

**OUTDOOR WOOD BOILERS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends the powers of the Air Quality Board.

**Highlighted Provisions:**

This bill:

▶ prohibits the Air Quality Board from regulating the sale, installation, replacement, or operation of an outdoor wood boiler differently than other solid fuel burning devices;

▶ provides a definition; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-2-104**, as last amended by Laws of Utah 2012, Chapters 43 and 360

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

Section 1. Section **19-2-104** is amended to read:

**19-2-104. Powers of board.**



28 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah  
29 Administrative Rulemaking Act:

30 (a) regarding the control, abatement, and prevention of air pollution from all sources  
31 and the establishment of the maximum quantity of air contaminants that may be emitted by any  
32 air contaminant source;

33 (b) establishing air quality standards;

34 (c) requiring persons engaged in operations which result in air pollution to:

35 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

36 (ii) file periodic reports containing information relating to the rate, period of emission,  
37 and composition of the air contaminant; and

38 (iii) provide access to records relating to emissions which cause or contribute to air  
39 pollution;

40 (d) (i) implementing:

41 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency  
42 Response, 15 U.S.C. 2601 et seq.;

43 (B) 40 C.F.R. Part 763, Asbestos; and

44 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,  
45 Subpart M, National Emission Standard for Asbestos; and

46 (ii) reviewing and approving asbestos management plans submitted by local education  
47 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency  
48 Response, 15 U.S.C. 2601 et seq.;

49 (e) establishing a requirement for a diesel emission opacity inspection and maintenance  
50 program for diesel-powered motor vehicles;

51 (f) implementing an operating permit program as required by and in conformity with  
52 Titles IV and V of the federal Clean Air Act Amendments of 1990;

53 (g) establishing requirements for county emissions inspection and maintenance  
54 programs after obtaining agreement from the counties that would be affected by the  
55 requirements;

56 (h) with the approval of the governor, implementing in air quality nonattainment areas  
57 employer-based trip reduction programs applicable to businesses having more than 100  
58 employees at a single location and applicable to federal, state, and local governments to the

59 extent necessary to attain and maintain ambient air quality standards consistent with the state  
60 implementation plan and federal requirements under the standards set forth in Subsection (2);  
61 and

62 (i) implementing lead-based paint remediation training, certification, and performance  
63 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,  
64 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

65 (2) When implementing Subsection (1)(h) the board shall take into consideration:

66 (a) the impact of the business on overall air quality; and

67 (b) the need of the business to use automobiles in order to carry out its business  
68 purposes.

69 (3) (a) The board may:

70 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or  
71 matter in, the administration of this chapter;

72 (ii) order the director to:

73 (A) issue orders necessary to enforce the provisions of this chapter;

74 (B) enforce the orders by appropriate administrative and judicial proceedings; or

75 (C) institute judicial proceedings to secure compliance with this chapter; or

76 (iii) advise, consult, contract, and cooperate with other agencies of the state, local  
77 governments, industries, other states, interstate or interlocal agencies, the federal government,  
78 or interested persons or groups.

79 (b) The board shall:

80 (i) to ensure compliance with applicable statutes and regulations:

81 (A) review a settlement negotiated by the director in accordance with Subsection  
82 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

83 (B) approve or disapprove the settlement;

84 (ii) encourage voluntary cooperation by persons and affected groups to achieve the  
85 purposes of this chapter;

86 (iii) require the owner and operator of each new source which directly emits or has the  
87 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of  
88 each existing source which by modification will increase emissions or have the potential of

89 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee  
90 sufficient to cover the reasonable costs of:

- 91 (A) reviewing and acting upon the notice required under Section 19-2-108; and
- 92 (B) implementing and enforcing requirements placed on the sources by any approval  
93 order issued pursuant to notice, not including any court costs associated with any enforcement  
94 action;
- 95 (iv) meet the requirements of federal air pollution laws;
- 96 (v) by rule, establish work practice, certification, and clearance air sampling  
97 requirements for persons who:
  - 98 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work  
99 involving friable asbestos-containing materials, or asbestos inspections if:
    - 100 (I) the contract work is done on a site other than a residential property with four or  
101 fewer units; or
    - 102 (II) the contract work is done on a residential property with four or fewer units where a  
103 tested sample contained greater than 1% of asbestos;
  - 104 (B) conduct work described in Subsection (3)(b)(v)(A) in areas to which the general  
105 public has unrestrained access or in school buildings that are subject to the federal Asbestos  
106 Hazard Emergency Response Act of 1986;
  - 107 (C) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq., Toxic  
108 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
  - 109 (D) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,  
110 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
  - 111 (vi) establish certification requirements for persons required under 15 U.S.C.A. 2601 et  
112 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to  
113 be accredited as inspectors, management planners, abatement project designers, asbestos  
114 abatement contractors and supervisors, or asbestos abatement workers;
  - 115 (vii) establish certification requirements for asbestos project monitors, which shall  
116 provide for experience-based certification of persons who, prior to establishment of the  
117 certification requirements, had received relevant asbestos training, as defined by rule, and had  
118 acquired at least 1,000 hours of experience as project monitors;
  - 119 (viii) establish certification procedures and requirements for certification of the

120 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the  
121 tax credit granted in Section 59-7-605 or 59-10-1009;

122 (ix) establish a program to certify private sector air quality permitting professionals  
123 (AQPP), as described in Section 19-2-109.5;

124 (x) establish certification requirements for persons required under 15 U.S.C.A. 2601 et  
125 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as  
126 inspectors, risk assessors, supervisors, project designers, or abatement workers; and

127 (xi) assist the State Board of Education in adopting school bus idling reduction  
128 standards and implementing an idling reduction program in accordance with Section  
129 41-6a-1308.

130 (4) Any rules adopted under this chapter shall be consistent with provisions of federal  
131 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

132 (5) Nothing in this chapter authorizes the board to require installation of or payment for  
133 any monitoring equipment by the owner or operator of a source if the owner or operator has  
134 installed or is operating monitoring equipment that is equivalent to equipment which the board  
135 would require under this section.

136 (6) (a) The board may not require testing for asbestos or related materials on a  
137 residential property with four or fewer units, unless:

138 (i) the property's construction was completed before January 1, 1981; or

139 (ii) the testing is for:

140 (A) a sprayed acoustical ceiling;

141 (B) transite siding;

142 (C) vinyl floor tile;

143 (D) thermal-system insulation or tape on a duct or furnace; or

144 (E) vermiculite type insulation materials.

145 (b) A residential property with four or fewer units is subject to an abatement rule made  
146 under Subsection (1) or (3)(b)(v) if:

147 (i) a sample from the property is tested for asbestos; and

148 (ii) the sample contains asbestos measuring greater than 1%.

149 (7) (a) As used in this section, "outdoor wood boiler" or "wood-fired hydronic heater"  
150 means a fuel burning device:

151 (i) designed to burn wood or other solid fuels;  
152 (ii) specified by the manufacturer for outdoor installation or installation in a structure  
153 not normally occupied by humans; and

154 (iii) designed to heat building space or water through the distribution of a fluid heated  
155 in the device.

156 (b) The board may not regulate the sale, installation, replacement, or operation of an  
157 outdoor wood boiler or wood-fired hydronic heater differently than any other solid fuel burning  
158 device.

159 ~~[(7)]~~ (8) The board may not issue, amend, renew, modify, revoke, or terminate any of  
160 the following that are subject to the authority granted to the director under Section 19-2-107 or  
161 19-2-108:

- 162 (a) a permit;
- 163 (b) a license;
- 164 (c) a registration;
- 165 (d) a certification; or
- 166 (e) another administrative authorization made by the director.

167 ~~[(8)]~~ (9) A board member may not speak or act for the board unless the board member  
168 is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

169 ~~[(9)]~~ (10) Notwithstanding Subsection ~~[(7)]~~ (8), the board may exercise all authority  
170 granted to the board by a federally enforceable state implementation plan.

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**Legislative Review Note**  
**as of 3-1-13 2:42 PM**

**Office of Legislative Research and General Counsel**