

Casey Snider proposes the following substitute bill:

Department of Environmental Quality Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor:

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

Utah Code Sections Affected:

AMENDS:

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

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

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

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

29 vote between the voting members:

30 (i) the executive director; or

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

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

35 (i) one representative who:

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

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

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

40 (ii) two government representatives who do not represent the federal government~~[,] :~~

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

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

43 (iii) one representative from the mining industry;

44 (iv) one representative from the fuels industry;

45 (v) one representative from the manufacturing industry;

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

47 (A) represents a nongovernmental organization; and

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~~
51 ~~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,
57 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
60 department under Subsection 19-1-201(1)(d)(i)(A); and

61 (d) comply with ~~[aH]~~ the applicable statutes, rules, and policies, including the conflict of
62 interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest,

63 and the conflict of interest rules made by the department under Subsection 19-1-201
64 (1)(d)(i)(B).

65 (3) No more than five of the appointed members of the board shall belong to the same
66 political party.

67 (4) A majority of the members of the board may not derive any significant portion of their
68 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
70 four years.

71 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
72 time of appointment or reappointment, adjust the length of terms to ensure that the
73 terms of board members are staggered so that half of the appointed board is
74 appointed every two years.

75 (c) The terms of the members of the board who are members of the board on May 7,
76 2025, and described in Subsections (1)(b)(i), (ii), (vi), and (vii) expire June 30, 2025.
77 Subject to Title 63G, Chapter 24, Part 2, Vacancies, the governor shall appoint
78 members in accordance with Subsection (1)(b) effective July 1, 2025, and stagger the
79 terms of the members in accordance with Subsection (5)(b).

80 (6) A member may serve more than one term.

81 (7) A member shall hold office until the expiration of the member's term and until the
82 member's successor is appointed, but not more than 90 days after the expiration of the
83 member's term.

84 (8) When a vacancy occurs in the membership for any reason, the governor shall, with the
85 advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2,
86 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
90 chair's own initiative, upon the request of the director, or upon the request of three
91 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
94 members present is the action of the board.

95 (12) A member may not receive compensation or benefits for the member's service, but
96 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
 100 63A-3-107.

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

102 **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
 105 of natural gas to a thermostatically-controlled temperature not exceeding 210 degrees
 106 Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per
 107 square inch gauge.

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

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

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

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

- 120 (a) the shipping carton for the water heater; and
 121 (b) the permanent rating plate of each water heater unit.

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

- 123 (a) uses a fuel other than natural gas;
 124 (b) is used in a recreational vehicle; [~~or~~]
 125 (c) is manufactured in Utah for shipment and use outside of Utah[-] ; or
 126 (d) is intended to be installed in an area of Utah that is not included in an ozone
 127 nonattainment area.

128 Section 3. Section **19-2-108** is amended to read:

129 **19-2-108 . Notice of construction or modification of installations required --**

130 **Authority of director to prohibit construction -- Hearings -- Limitations on authority of**

131 **director -- Inspections authorized.**

- 132 (1) Notice shall be given to the director by a person planning to:
- 133 (a) construct a new installation that will or might reasonably be expected to be a source
134 or indirect source of air pollution;
- 135 (b) make modifications to an existing installation that will or might reasonably be
136 expected to increase the amount of or change the character or effect of air pollutants
137 discharged, so that the installation may be expected to be a source or indirect source
138 of air pollution; or
- 139 (c) install an air cleaning device or other equipment intended to control emission of air
140 pollutants.
- 141 (2) A person may not operate a source of air pollution required to have a permit by a rule
142 adopted under Section 19-2-104 or 19-2-107 without having obtained a permit from the
143 director under procedures the board establishes by rule.
- 144 (3)(a) The director may require, as a condition precedent to the construction,
145 modification, installation, or establishment of the air pollutant source or indirect
146 source, the submission of plans, specifications, and other information as the director
147 finds necessary to determine whether the proposed construction, modification,
148 installation, or establishment will be in accord with applicable rules in force under
149 this chapter, and the payment of a new source review fee established under
150 Subsection 19-1-201(6)(i).
- 151 (b) If within 90 days after the receipt of plans, specifications, or other information
152 required under this Subsection (3), the director determines that the proposed
153 construction, installation, or establishment or any part of it will not be in accord with
154 the requirements of this chapter or applicable rules or that further time, not exceeding
155 three extensions of 30 days each, is required by the director to adequately review the
156 plans, specifications, or other information, the director shall issue an order
157 prohibiting the construction, installation, or establishment of the air pollutant source
158 or sources in whole or in part.
- 159 (c)(i) For purposes of this Subsection (3)(c), "data center" means a centralized
160 repository for the storage, management, and dissemination of data.
- 161 (ii) When assessing whether one or more facilities that include fossil-fuel fired
162 generating equipment and provide energy to a data center is a source, the director
163 shall apply a threshold of no greater than one quarter of a mile between the
164 facilities to determine adjacency.

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

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

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

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

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

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

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

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

190 Section 4. **Effective Date.**

191 This bill takes effect on May 7, 2025.