

Effective 3/15/2018

Chapter 2a
Air Quality - Special Provisions

19-2a-101 Title.

This chapter is known as "Air Quality - Special Provisions."

Enacted by Chapter 120, 2018 General Session

19-2a-102 Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

- (1) There is created the Air Quality Policy Advisory Board consisting of the following 12 voting members:
 - (a) two members of the Senate, appointed by the president of the Senate;
 - (b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;
 - (c) the director;
 - (d) one representative of industry interests, appointed by the president of the Senate;
 - (e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;
 - (f) one representative of the academic community who has expertise in air quality matters, appointed by the president of the Senate;
 - (g) two representatives of the academic community, appointed by the governor, who have expertise in air quality matters; and
 - (h) one representative of a nongovernmental organization, appointed by the governor, who:
 - (i) represents community interests;
 - (ii) does not represent industry or business interests; and
 - (iii) has expertise in air quality matters.
- (2) The Air Quality Policy Advisory Board shall:
 - (a) seek the best available science to identify legislative actions to improve air quality;
 - (b) identify and prioritize potential legislation and funding that will improve air quality; and
 - (c) make recommendations to the Legislature on how to improve air quality in the state.
- (3)
 - (a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d) through (h) are appointed to serve four-year terms.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.
- (5)
 - (a) Six members of the advisory board constitutes a quorum of the advisory board.
 - (b) The action of the majority of the advisory board when a quorum is present is the action of the advisory board.

- (6) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
- (7) A member of the advisory board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8) The department shall provide staff support for the advisory board.

Amended by Chapter 69, 2021 General Session

19-2a-102.5 Emissions reduction plan study and recommendations.

- (1) As used in this section:
 - (a) "Disproportionate air quality affected area" means a non-attainment area, as defined in Clean Air Act, Section 107(d)(1)(A)(i), 42 U.S.C. Sec. 7407(d)(1)(A)(i), or a geographic area that, when compared with other areas in the state, is more likely to be found to not meet air quality standards.
 - (b) "Inland port" means a project area as that term is defined in Section 11-58-102.
 - (c) "Inland port area" means an area in and around an inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.
 - (d) "Legislative interim committees" means:
 - (i) the Economic Development and Workforce Services Interim Committee;
 - (ii) the Natural Resources, Agriculture, and Environment Interim Committee; and
 - (iii) the Transportation Interim Committee.
 - (e)
 - (i) "Underserved or underrepresented community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.
 - (ii) "Underserved or underrepresented community" may include an economically disadvantaged community where the people of the community have limited access to or have demonstrated a low level of use of emission reduction programs.
- (2) The department shall conduct a study in accordance with Subsection (3) and recommend to the legislative interim committees a Utah diesel emission reduction program in accordance with Subsection (4).
- (3) The department shall study:
 - (a) the Texas Emission Reduction Plan, Tex. Health & Safety Code Ann., C 386, and other examples of diesel emission reduction programs;
 - (b) potential diesel emission reduction goals from targeted diesel emission sources that apply to specific:
 - (i) on- and off-road diesel vehicles and equipment; and
 - (ii) geographic airsheds;
 - (c) potential diesel emission reduction financial incentive programs;
 - (d) potential revenue sources to fund incentive programs described in Subsection (3)(c);
 - (e) administrative, evaluation, and reporting responsibilities; and
 - (f) potential environmental mitigation projects that could reduce emissions within and around the inland port area and be implemented by the Utah Inland Port Authority.

- (4)
- (a) The department shall recommend to the legislative interim committees a framework of the Utah diesel emission reduction program that includes:
 - (i) diesel emission reduction goals;
 - (ii) financial incentive programs to encourage the reduction of diesel emissions;
 - (iii) revenue sources to fund the financial incentive programs described in Subsection (4)(a)(ii); and
 - (iv) implementation of the Utah diesel emission reduction program, including:
 - (A) which one or more state agencies should administer the Utah diesel emission reduction program;
 - (B) evaluation processes; and
 - (C) reporting requirements.
 - (b) The framework described in this Subsection (4) shall specifically include recommendations for:
 - (i) registration surcharges:
 - (A) related to on- or off-road diesel equipment or vehicles sold, rented, or leased; and
 - (B) that are deposited into and allowed to accumulate in an expendable special revenue fund for purposes related to the Utah diesel emission reduction program;
 - (ii) potential environmental mitigation projects for the inland port area identified under Subsection (3)(f);
 - (iii) programs to foster new technology implementation, including:
 - (A) a grant program;
 - (B) the expansion of Utah's clean diesel program; or
 - (C) tax credits for cleaner equipment purchases;
 - (iv) financial incentives for the early retirement of heavy-duty diesel equipment and the potential expansion of Title 19, Chapter 2, Part 2, Clean Air Retrofit, Replacement, and Off-road Technology Program; and
 - (v) state construction contract incentives that are awarded to persons who predominately use equipment that has the most current generation federal emissions standard engines, clean alternative fuel engines, or electric motors.
 - (c) The framework described in this Subsection (4) shall provide for programs that directly benefit:
 - (i) rural communities;
 - (ii) inland port areas;
 - (iii) underserved or underrepresented communities; and
 - (iv) disproportionate air quality affected areas.
- (5)
- (a) The department shall make an interim report to the legislative interim committees on the status of the study under this section during or before the November interim meetings in 2022.
 - (b) The department shall provide a final report to the legislative interim committees of the department's study and recommendations under this section, including any recommended legislation, during or before the November interim meetings in 2023.

Enacted by Chapter 95, 2022 General Session

19-2a-103 Gasoline vapor recovery -- Penalties.

- (1) As used in this section:

- (a) "Gasoline cargo tank" means a tank that:
 - (i) is intended to hold gasoline;
 - (ii) has a capacity of 1,000 gallons or more; and
 - (iii) is attached to or intended to be drawn by a motor vehicle.
 - (b) "Operator" means an individual who controls a motor vehicle:
 - (i) to which a gasoline cargo tank is attached; or
 - (ii) that draws a gasoline cargo tank.
 - (c) "Underground storage tank" means the same as that term is defined in Section 19-6-102.
- (2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:
- (a) permits the loading of gasoline into the gasoline cargo tank; or
 - (b) loads an underground storage tank with gasoline from the gasoline cargo tank.
- (3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load an underground storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:
- (a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:
 - (i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:
 - (A) make a vapor-tight connection; and
 - (B) prevent the release of gasoline vapors by automatically closing upon disconnection; and
 - (ii) submerged filling or bottom filling methods; and
 - (b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).
- (4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.
- (5)
- (a) The department may fine an operator who violates this section:
 - (i) up to \$1,000 for a first offense; or
 - (ii) up to \$2,000 for a second offense.
 - (b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.
- (6) If a facility at which an underground storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).

Renumbered and Amended by Chapter 120, 2018 General Session

19-2a-105 Prescribed fires, pile burns, and nonfull suppression events.

- (1) As used in this section:
- (a) "Board" means the Air Quality Board.
 - (b) "Burn plan" means the plan required for each fire application ignited by a land manager.
 - (c) "Burn window" means the period of time during which the prescribed fire is scheduled for ignition.
 - (d) "Director" means the director of the division.
 - (e) "Division" means the Division of Air Quality created in Section 19-1-105.

- (f) "Exceptional event" means one or more prescribed burning or pile burning events and the resulting emissions that affect air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation.
 - (g) "Land manager" means a person who administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.
 - (h) "Large prescribed fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit that covers 20 acres or more per burn.
 - (i) "Large prescribed pile fire" means a fire that a land manager ignites to meet a specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.
 - (j) "Nonfull suppression event" means a naturally ignited wildland fire for which a land manager secures less than full suppression to accomplish a specific pre-stated resource management objective in a predefined geographic area.
 - (k) "Pile burning" means a fire or fires that a land manager ignites for fuel mitigation designed to reduce the risk of catastrophic fire, improve ecological health, and prevent dangerous wildfires by burning piled or scattered leaves, pine needles, downed trees, natural woody debris, thick vegetation, or similar organic material left behind after logging or other forest treatments.
 - (l) "Prescribed burning" means the planned and controlled burning of plant material in order to minimize the risk of catastrophic wildfire or to meet specific land management objectives.
 - (m) "Wildland" means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road, railroad, or other transportation or conveyance facility or one or more structures that are widely scattered.
- (2)
- (a) The division may not permit a land manager to conduct a large prescribed fire or large prescribed pile fire if the land manager does not comply with the rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) In the rules made by the board under this Subsection (2), the board shall require the land manager to:
 - (i) describe the use of a state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;
 - (ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and
 - (iii) notify the division of a nonfull suppression event once a fire becomes a nonfull suppression event.
- (3) The director shall approve a prescribed burning or pile burning in wildland areas and the prescribed burning or pile burning may be conducted under the following conditions:
- (a) the United States National Weather Service clearing index in the area of the burn is 500 or greater;
 - (b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates to the director that the planned prescribed burning or pile burning will:
 - (i) not cause an exceedance of a national ambient air quality standard outside the wildland area;
 - (ii) minimize the long range transport of smoke; and
 - (iii) protect visibility in mandatory federal class 1 areas; or
 - (c) the United States National Weather Service clearing index in the burn area is less than 500 and the prescribed burning or pile burning may cause an exceedance of a national ambient

air quality standard outside the wildland area if the land manager demonstrates to the director that the prescribed burning or pile burning fuel conditions are optimal to:

- (i) protect safety of the public and fire staff;
 - (ii) minimize the risk of catastrophic fire;
 - (iii) achieve necessary watershed and ecological conditions; and
 - (iv) establish, restore, or maintain a sustainable and resilient wildland ecosystem or to preserve endangered or threatened species through a program of prescribed burning or pile burning.
- (4) The director shall approve a prescribed burning or pile burning to reduce hazardous fuels for public safety in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:
- (a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or
 - (b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager:
 - (i) provides a demonstration that includes an assessment of the impact to local receptors;
 - (ii) implements measures to notify residents; and
 - (iii) minimizes residents exposure to smoke.
- (5) The director shall approve a prescribed burning or pile burning for resource management purposes in areas not defined as wildland and the prescribed burning or pile burning may be conducted under the following conditions:
- (a) the United States National Weather Service clearing index in the area of the burn is 500 or greater; or
 - (b) the United States National Weather Service clearing index in the area of the burn is less than 500, and to maximize the opportunities for prescribed burning or pile burning the director approves a prescribed burning or pile burning after the land manager demonstrates that the planned prescribed burning or pile burning will:
 - (i) not cause an exceedance of a national ambient air quality standard;
 - (ii) minimize the long range transport of smoke; and
 - (iii) protect visibility in mandatory federal class 1 areas.
- (6) The division shall make the necessary filings with the United States Environmental Protection Agency if a prescribed burning or pile burning approved by the director results in an exceptional event.

Amended by Chapter 153, 2023 General Session

19-2a-106 Division of Air Quality Oil, Gas, and Mining Restricted Account.

- (1) As used in this section:
- (a) "Account" means the Division of Air Quality Oil, Gas, and Mining Restricted Account created by this section.
 - (b) "Division" means the Division of Air Quality.
- (2)
- (a) There is created a restricted account within the General Fund known as the "Division of Air Quality Oil, Gas, and Mining Restricted Account."
 - (b) The account consists of:
 - (i) deposits to the account made under Section 51-9-306;
 - (ii) appropriations from the Legislature; and
 - (iii) interest and other earnings described in Subsection (2)(c).

- (c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.
- (3)
 - (a) Upon appropriation by the Legislature, the division shall use money from the account to pay the costs of programs or projects administered by the division that are primarily related to oil, gas, and mining.
 - (b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a):
 - (i) federal money; or
 - (ii) a dedicated credit.
- (4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Enacted by Chapter 401, 2021 General Session

19-2a-107 Point source pollution of halogens -- Best available control technology plan -- Recommendations on standards.

- (1) As used in this section:
 - (a) "Applicable geographic area" means the following counties:
 - (i) Box Elder County;
 - (ii) Davis County;
 - (iii) Salt Lake County;
 - (iv) Tooele County;
 - (v) Utah County; and
 - (vi) Weber County.
 - (b) "Division" means the Division of Air Quality created in Section 19-1-105.
- (2) By no later than December 31, 2024, the division shall complete:
 - (a) an air emissions inventory of point sources in the applicable geographic area that emit halogens;
 - (b) a best available control technology emissions reduction plan to reduce the compounds of halogens in the applicable geographic area, with an implementation date of December 31, 2026; and
 - (c) recommendations for a state standard limiting halogen emissions.
- (3) Upon completion, the division shall publish the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations on standards required under Subsection (2) on the division's public website.
- (4) The division shall report to the Natural Resources, Agriculture, and Environment Interim Committee regarding the status of the air emissions inventory, the best available control technology emissions reduction plan, and the recommendations for a standard:
 - (a) on or before the 2023 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee; and
 - (b) on or before the 2024 November interim committee meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Enacted by Chapter 143, 2023 General Session