

POLLUTION CONTROL FACILITY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: David G. Butterfield

LONG TITLE

General Description:

This bill authorizes a person that operates a pollution control facility pursuant to an agreement to apply for a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ authorizes a person that operates a pollution control facility pursuant to an agreement to apply for a sales and use tax exemption; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-124, as last amended by Laws of Utah 2008, Chapter 30

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

Section 1. 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 erected, constructed, or installed, or to be erected,

30 constructed, or installed in the state.

31 (b) The person may file the application after:

32 (i) a firm construction contract has been entered; or

33 (ii) construction has commenced.

34 (2) (a) (i) A person who applies under Subsection (1) shall be:

35 (A) the owner of a trade or business that uses property in the state requiring a pollution
36 control facility to prevent or minimize pollution; [~~or~~]

37 (B) a person [~~who~~] that, as a lessee or pursuant to an agreement, conducts the trade or
38 business that operates or uses the property[-]; or

39 (C) a person that operates a pollution control facility pursuant to an agreement with an
40 owner described in Subsection (2)(a)(i)(A) or a person described in Subsection (2)(a)(i)(B).

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

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

44 (c) A person who obtains certification for a pollution control facility may claim an
45 exemption from sales and use taxes as provided in Sections 19-2-123 and 59-12-104.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 86 (A) at the rate prescribed in Section 59-1-402; and
87 (B) beginning 30 days after the day on which the person files a claim for a refund under
88 Subsection (2)(d).
- 89 (3) (a) Each application shall:
- 90 (i) be in a format prescribed by the board; and
91 (ii) contain:
- 92 (A) a description of the facility and materials incorporated in the facility;
93 (B) the machinery and equipment;
94 (C) the existing or proposed operational procedure; and
95 (D) a statement of the purpose of pollution prevention, control, or reduction served or
96 to be served by the facility.
- 97 (b) The board may require any further information it finds necessary before issuance of
98 a certificate.