

Representative Casey Snider proposes the following substitute bill:

ENVIRONMENTAL QUALITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires meetings between the Federalism Commission and the Department of Environmental Quality;
- ▶ repeals the Air Quality Policy Advisory Board;
- ▶ addresses sales and use tax exemptions and certifications related to pollution control;
- ▶ addresses the powers and duties of the Board of Oil, Gas, and Mining, including rulemaking, and the Division of Oil, Gas, and Mining; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 [19-12-102](#), as last amended by Laws of Utah 2018, Chapter 120

28 [19-12-202](#), as enacted by Laws of Utah 2014, Chapter 24

29 [19-12-305](#), as enacted by Laws of Utah 2014, Chapter 24

30 [40-6-5](#), as last amended by Laws of Utah 2022, Chapter 62

31 [40-6-16](#), as last amended by Laws of Utah 2022, Chapter 108

32 [63C-4a-303](#), as last amended by Laws of Utah 2023, Chapter 71

33 ENACTS:

34 [19-1-110](#), Utah Code Annotated 1953

35 REPEALS:

36 [19-2a-102](#), as last amended by Laws of Utah 2021, Chapter 69



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

39 Section 1. Section [19-1-110](#) is enacted to read:

40 **[19-1-110. Department discussions with the Federalism Commission.](#)**

41 (1) As used in this section, "commission" means the Federalism Commission created in

42 Section [63C-4a-302](#).

43 (2) The department shall meet with the commission as scheduled by the chairs of the
44 commission and consistent with the usual schedule of the commission.

45 (3) The commission may discuss with the department:

46 (a) needs of industries that are subject to regulation under this title;

47 (b) needs of the department;

48 (c) policy and rulemaking changes or implementation;

49 (d) United States Environmental Protection Agency regulations and other federal
50 regulations that affect industries regulated under this title or the department; and

51 (e) any other issue that is related to the environment or the functioning of the
52 department.

53 Section 2. Section [19-12-102](#) is amended to read:

54 **[19-12-102. Definitions.](#)**

55 As used in this chapter:

56 (1) "Air pollutant" means the same as that term is defined in Section [19-2-102](#).

57 (2) "Air pollutant source" means the same as that term is defined in Section 19-2-102.

58 (3) "Air pollution" means the same as that term is defined in Section 19-2-102.

59 (4) (a) [~~"Director"~~] Except as provided in Subsection (4)(b), "director" means:

60 [~~(a)~~] (i) for purposes of an application or certification under this chapter related to air
61 pollution, the director of the Division of Air Quality; or

62 [~~(b)~~] (ii) for purposes of an application or certification under this chapter related to
63 water pollution, the director of the Division of Water Quality.

64 (b) For purposes of an application or certification under this chapter related to property
65 within the jurisdiction of the Board of Oil, Gas, and Mining under Section 40-6-5, "director"
66 means the director of the Division of Oil, Gas, and Mining.

67 (5) (a) "Freestanding pollution control property" means tangible personal property
68 located in the state, regardless of whether a purchaser purchases the tangible personal property
69 voluntarily or to comply with a requirement of a governmental entity, if:

70 (i) the primary purpose of the tangible personal property is the prevention, control, or
71 reduction of air or water pollution by:

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

74 (B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air
75 pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning
76 devices; and

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

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

80 (i) a consumable:

81 (A) chemical that is not reusable;

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

83 (C) supply that is not reusable;

84 (ii) the following used for human waste:

85 (A) a septic tank; or

86 (B) other property;

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

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

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

90 (A) an air conditioner;

91 (B) a fan; or

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

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

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

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

100 (6) (a) "Pollution control facility" means real property in the state, regardless of
101 whether a purchaser purchases the real property voluntarily or to comply with a requirement of
102 a governmental entity, if the primary purpose of the real property is the prevention, control, or
103 reduction of air pollution or water pollution by:

104 (i) the disposal or elimination of, or redesign to eliminate, waste and the use of
105 treatment works for industrial waste; or

106 (ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air
107 pollutants, air pollution, or air contamination sources; and

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

109 (b) "Pollution control facility" includes:

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

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

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

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

114 (i) a consumable:

115 (A) chemical that is not reusable;

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

117 (C) supply that is not reusable;

118 (ii) the following used for human waste:

- 119 (A) a septic tank; or
- 120 (B) another facility;
- 121 (iii) property installed, constructed, or used for the moving of sewage to a collection
- 122 facility of a public or quasi-public sewerage system;
- 123 (iv) the following used for the comfort of personnel:
- 124 (A) an air conditioner;
- 125 (B) a fan; or
- 126 (C) an item similar to Subsection (6)(c)(iv)(A) or (B); or
- 127 (v) office equipment or an office supply if the primary purpose of the office equipment
- 128 or office supply is not the prevention, control, or reduction of air or water pollution by:
- 129 (A) the disposal or elimination of, or redesign to eliminate waste, and the use of
- 130 treatment works for industrial waste; or
- 131 (B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air
- 132 pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning
- 133 devices.
- 134 (7) "Treatment works" means the same as that term is defined in Section 19-5-102.
- 135 (8) "Waste" means the same as that term is defined in Section 19-5-102.
- 136 (9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.
- 137 Section 3. Section 19-12-202 is amended to read:
- 138 **19-12-202. Certification required before claiming a sales and use tax exemption.**
- 139 (1) Before a person may claim a sales and use tax exemption under Section 19-12-201,
- 140 the person shall obtain certification issued in accordance with Section 19-12-303.
- 141 (2) ~~For~~ Except as provided in Subsection (4), for purposes of Subsection (1), if a
- 142 certification relates to air pollution:
- 143 (a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the
- 144 director of the Division of Air Quality; and
- 145 (b) the director of the Division of Air Quality shall perform the duties described in:
- 146 (i) Section 19-12-303 related to certification; and
- 147 (ii) Section 19-12-304 related to revocation of certification.
- 148 (3) ~~For~~ Except as provided in Subsection (4), for purposes of Subsection (1), if a
- 149 certification relates to water pollution:

150 (a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the
151 director of the Division of Water Quality; and

152 (b) the director of the Division of Water Quality shall perform the duties described in:

153 (i) Section 19-12-303 related to certification; and

154 (ii) Section 19-12-304 related to revocation of certification.

155 (4) For purposes of Subsection (1), if a certification relates to property within the
156 jurisdiction of the Board of Oil, Gas, and Mining under Section 40-6-5:

157 (a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the
158 director of the Division of Oil, Gas, and Mining; and

159 (b) the director of the Division of Oil, Gas, and Mining shall perform the duties
160 described in:

161 (i) Section 19-12-303 related to certification; and

162 (ii) Section 19-12-304 related to revocation of certification.

163 Section 4. Section 19-12-305 is amended to read:

164 **19-12-305. Rulemaking authority.**

165 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
166 purposes of a certification related to air pollution, other than air pollution related to property
167 described in Subsection (3), the Air Quality Board may make rules establishing procedures for:

168 (a) processing and evaluating an application for certification; and

169 (b) the issuance and revocation of a certification.

170 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
171 purposes of a certification related to water pollution, other than water pollution related to
172 property described in Subsection (3), the Water Quality Board may make rules establishing
173 procedures for:

174 (a) processing and evaluating an application for certification; and

175 (b) the issuance or revocation of a certification.

176 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
177 purposes of a certification related to property within the jurisdiction of the Board of Oil, Gas,
178 and Mining under Section 40-6-5, the Board of Oil, Gas and Mining may make rules
179 establishing procedures for:

180 (a) processing and evaluating an application for certification; and

181 (b) the issuance or revocation of a certification.

182 Section 5. Section **40-6-5** is amended to read:

183 **40-6-5. Jurisdiction of board -- Rules.**

184 (1) The board has jurisdiction over all persons and property necessary to enforce this
185 chapter. The board shall make rules in accordance with Title 63G, Chapter 3, Utah
186 Administrative Rulemaking Act.

187 (2) The board shall make rules and orders as necessary to administer the following
188 provisions:

189 (a) Ownership of all facilities for the production, storage, treatment, transportation,
190 refining, or processing of oil and gas shall be identified.

191 (b) Well logs, directional surveys, and reports on well location, drilling, and production
192 shall be made and filed with the division. Logs of wells marked "confidential" shall be kept
193 confidential for one year after the date on which the log is required to be filed, unless the
194 operator gives written permission to release the log at an earlier date. Production reports shall
195 be:

196 (i) filed monthly;

197 (ii) accurate; and

198 (iii) in a form that reasonably serves the needs of state agencies and private fee owners.

199 (c) Monthly reports from gas processing plants shall be filed with the division.

200 (d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to
201 prevent:

202 (i) the escape of oil, gas, or water out of the reservoir in which they are found into
203 another formation;

204 (ii) the detrimental intrusion of water into an oil or gas reservoir;

205 (iii) the pollution of fresh water supplies by oil, gas, or salt water;

206 (iv) blowouts;

207 (v) cavings;

208 (vi) seepages;

209 (vii) fires; and

210 (viii) unreasonable:

211 (A) loss of a surface land owner's crops on surface land;

212 (B) loss of value of existing improvements owned by a surface land owner on surface
213 land; and

214 (C) permanent damage to surface land.

215 (e) The drilling of wells may not commence without an adequate and approved supply
216 of water as required by Title 73, Chapter 3, Appropriation. This Subsection (2)(e) is not
217 intended to impose additional legal requirements, but to assure that existing legal requirements
218 concerning the use of water have been met before the commencement of drilling.

219 (f) Subject to Subsection (9), an operator shall furnish a reasonable performance bond
220 or other good and sufficient surety, conditioned for the performance of the duty to:

221 (i) plug each dry or abandoned well;

222 (ii) repair each well causing waste or pollution;

223 (iii) maintain and restore the well site; and

224 (iv) except as provided in Subsection (8), protect a surface land owner against
225 unreasonable:

226 (A) loss of a surface land owner's crops on surface land;

227 (B) loss of value of existing improvements owned by a surface land owner on surface
228 land; and

229 (C) permanent damage to surface land.

230 (g) Production from wells shall be separated into oil and gas and measured by means
231 and upon standards that are prescribed by the board and reflect current industry standards.

232 (h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and
233 any accumulation of nonmerchantable waste crude oil shall be treated and processed, as
234 prescribed by the board.

235 (i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or
236 processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced
237 recovery, or salt water disposal in this state shall maintain complete and accurate records of the
238 quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or
239 injected for a period of at least six years. The records shall be available for examination by the
240 board or the board's agents at any reasonable time. Rules enacted to administer this Subsection
241 (2)(i) shall be consistent with applicable federal requirements.

242 (j) Any person with an interest in a lease shall be notified when all or part of that

243 interest in the lease is sold or transferred.

244 (k) The assessment and collection of administrative penalties is consistent with Section
245 40-6-11.

246 (3) The board has the authority to regulate:

247 (a) all operations for and related to the production of oil or gas including:

248 (i) drilling, testing, equipping, completing, operating, producing, and plugging of
249 wells; and

250 (ii) reclamation of sites;

251 (b) the spacing and location of wells;

252 (c) operations to increase ultimate recovery, such as:

253 (i) cycling of gas;

254 (ii) the maintenance of pressure; and

255 (iii) the introduction of gas, water, or other substances into a reservoir;

256 (d) the disposal of salt water and oil-field wastes;

257 (e) the underground and surface storage of oil, gas, or products; and

258 (f) the flaring of gas from an oil well.

259 (4) For the purposes of administering this chapter, the board may designate:

260 (a) wells as:

261 (i) oil wells; or

262 (ii) gas wells; and

263 (b) pools as:

264 (i) oil pools; or

265 (ii) gas pools.

266 (5) The board has exclusive jurisdiction over:

267 (a) class II injection wells, as defined by the federal Environmental Protection Agency
268 or a successor agency;

269 (b) pits and ponds in relation to these injection wells;

270 (c) when granted primacy by the Environmental Protection Agency, class VI injection
271 wells, as defined by the Environmental Protection Agency or a successor agency; and

272 (d) storage facilities, as that term is defined in Section 40-11-1.

273 (6) The board has jurisdiction:

274 (a) to hear questions regarding multiple mineral development conflicts with oil and gas
275 operations if there:

276 (i) is potential injury to other mineral deposits on the same lands; or

277 (ii) are simultaneous or concurrent operations conducted by other mineral owners or
278 lessees affecting the same lands; and

279 (b) to enter the board's order or rule with respect to those questions.

280 (7) The board has enforcement powers with respect to operators of minerals other than
281 oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple
282 mineral development issues.

283 (8) Subsection (2)(f)(iv) does not apply if the surface land owner is a party to, or a
284 successor of a party to:

285 (a) a lease of the underlying privately owned oil and gas;

286 (b) a surface use agreement applicable to the surface land owner's surface land; or

287 (c) a contract, waiver, or release addressing an owner's or operator's use of the surface
288 land owner's surface land.

289 (9) (a) The board shall review rules made under Subsection (2)(f) to determine whether
290 the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas
291 operations.

292 (b) During the board's review under this Subsection (9), the board may consider the
293 bonding schemes of other states.

294 (10) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
295 Administrative Rulemaking Act, related to procedures under Title 19, Chapter 12, Pollution
296 Control Act, for certification by the director of the division.

297 Section 6. Section 40-6-16 is amended to read:

298 **40-6-16. Duties of division.**

299 In addition to the duties assigned by the board, the division shall:

300 (1) develop and implement an inspection program that will include [~~but not be limited~~
301 ~~to~~] production data, pre-drilling checks, and site security reviews;

302 (2) publish a monthly production report;

303 (3) publish a monthly gas processing plant report;

304 (4) review and evaluate, [~~prior to~~] before a hearing, evidence submitted with the

305 petition to be presented to the board;

306 (5) require adequate assurance of approved water rights in accordance with rules and
307 orders enacted under Section 40-6-5;

308 (6) notify the county executive of the county in which the drilling will take place in
309 writing of the issuance of a drilling permit;

310 (7) complete the verification of natural gas to hydrogen conversion plants required by
311 Section 59-5-102; [and]

312 (8) issue tax credit certificates in accordance with Section 40-6-24[-]; and

313 (9) through the division's director, implement Title 19, Chapter 12, Pollution Control
314 Act.

315 Section 7. Section 63C-4a-303 is amended to read:

316 **63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on**
317 **federalism -- Environment discussions.**

318 (1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal
319 law:

320 (i) as agreed by a majority of the commission;

321 (ii) submitted to the commission by a council member; or

322 (iii) reported to the commission in accordance with Subsection (1)(b).

323 (b) (i) To assist the commission in the evaluation of federal law as required in this
324 section and Section 63C-4a-304, the commission may contract with a third party that is a Utah
325 institution of higher education to monitor federal law for possible implications on the
326 principles of federalism.

327 (ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i)
328 shall:

329 (A) monitor federal law for possible implications on the principles of federalism and
330 state sovereignty; and

331 (B) report to the commission any law or action by the federal government that may
332 implicate the principles of federalism or state sovereignty.

333 (c) (i) As used in this Subsection (1)(c), "interim committee" means the same as that
334 term is defined in Section 36-12-1.

335 (ii) The commission shall provide an annual report to each interim committee

336 concerning any law or action by the federal government that implicates the principles of
337 federalism or state sovereignty.

338 (iii) The commission may notify the appropriate interim committee of any law or
339 action by the federal government that implicates the principles of federalism or state
340 sovereignty.

341 (2) The commission may request information regarding a federal law under evaluation
342 from a United States senator or representative elected from the state.

343 (3) If the commission finds that a federal law is not authorized by the United States
344 Constitution or violates the principle of federalism as described in Subsection [63C-4a-304\(2\)](#), a
345 commission cochair or the commission may:

346 (a) request from a United States senator or representative elected from the state:

347 (i) information about the federal law; or

348 (ii) assistance in communicating with a federal governmental entity regarding the
349 federal law;

350 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal
351 governmental entity responsible for adopting or administering the federal law; and

352 (ii) request a response by a specific date to the evaluation from the federal
353 governmental entity;

354 (c) request a meeting, conducted in person or by electronic means, with the federal
355 governmental entity, a representative from another state, or a United States Senator or
356 Representative elected from the state to discuss the evaluation of federal law and any possible
357 remedy; or

358 (d) give written notice of an evaluation and the conclusions of the commission to any
359 other relevant entity.

360 (4) The commission may recommend to the governor that the governor call a special
361 session of the Legislature to give the Legislature an opportunity to respond to the commission's
362 evaluation of a federal law.

363 (5) A commission cochair may coordinate the evaluation of and response to federal law
364 with another state as provided in Section [63C-4a-305](#).

365 (6) The commission shall keep a current list on the Legislature's website of:

366 (a) a federal law that the commission evaluates under Subsection (1);

367 (b) an action taken by a cochair of the commission or the commission under
368 Subsection (3);

369 (c) any coordination undertaken with another state under Section 63C-4a-305; and

370 (d) any response received from a federal government entity that was requested under
371 Subsection (3).

372 (7) (a) The commission shall develop curriculum for a seminar on the principles of
373 federalism.

374 (b) The curriculum under Subsection (7)(a) shall be available to the general public and
375 include:

376 (i) fundamental principles of federalism;

377 (ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their
378 police powers;

379 (iii) the history and practical implementation of the Tenth Amendment to the United
380 States Constitution;

381 (iv) the authority and limits on the authority of the federal government as found in the
382 United States Constitution;

383 (v) the relationship between the state and federal governments;

384 (vi) methods of evaluating a federal law in the context of the principles of federalism;

385 (vii) how and when challenges should be made to a federal law or regulation on the
386 basis of federalism;

387 (viii) the separate and independent powers of the state that serve as a check on the
388 federal government;

389 (ix) first amendment rights and freedoms contained therein; and

390 (x) any other issues relating to federalism the commission considers necessary.

391 (8) The commission may apply for and receive grants, and receive private donations to
392 assist in funding the creation, enhancement, and dissemination of the curriculum.

393 (9) The commission shall submit a report on or before November 30 of each year to the
394 Government Operations Interim Committee and the Natural Resources, Agriculture, and
395 Environment Interim Committee that:

396 (a) describes any action taken by the commission under Section 63C-4a-303; and

397 (b) includes any proposed legislation the commission recommends.

398 (10) The commission shall comply with Section 19-1-110 in discussions with the
399 Department of Environmental Quality on issues related to the environment or the functioning
400 of the Department of Environmental Quality.

401 Section 8. **Repealer.**

402 This bill repeals:

403 Section **19-2a-102, Air Quality Policy Advisory Board created -- Composition --**
404 **Responsibility -- Terms of office -- Compensation.**

405 Section 9. **Effective date.**

406 This bill takes effect on May 1, 2024.