

**ELECTRONIC GOVERNMENT SERVICES
AMENDMENTS - ENVIRONMENTAL QUALITY**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Richard M. Siddoway

This act modifies the Environmental Quality Code. The act makes technical changes to facilitate the provision of government services electronically.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-2-103, as last amended by Chapter 243, Laws of Utah 1996

19-2-124, as last amended by Chapter 314, Laws of Utah 1999

19-4-103, as last amended by Chapters 27 and 243, Laws of Utah 1996

19-5-103, as last amended by Chapter 243, Laws of Utah 1996

19-6-320, as renumbered and amended by Chapter 112, Laws of Utah 1991

19-6-813, as renumbered and amended by Chapter 51, Laws of Utah 2000

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 comprises 11 members, one of whom shall be the executive director and ten of whom shall be appointed by the governor with the advice and consent of the Senate.

(2) The members shall be knowledgeable of air pollution matters and shall be:

- (a) a practicing physician and surgeon licensed in the state not connected with industry;
- (b) a registered professional engineer who is not from industry;
- (c) a representative from municipal government;
- (d) a representative from county government;
- (e) a representative from agriculture;
- (f) a representative from the mining industry;
- (g) a representative from manufacturing;

- (h) a representative from the fuel industry; and
- (i) two representatives of the public not representing or connected with industry, at least one of whom represents organized environmental interests.
- (3) No more than five of the appointed members shall belong to the same political party.
- (4) The majority of the members may not derive any significant portion of their income from persons subject to permits or orders under this chapter. Any potential conflict of interest of any member or the executive secretary, relevant to the interests of the board, shall be adequately disclosed.
- (5) Members serving on the Air Conservation Committee created by Chapter 126, Laws of Utah 1981, as amended, shall serve as members of the board throughout the terms for which they were appointed.
- (6) (a) Except as required by Subsection (6)(b), members shall be appointed for a term of four years.
- (b) Notwithstanding the requirements of Subsection (6)(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 approximately half of the board is appointed every two years.
- (7) Members may serve more than one term.
- (8) Members shall hold office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.
- (9) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (10) The board shall elect annually a chair and a vice chair from its members.
- (11) (a) The board shall meet at least quarterly, and special meetings may be called by the chair upon his own initiative, upon the request of the executive secretary, or upon the [~~written~~] request of three members of the board.
- (b) Three days' notice shall be given to each member of the board prior to any meeting.
- (12) Six members constitute a quorum at any meeting, and the action of a majority of members present is the action of the board.

(13) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 2. Section **19-2-124** is amended to read:

19-2-124. Application for certification of pollution control facility -- Refunds -- Interest.

(1) (a) A person who qualifies under Subsection (2) may apply to the board for certification of a pollution control facility or facilities erected, constructed, or installed, or to be erected, constructed, or installed in the state on or after July 1, 1986, but on or before June 30, 2004.

(b) An application may be filed at any time after a firm construction contract has been entered or construction has commenced.

(2) (a) (i) A person who applies under Subsection (1) shall be the owner of a trade or business that uses property in the state requiring a pollution control facility to prevent or minimize pollution or a person who, as a lessee or pursuant to an agreement, conducts the trade or business

that operates or uses the property.

(ii) For purposes of this Subsection (2), "owner" includes a contract purchaser.

(b) The facility shall be owned, operated, or leased during a part of the tax year in which the exemption is claimed.

(c) A person who obtains certification for a pollution control facility may claim an exemption from sales and use taxes as provided in Sections 19-2-123 and 59-12-104 only during the time period beginning on or after July 1, 1986, and ending on or before June 30, 2004.

(d) A person who pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a purchase of tangible personal property or services used in the construction of or incorporated into a pollution control facility that:

(i) is not certified under Section 19-2-125, may obtain a refund of the tax if:

(A) the board subsequently certifies the pollution control facility;

(B) the tangible personal property or services meet the requirements for exemption provided in Subsections 19-2-123(2) and 59-12-104(11), except for the certification requirement; and

(C) the person files a claim for the refund with the State Tax Commission within the lesser of:

(I) three years after the day on which the pollution control facility is certified under Section 19-2-125; or

(II) six years after the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) is certified under Section 19-2-125, may obtain a refund of the tax if:

(A) the tangible personal property or services meet the requirements for exemption provided in Subsections 19-2-123(2) and 59-12-104(11); and

(B) the person files a claim for the refund with the State Tax Commission within three years after the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act.

(e) (i) If a person files a claim for a refund of taxes under Subsection (2)(d)(i) paid on a purchase of tangible personal property or services used in the construction of or incorporated into a pollution control facility that was not certified under Section 19-2-125 at the time of the purchase:

(A) within 180 days after the day on which the board certifies the pollution control facility, interest shall accrue to the amount of the refund granted by the State Tax Commission:

(I) at the rate prescribed in Section 59-1-402; and

(II) beginning on the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use Tax Act, for which the person is claiming a refund; or

(B) more than 180 days after the day on which the board certifies the pollution control facility, interest shall be added to the amount of the refund granted by the State Tax Commission:

(I) at the rate prescribed in Section 59-1-402; and

(II) beginning 30 days after the day on which the person files the claim for a refund under Subsection (2)(d).

(ii) If a person files a claim for a refund of taxes under Subsection (2)(d)(ii) paid on a purchase of tangible personal property or services used in the construction of or incorporated into a pollution control facility that was certified under Section 19-2-125 at the time of the purchase, interest shall accrue to the amount of the refund granted by the State Tax Commission:

(A) at the rate prescribed in Section 59-1-402; and

(B) beginning 30 days after the day on which the person files a claim for a refund under Subsection (2)(d).

(3) (a) Each application shall be in [~~writing on a form~~] a format prescribed by the board, contain a description of the facilities and materials incorporated in them, the machinery and equipment, the existing or proposed operational procedure, and a statement of the purpose of pollution prevention, control, or reduction served or to be served by the facility.

(b) The board may require any further information it finds necessary before issuance of a certificate.

Section 3. Section **19-4-103** is amended to read:

19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem and expenses.

(1) The board created under Section 19-1-106 comprises 11 members, one of whom is the executive director and the remainder of whom shall be appointed by the governor, with the advice

and consent of the Senate.

(2) No more than five appointed members shall be from the same political party.

(3) The appointed members shall be knowledgeable about drinking water and public water systems and shall represent different geographical areas within the state insofar as practicable.

(4) The ten appointed members shall be appointed from the following areas:

(a) two elected officials of municipal government or their representatives involved in management or operation of public water systems;

(b) two representatives of improvement districts, water conservancy districts, or metropolitan water districts;

(c) one representative from an industry which manages or operates a public water system;

(d) one registered professional engineer with expertise in civil or sanitary engineering;

(e) one representative from the state water research community or from an institution of higher education which has comparable expertise in water research;

(f) two representatives of the public who do not represent other interests named in this section and who do not receive, and have not received during the past two years, a significant portion of their income, directly or indirectly, from suppliers; and

(g) one representative from a local health department.

(5) (a) Members of the Utah Safe Drinking Water Committee created by Chapter 126, Laws of Utah 1981, shall serve as members of the board throughout the terms for which they were appointed.

(b) Except as required by Subsection (5)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (5)(b), 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 approximately half of the board is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) Each member holds office until the expiration of the member's term, and until a

successor is appointed, but not for more than 90 days after the expiration of the term.

(8) The board shall elect annually a chair and a vice chair from its members.

(9) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon his own initiative, upon the request of the executive secretary, or upon the [written] request of three members of the board.

(c) Reasonable notice shall be given each member of the board prior to any meeting.

(10) Six members constitute a quorum at any meeting and the action of the majority of the members present is the action of the board.

(11) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 4. Section **19-5-103** is amended to read:

19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) Committee members currently serving on the Water Pollution Control Committee created under Chapter 126, Laws of Utah 1981, shall serve on the board throughout the terms for which they were appointed.

(2) The board comprises the executive director and ten members appointed by the governor, with the advice and consent of the Senate.

(3) No more than five of the appointed members may be from the same political party.

(4) The appointed members, insofar as practicable, shall include the following:

(a) one member representing the mineral industries;

(b) one member representing the food processing industries;

(c) one member representing other manufacturing industries;

(d) two members who are officials of municipal government or their representatives involved in the management or operation of wastewater treatment facilities;

(e) one member representing agricultural and livestock interests;

(f) one member representing fish, wildlife, and recreation interests;

(g) one member representing improvement and service districts; and

(h) two members at large, one of whom represents organized environmental interests, selected with due consideration of the areas of the state affected by water pollution and not representing other interests named in this Subsection (4).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the advice and consent of the Senate.

(6) (a) Except as required by Subsection (6)(b), members shall be appointed for terms of four years and are eligible for reappointment.

(b) Notwithstanding the requirements of Subsection (6)(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 approximately half of the board is appointed every two years.

(7) Members shall hold office until the expiration of their terms and until their successors are appointed, not to exceed 90 days after the formal expiration of their terms.

(8) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which shall be open to the public for inspection.

(9) Special meetings may be called by the chair and must be called by him upon ~~[receipt of a written]~~ the request ~~[for a special meeting signed by]~~ of three or more members of the board.

(10) Each member of the board and the executive secretary shall be notified ~~[in writing]~~ of the time and place of each meeting.

(11) Six members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

(12) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(c) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) Local government members may decline to receive per diem and expenses for their service.

Section 5. Section **19-6-320** is amended to read:

19-6-320. Remedial action completion procedures -- Legal remedies.

(1) A party who has entered an agreement or who has been issued a final order under the authority of Sections 19-6-317 through this section shall send ~~[written]~~ notice to the executive director when the remedial action for the facility is completed.

(2) Upon notice that remedial action at a facility is complete, the executive director shall inspect the facility to determine if the remedial action plan as implemented meets the substantive requirements of CERCLA.

(3) If the executive director determines that the remedial action plan as implemented meets the substantive requirements of CERCLA, except for any ongoing activities at the facility, including operation, maintenance, or monitoring, he shall issue a notice of agency action declaring that remedial action at the facility is complete and removing the facility from the hazardous substances priority list.

(4) (a) If the executive director determines that the remedial action plan for a national priority list site, as implemented, does not meet the substantive requirements of CERCLA, he may issue an order directing the responsible parties to take additional actions to implement the remedial action plan.

(b) If the responsible parties refuse to comply with the order the executive director may take enforcement action.

(5) (a) If the executive director determines that the remedial action plan for a proposed national priority list site or a scored site has not been properly and completely implemented according to the agreement between the executive director and the responsible parties, or is not consistent with the substantive requirements of CERCLA, he shall request that the responsible parties take additional actions to fulfill the agreement to implement the remedial action plan.

(b) If the responsible parties refuse to comply with the request, the executive director may take action to enforce the agreement.

Section 6. Section **19-6-813** is amended to read:

19-6-813. Application for partial reimbursement -- Penalty.

(1) An application for partial reimbursement shall be [~~on the form~~] in the format prescribed by the local health department or the executive secretary, as is appropriate under Section 19-6-809, and shall include:

- (a) the recycler's name and a brief description of the recycler's business;
- (b) the quantity, in tons, of waste tires recycled or used in a beneficial use;
- (c) originals or copies of log books, receipts, bills of lading, or other similar documents to establish the tonnage of waste tires recycled or used in a beneficial use;
- (d) a description of how the waste tires were recycled;

(e) proof that is satisfactory to the local health department or the executive secretary, as is appropriate under Section 19-6-809, that the waste tires were recycled or used in a beneficial use; and

(f) the affidavit of the recycler warranting that the recycled waste tires or waste tires used for a beneficial use for which reimbursement is sought meet requirements of Subsection 19-6-809(4).

(2) In addition to any other penalty imposed under Section 19-6-821 or 19-6-822 or by any other law, any person who knowingly or intentionally provides false information to the local health department or to the executive secretary under Subsection (1):

(a) is ineligible to receive any further reimbursement under this part; and

(b) shall return to the Division of Finance any reimbursement previously received for deposit in the trust fund.