

HB0378S01

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Fugitive Dust Mitigation Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor:

General Description:

Highlighted Provisions:

- defines ~~{and modifies}~~ terms;

- ▶ authorizes the Air Quality Board to set an aggregate compliance fee amount by board rule beginning on July 1, 2028;

- requires a fugitive dust facility to post informational signage that is clearly visible to the public;**and**

- ▶ { requires the division to send written notice to a fugitive dust facility not in compliance with a fugitive dust control plan or other state and federal law; }

- ▶ { allows the division to require a fugitive dust facility not in compliance with a fugitive dust control plan to: }

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- {provide a corrective action report and monitoring data; and}
- {submit to increased inspections;}
- {provides that the division may reduce the frequency of inspections for a fugitive dust facility with a history of compliance;}
- {provides that a fugitive dust facility may use on-site wastewater for fugitive dust control if the use of the wastewater meets certain requirements; and}
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-105 , as last amended by Laws of Utah 2025, Chapter 14

~~{73-3c-102 , as last amended by Laws of Utah 2023, Chapter 176}~~

ENACTS:

19-2-130 , Utah Code Annotated 1953

19-2a-108 , Utah Code Annotated 1953

REPEALS:

19-2a-101 , as enacted by Laws of Utah 2018, Chapter 120

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

Section 1. Section **19-1-105** is amended to read:

19-1-105. Divisions of department -- Control by division directors.

(1) The following divisions are created within the department:

(a) the Division of Air Quality, to administer:

(i) Chapter 2, Air Conservation Act; and

(ii) Chapter 2a, Air Quality - Special Provisions;

(b) the Division of Drinking Water, to administer Chapter 4, Safe Drinking Water Act;

(c) the Division of Environmental Response and Remediation, to administer:

(i) Chapter 6, Part 3, Hazardous Substances Mitigation Act; and

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- 50 (ii) Chapter 6, Part 4, Petroleum Storage Tank Act;
- 51 (d) the Division of Waste Management and Radiation Control, to administer:
- 52 (i) Chapter 3, Radiation Control Act;
- 53 (ii) Chapter 6, Part 1, Solid and Hazardous Waste Act;
- 54 (iii) Chapter 6, Part 2, Hazardous Waste Facility Siting Act;
- 55 (iv) Chapter 6, Part 5, Solid Waste Management Act;
- 56 (v) Chapter 6, Part 6, Lead Acid Battery Disposal;
- 57 (vi) Chapter 6, Part 7, Used Oil Management Act;
- 58 (vii) Chapter 6, Part 8, Waste Tire Recycling Act;
- 59 (viii) Chapter 6, Part 10, Mercury Switch Removal Act;
- 60 (ix) Chapter 6, Part 11, Industrial Byproduct Reuse; and
- 61 (x) Chapter 6, Part 12, Disposal of Electronic Waste Program; and
- 62 (e) the Division of Water Quality, to administer Chapter 5, Water Quality Act.
- 63 (2) Each division is under the immediate direction and control of a division director appointed by the
executive director.
- 65 (3)
- (a) A division director shall possess the administrative skills and training necessary to perform the
duties of division director.
- 67 (b) A division director shall hold one of the following degrees from an accredited college or university:
- 69 (i) a four-year degree in physical or biological science or engineering;
- 70 (ii) a related degree; or
- 71 (iii) a degree in law.
- 72 (4) The executive director may remove a division director at will.
- 73 (5) A division director shall serve as the executive secretary to the policymaking board, created in
Section 19-1-106, that has rulemaking authority over the division director's division.
- 65 Section 2. Section 2 is enacted to read:
- 66 **19-2-130. Aggregate compliance fee -- Rulemaking.**
- 78 (1) As used in this section:
- 79 (a)
- (i) "Aggregate" means rock material, including sand, gravel, stone, and other rock products.
- 81 (ii) "Aggregate" does not include:

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- 82 (A) metalliferous minerals, as that term is described in Section 59-5-201;
83 (B) mineral salts;
84 (C) gem stones;
85 (D) coal and other energy-rich materials; or
86 (E) frac sand.
- 87 (b) "Aggregate operation" means a facility or site:
88 (i) engaged in a commercial production to extract, crush, screen, grind, store, or transport aggregate;
and
90 (ii) subject to a permitting requirement under Section 19-2-108.
- 91 (c) "Board" means the Air Quality Board created in Section 19-2-103.
92 (d) "Frac sand" means a quartz silica sand that is:
93 (i) processed to a uniform grain size; and
94 (ii) sold or used in hydraulic fracturing or a similar oil and gas activity to prop open fractures or fissures
in a subsurface rock formation for the extraction of hydrocarbons.
- 97 (e)
98 (i) "Mineral salts" means a salt containing a nonmetallic element.
98 (ii) "Mineral salts" includes chloride compounds, sulfur compounds, potash, gypsum, ammonium
nitrate, and phosphate.
- 100 (2) Beginning on July 1, 2027, and ending on June 30, 2028, the division may impose an annual
aggregate compliance fee on an aggregate operation based on annual air pollutant emissions, in an
amount:
- 103 (a) for 20 or less tons of annual emissions, not to exceed \$750;
104 (b) for between 20 and 79 tons of annual emissions, not to exceed \$1,500;
105 (c) for between 79 and 99 tons of annual emissions, not to exceed \$3,500; and
106 (d) for 99 or more tons of annual emissions, not to exceed \$4,500.
- 107 (3) Beginning on July 1, 2028, the division may impose an annual aggregate compliance fee on an
{owner or operator of an} aggregate operation in accordance with Title 63J, Chapter 1, Budgetary
Procedures Act.
- 110 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make
rules to implement the fee described in this section.
- 101 Section 3. Section 3 is enacted to read:

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19-2a-108. Fugitive dust facility {~~requirements~~} -- {~~Signage -- Water reuse~~} Definitions --
Signage requirement.

(1) As used in this section:

(a) "Division" means the Division of Air Quality created in Section 19-1-105.

(b) "Fugitive dust" means particulate matter that becomes airborne from the mechanical disturbance or wind-blown disturbance of a material or surface.

(c) "Fugitive dust control plan" means a plan that:

(i) indicates the methods a fugitive dust facility uses to control and monitor fugitive dust; and

~~{(ii) {is required by the division.}-}~~

~~{(d) }~~

(ii) complies with relevant state and federal law for a fugitive dust facility.

(d)

(i) "Fugitive dust facility" means a commercial facility or site:

(A) larger than a quarter acre;

(B) that produces fugitive dust; and

(C) that the division requires to complete a fugitive dust control plan.

(ii) "Fugitive dust facility" includes:

(A) an aggregate operation that extracts, crushes, screens, grinds, stores, or transports rock material, including sand, gravel, stone, and other rock products;

(B) an excavation site, including an excavation activity like trenching, grading, drilling, or earthmoving; and

(C) a site for topsoil or bulk material handling, including stripping, loading, unloading, moving, or spreading soil, fill, or another bulk material.

(iii) "Fugitive dust facility" does not include:

(A) an agricultural or horticultural operation; and

(B) the sanding or salting of a roadway for snow and ice control.

~~{(e) {"Fugitive dust logbook" means a written record of a fugitive dust facility's monitoring, inspections, maintenance, and corrective actions, as required by a fugitive dust control plan.}-}~~

(2) A fugitive dust facility shall post informational signage:

(a) at an entryway to the fugitive dust facility that is clearly visible to the public; and

(b) that includes the following information:

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- 142 (i) the name of the facility or site;
143 (ii) a permit identification number;
144 (iii) a business identification number;and
145 (iv) the contact information for:
146 (A) the facility manager or owner; and
147 (B) the division.
148 { (3) }
149 { (a) { A fugitive dust facility may not operate without a fugitive dust control plan approved by the
150 division. } }
151 { (b) { The division shall approve or reject a fugitive dust control plan within 10 days of receipt of the
152 fugitive dust control plan. } }
153 { (4) }
154 { (a) { If the division determines that a fugitive dust facility is not in compliance with a fugitive dust
155 control plan or relevant state and federal law, the division shall: } }
156 { (i) { send a written notice of noncompliance to the fugitive dust facility; and } }
157 { (ii) { inform the fugitive dust facility that the division may require the fugitive dust facility to: } }
158 { (A) { provide the information described in Subsection (4)(b); and } }
159 { (B) { submit to inspections by the division of up to three times per week for a six-week period. } }
160 { (b) { The division may require a fugitive dust facility not in compliance with a fugitive dust control
161 plan to submit to the division: } }
162 { (i) { a corrective action report that includes an action the fugitive dust facility takes to comply with a
163 fugitive dust control plan; and } }
164 { (ii) { a fugitive dust logbook, for a period of time determined by the division. } }
165 { (c) { The division may modify a fugitive dust facility's inspection schedule to at least one inspection
166 every 18 months, if the fugitive dust facility: } }
167 { (i) { is subject to an annual inspection by the division; and } }
168 { (ii) { receives no written notice of noncompliance, described in Subsection (4)(a), in a three-year
169 period. } }
170 { (5) { A fugitive dust facility may use wastewater for fugitive dust control if: } }
171 { (a) { the wastewater is generated by the fugitive dust facility on site; } }
172 { (b) { the use of the wastewater does not: } }

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- {(i) {~~result in a direct or indirect discharge of pollutants to a water of the state; or~~} }
- {(ii) {~~pose a threat to human health or the environment.~~} }
- {(e) {~~the wastewater is approved for use;~~} }
- {(i) {~~by the division in a fugitive dust control plan; and~~} }
- {(ii) {~~under a water right in accordance with Title 73, Water and Irrigation.~~} }

Section 4. **Repealer.**

This Bill Repeals:

This bill repeals:

Section **19-2a-101, Title.**

~~{Section 4. Section **73-3c-102** is amended to read: }~~

73-3c-102. Definitions.

As used in this chapter:

- (1) "Director" means the director of the Division of Water Quality appointed under Section 19-5-106.
- (2) "Domestic wastewater" or "sewage" means:
- (a) a combination of the liquid or water-carried wastes from:
- (i) structures with installed plumbing facilities; and
- (ii) industrial establishments; and
- (b) any groundwater, surface water, and storm water that is present with the waste.
- (3) "Industrial facility" means a factory, mill, plant, mine, refinery, warehouse, or building or collection of buildings, including the land on which the facility is located, and the machinery and equipment located at or within the facility used in connection with the operation of the facility in an industrial business.
- (4) "POTW" means a publicly owned treatment works as defined by Section 19-5-102.
- (5) "Public agency" means a public agency as defined by Section 11-13-103 that:
- (a) owns or operates a POTW;
- (b) collects and transports domestic wastewater;
- (c) holds legal title to a water right;
- (d) is delegated the right to the beneficial use or reuse of water by the legal title holder of the water right;
- (e) is a water supplier; or
- (f) sells wholesale or retail water.

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(6) "Return flow requirement" means return flow required under a water right.

(7)

(a) "Reuse authorization contract" means a contract or contracts among:

(i) a public agency proposing a water reuse project;

(ii) the owner or operator of a POTW that treats domestic wastewater proposed for use in a reuse project;

(iii) the owner of a domestic wastewater collection or transportation system if the reuse project will divert domestic wastewater directly from that entity's collection or transportation system;

(iv) the legal title holder of the water right designated for use in the reuse project, unless the legal title holder of the water right has delegated to another the right to the beneficial use or reuse of the water;

(v) each water supplier not holding legal title to the water right designated for use in the reuse project that sells or delivers water under the water right designated for use in the reuse project;

(vi) each entity that will engage in the wholesale or retail sale of water from the water reuse project; and

(vii) the retail water supplier retailing water that will be replaced by reuse water supplied under the proposed reuse project.

(b) A reuse authorization contract shall:

(i) provide that a water supplier that is a party to the agreement consents to the use of reuse water under each water right, in which the water supplier has an interest, that is identified for use in the water reuse project; and

(ii) provide that any proposed water reuse project based on the contract shall be consistent with the underlying water right.

(8) "Reuse water" means domestic wastewater treated to a standard acceptable under rules made by the Water Quality Board under Section 19-5-104.

(9)

(a) "Water reuse project" or "project" means a project for the reuse of domestic wastewater that requires approval by the director under Section 19-5-106 and the state engineer under Section 73-3c-302.

(b) "Water reuse project" or "project" does not include water reused at or by an industrial facility:

(i) under a fugitive dust control plan, as that term is defined in Section 19-2a-108; or

(ii) for operating or processing purposes.

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- 234 (10) "Water right" means:
235 (a) a right to use water evidenced by any means identified in Section 73-1-10; or
236 (b) a right to use water under an approved application:
237 (i) to appropriate;
238 (ii) for a change of use; or
239 (iii) for the exchange of water.
240 (11) "Water supplier" means an entity engaged in the delivery of water for municipal purposes.

137 Section 5. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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