and within six months after the fee was due.

276 [~~(6)~~] (5) To reinstate an operating permit revoked under Subsection [~~(4)~~] (3) the owner or  
277 operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding  
278 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  
280 administrative action only for the purpose of obtaining judicial review by any of the  
281 following persons to require the director to take action on the permit or the permit's  
282 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.

286 Section 4. Section **19-2-109.6** is enacted to read:

287 **19-2-109.6 . Plantwide applicability limitation -- Publication of guidance**

288 **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  
291 pollutant.

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

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

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

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

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

302 (iii) considering examples of relevant guidance materials published in other states;  
303 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,  
306 Chapter 3, Utah Administrative Rulemaking Act:  
307 (i) establishing an application procedure for obtaining a plantwide applicability  
308 limitation;  
309 (ii) establishing the circumstances under which a plantwide applicability limitation  
310 may be reopened and adjusted;  
311 (iii) ensuring the division receives input from a facility when the facility's plantwide  
312 applicability limitation is modified or reopened;  
313 (iv) requiring public participation when a facility subject to a plantwide applicability  
314 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  
316 a plantwide applicability limitation at the same level if the emissions level  
317 calculated upon renewal in accordance with 40 C.F.R. Sec. 51.166(w)(6) is equal  
318 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  
320 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  
322 limitation and share with the facilities the guidance described in Subsection (2)(a);  
323 and  
324 (e) upon request by a facility, provide individual consultation on how to apply for a  
325 plantwide applicability limitation.  
326 (3) On or before November 30 of each year, the division shall submit a report to the Natural  
327 Resources, Agriculture, and Environment Interim Committee:  
328 (a) detailing the status of facilities adopting a plantwide applicability limitation in the  
329 state, including the number of plantwide applicability limitation applications  
330 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  
333 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

334 Section 5. Section **19-2-109.7** is enacted to read:

335 **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

- 338 source submits a written registration notice to the director to exempt the stationary  
339 source from the requirement to obtain an approval order.
- 340 (b) "Permit by rule" includes a permitting or registration process designed to exempt a  
341 category of similar stationary sources from the requirement to obtain an approval  
342 order.
- 343 (2) The division shall conduct a study on the feasibility of expanding the division's permit  
344 by rule program by:
- 345 (a) reviewing successful permit by rule programs in other states;
- 346 (b) identifying potential categories of sources suitable for inclusion in the permit by rule  
347 program, including:
- 348 (i) sand and gravel operations;
- 349 (ii) specific types of equipment or processes with predictable and low environmental  
350 impact;
- 351 (iii) low-impact construction activities;
- 352 (iv) gasoline dispensing operations;
- 353 (v) grain elevators;
- 354 (vi) grain 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
- 360 (c) assessing the environmental and economic impacts of expanding the program.
- 361 (3) On or before November 30, 2025, the division shall report to the Natural Resources,  
362 Agriculture, and Environment Interim Committee:
- 363 (a) the division's recommendations for expanding the permit by rule program, including:
- 364 (i) the addition of new categories of sources, if any, to the program; and  
365 (ii) changes to statute or rules necessary to implement the program; and
- 366 (b) the estimated impacts of expanding the permit by rule program on:
- 367 (i) air quality;
- 368 (ii) permitting efficiency; and
- 369 (iii) regulated sources.
- 370 Section 6. Section **63I-1-219** is amended to read:  
371 **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
- 374 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
- 378 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,
- 381 2029.
- 382 [(6)] (8) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July
- 383 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,
- 389 2027.
- 390 Section 7. **Effective Date.**
- 391 This bill takes effect on May 7, 2025.