

AIR QUALITY TECHNICAL AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of "pollution control facility";
- ▶ moves two sections of the Environmental Quality Code; and
- ▶ creates a new chapter in the Environmental Quality Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-12-102, as last amended by Laws of Utah 2015, Chapter 154

ENACTS:

19-2a-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

19-2a-102, (Renumbered from 19-2-128, as enacted by Laws of Utah 2017, Chapter 140)

19-2a-103, (Renumbered from 19-2-129, as enacted by Laws of Utah 2017, Chapter 395)

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

31 Section 1. Section **19-2a-101** is enacted to read:

32 **CHAPTER 2a. AIR QUALITY - SPECIAL PROVISIONS**

33 **19-2a-101. Title.**

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

35 Section 2. Section **19-2a-102**, which is renumbered from Section 19-2-128 is
36 renumbered and amended to read:

37 **[19-2-128]. 19-2a-102. Air Quality Policy Advisory Board created --**
38 **Composition -- Responsibility -- Terms of office -- Compensation.**

39 (1) There is created the Air Quality Policy Advisory Board consisting of the following
40 10 voting members:

- 41 (a) two members of the Senate, appointed by the president of the Senate;
- 42 (b) three members of the House of Representatives, appointed by the speaker of the
43 House of Representatives;
- 44 (c) the director;
- 45 (d) one representative of industry interests, appointed by the president of the Senate;
- 46 (e) one representative of business or economic development interests, appointed by the
47 speaker of the House of Representatives, who has expertise in air quality matters;
- 48 (f) one representative of the academic community, appointed by the governor, who has
49 expertise in air quality matters; and
- 50 (g) one representative of a nongovernmental organization, appointed by the governor,
51 who:

- 52 (i) represents community interests;
- 53 (ii) does not represent industry or business interests; and
- 54 (iii) has expertise in air quality matters.

55 (2) The Air Quality Policy Advisory Board shall:

- 56 (a) seek the best available science to identify legislative actions to improve air quality;
- 57 (b) identify and prioritize potential legislation and funding that will improve air

58 quality; and

59 (c) make recommendations to the Legislature on how to improve air quality in the
60 state.

61 (3) (a) Except as required by Subsection (3)(b), members appointed under Subsections
62 (1)(d), (e), (f), and (g) are appointed to serve four-year terms.

63 (b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of
64 the Senate, and speaker of the House of Representatives shall, at the time of appointment or
65 reappointment, adjust the length of terms to ensure that the terms of members are staggered so
66 that approximately half of the advisory board is appointed every two years.

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

69 (4) The advisory board shall elect one member to serve as chair of the advisory board
70 for a term of one year.

71 (5) Compensation for a member of the advisory board who is a legislator shall be paid
72 in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator
73 Compensation.

74 (6) A member of the advisory board who is not a legislator may not receive
75 compensation or benefits for the member's service, but may receive per diem and travel
76 expenses in accordance with:

77 (a) Section 63A-3-106;

78 (b) Section 63A-3-107; and

79 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
80 63A-3-107.

81 (7) The department shall provide staff support for the advisory board.

82 Section 3. Section 19-2a-103, which is renumbered from Section 19-2-129 is
83 renumbered and amended to read:

84 ~~[19-2-129]~~. **19-2a-103. Gasoline vapor recovery -- Penalties.**

85 (1) As used in this section:

- 86 (a) "Gasoline cargo tank" means a tank that:
- 87 (i) is intended to hold gasoline;
- 88 (ii) has a capacity of 1,000 gallons or more; and
- 89 (iii) is attached to or intended to be drawn by a motor vehicle.
- 90 (b) "Operator" means an individual who controls a motor vehicle:
- 91 (i) to which a gasoline cargo tank is attached; or
- 92 (ii) that draws a gasoline cargo tank.
- 93 (c) "Underground storage tank" means the same as that term is defined in Section
- 94 [19-6-102](#).

95 (2) The operator of a gasoline cargo tank shall comply with requirements of this
96 section if the operator:

- 97 (a) permits the loading of gasoline into the gasoline cargo tank; or
- 98 (b) loads an underground storage tank with gasoline from the gasoline cargo tank.

99 (3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may
100 permit the loading of gasoline into a tank described in Subsection (2) or load an underground
101 storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:

102 (a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar
103 month are controlled by the use of:

104 (i) a properly installed and maintained vapor collection and control system that is
105 equipped with fittings that:

- 106 (A) make a vapor-tight connection; and
- 107 (B) prevent the release of gasoline vapors by automatically closing upon disconnection;

108 and

109 (ii) submerged filling or bottom filling methods; and

110 (b) the resulting vapor emitted into the air does not exceed the levels described in
111 Subsection (4).

112 (4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3)
113 may not exceed 0.640 pounds per 1,000 gallons transferred.

- 114 (5) (a) The department may fine an operator who violates this section:
115 (i) up to \$1,000 for a first offense; or
116 (ii) up to \$2,000 for a second offense.
117 (b) An operator who violates this section is guilty of a class C misdemeanor for a third
118 or subsequent offense.
119 (6) If a facility at which an underground storage tank is located does not have the
120 equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3),
121 the operator is excused from the requirements of Subsections (3) and (4) and may not be fined
122 or penalized under Subsection (5).

123 Section 4. Section **19-12-102** is amended to read:

124 **19-12-102. Definitions.**

125 As used in this chapter:

- 126 (1) "Air pollutant" means the same as that term is defined in Section [19-2-102](#).
127 (2) "Air pollutant source" means the same as that term is defined in Section [19-2-102](#).
128 (3) "Air pollution" means the same as that term is defined in Section [19-2-102](#).
129 (4) "Director" means:
130 (a) for purposes of an application or certification under this chapter related to air
131 pollution, the director of the Division of Air Quality; or
132 (b) for purposes of an application or certification under this chapter related to water
133 pollution, the director of the Division of Water Quality.
134 (5) (a) "Freestanding pollution control property" means tangible personal property
135 located in the state, regardless of whether a purchaser purchases the tangible personal property
136 voluntarily or to comply with a requirement of a governmental entity, if:
137 (i) the primary purpose of the tangible personal property is the prevention, control, or
138 reduction of air or water pollution by:
139 (A) the disposal or elimination of, or redesign to eliminate, waste, and the use of
140 treatment works for industrial waste; or
141 (B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air

142 pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning
143 devices; and

144 (ii) the tangible personal property is not used at, in the construction of, or incorporated
145 into a pollution control facility.

146 (b) "Freestanding pollution control property" does not include:

147 (i) a consumable:

148 (A) chemical that is not reusable;

149 (B) cleaning material that is not reusable; or

150 (C) supply that is not reusable;

151 (ii) the following used for human waste:

152 (A) a septic tank; or

153 (B) other property;

154 (iii) property installed, constructed, or used for the moving of sewage to a collection
155 facility of a public or quasi-public sewerage system;

156 (iv) the following used for the comfort of personnel:

157 (A) an air conditioner;

158 (B) a fan; or

159 (C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

160 (v) office equipment or an office supply if the primary purpose of the office equipment
161 or office supply is not the prevention, control, or reduction of air or water pollution by:

162 (A) the disposal or elimination of, or redesign to eliminate, waste, and the use of
163 treatment works for industrial waste; or

164 (B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air
165 pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning
166 devices.

167 (6) (a) "Pollution control facility" means real property in the state, regardless of
168 whether a purchaser purchases the real property voluntarily or to comply with a requirement of
169 a governmental entity, if the primary purpose of the real property is the prevention, control, or

170 reduction of air pollution or water pollution by:

171 (i) the disposal or elimination of, or redesign to eliminate~~[:]~~, waste and the use of

172 treatment works for industrial waste; or

173 ~~[(A) waste; and]~~

174 ~~[(B) the use of treatment works for industrial waste; or]~~

175 (ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air

176 pollutants, air pollution, or air contamination sources; and

177 (B) the use of one or more air cleaning devices.

178 (b) "Pollution control facility" includes:

179 (i) an addition to real property described in Subsection (6)(a);

180 (ii) the reconstruction of real property described in Subsection (6)(a); or

181 (iii) an improvement to real property described in Subsection (6)(a).

182 (c) "Pollution control facility" does not include:

183 (i) a consumable:

184 (A) chemical that is not reusable;

185 (B) cleaning material that is not reusable; or

186 (C) supply that is not reusable;

187 (ii) the following used for human waste:

188 (A) a septic tank; or

189 (B) another facility;

190 (iii) property installed, constructed, or used for the moving of sewage to a collection

191 facility of a public or quasi-public sewerage system;

192 (iv) the following used for the comfort of personnel:

193 (A) an air conditioner;

194 (B) a fan; or

195 (C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

196 (v) office equipment or an office supply if the primary purpose of the office equipment

197 or office supply is not the prevention, control, or reduction of air or water pollution by:

198 (A) the disposal or elimination of, or redesign to eliminate waste, and the use of
199 treatment works for industrial waste; or

200 (B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air
201 pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning
202 devices.

203 (7) "Treatment works" means the same as that term is defined in Section 19-5-102.

204 (8) "Waste" means the same as that term is defined in Section 19-5-102.

205 (9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.