

1 Section 1. Section **11-58-205** is amended to read:

2 **11-58-205. Applicability of other law -- Cooperation of state and local governments**
3 **-- Municipality to consider board input -- Prohibition relating to natural resources --**
4 **Inland port as permitted or conditional use -- Municipal services -- Sharing property tax**
5 **differential.**

6 (1) Except as provided in Part 4, Appeals to Appeals Panel, the authority does not have
7 and may not exercise any powers relating to the regulation of land uses on the authority
8 jurisdictional land.

9 (2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-
10 108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title
11 63E, Independent Entities Code.

12 (3) A department, division, or other agency of the state and a political subdivision of the
13 state shall cooperate with the authority to the fullest extent possible to provide whatever support,
14 information, or other assistance the board requests that is reasonably necessary to help the
15 authority fulfill its duties and responsibilities under this chapter.

16 (4) In making decisions affecting the authority jurisdictional land, the legislative body of
17 a municipality in which the authority jurisdictional land is located shall consider input from the
18 authority board.

19 (5) (a) No later than December 31, 2018, the ordinances of a municipality with authority
20 jurisdictional land within its boundary shall allow an inland port as a permitted or conditional
21 use, subject to standards that are:

22 (i) determined by the municipality; and

23 (ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

24 (b) A municipality whose ordinances do not comply with Subsection (5)(a) within the
25 time prescribed in that subsection shall allow an inland port as a permitted use without regard to
26 any contrary provision in the municipality's land use ordinances.

27 (6) The transporting, unloading, loading, transfer, or temporary storage of natural
28 resources may not be prohibited on the authority jurisdictional land.

29 (7) (a)(i) A municipality whose boundary includes authority jurisdictional land shall
30 provide the same municipal services to the area of the municipality that is within the authority
31 jurisdictional land as the municipality provides to other areas of the municipality with similar
32 zoning and a similar development level.

33 (ii) The level and quality of municipal services that a municipality provides within
34 authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of
35 municipal services that the municipality provides to other areas of the municipality with similar
36 zoning and a similar development level.

37 (b) (i) The board shall negotiate and enter into an agreement with a municipality
38 providing municipal services, as described in Subsection (7)(a), with respect to the appropriate
39 amount of property tax differential the authority should share with the municipality to cover the
40 cost of providing those municipal services.

41 (ii) Under an agreement described in Subsection (7)(b)(i), the board and municipality
42 shall establish a method of determining the amount of property tax differential the authority
43 shares over time with a municipality to cover the cost of providing municipal services, taking
44 into account:

45 (A) the cost of those services as documented in the audited financial statements under
46 Subsection (7)(c); and

47 (B) the variable level of need for those services within the authority jurisdictional land
48 depending on the level, amount, and location of development and other relevant factors.

49 (c) A municipality providing municipal services, as described in Subsection (7)(a), shall,
50 as requested by the board, provide the board audited financial statements documenting the cost
51 of the municipal services the municipality provides within the authority jurisdictional land.

52 (8) The board may consult with other taxing entities, in addition to a municipality under
53 Subsection (7), for the purpose of receiving input from those taxing entities on the appropriate
54 allocation of property tax differential, considering the needs of the authority and the needs of the
55 other taxing entities.

56 (9) (a) The board shall review and reassess the amount of property tax differential the
57 authority retains and the amount the authority shares with other taxing entities so that the
58 authority retains property tax differential it reasonably needs to meet its responsibilities and
59 purposes and adjusts the amount the authority shares with other taxing entities accordingly.

60 (b) The board shall meet with taxing entities to review and reassess, as provided in
61 Subsection (9)(a):

62 (i) before December 31, 2020; and

63 (ii) at least every other year after 2020.

64 (10) Switcher locomotives and engines used in switcher locomotives used in the
65 operation of the 'in-land port' shall be model year 2015 or newer.

66 Section 2. Section **19-2-103** is amended to read:

67 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**
68 **and expenses.**

69 (1) The board consists of the following nine members:

70 (a) the following non-voting member, except that the member may vote to break a tie
71 vote between the voting members:

72 (i) the executive director; or
73 (ii) an employee of the department designated by the executive director; and

74 (b) the following eight voting members, who shall be appointed by the governor with the
75 consent of the Senate:

76 (i) one representative who:

77 (A) is not connected with industry;
78 (B) is an expert in air quality matters; and
79 (C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with
80 relevant training and experience;

81 (ii) two government representatives who do not represent the federal government;
82 (iii) one representative from the mining industry;
83 (iv) one representative from the fuels industry;
84 (v) one representative from the manufacturing industry;
85 (vi) one representative from the public who represents:

86 (A) an environmental nongovernmental organization; or
87 (B) a nongovernmental organization that represents community interests and does not
88 represent industry interests; and

89 (vii) one representative from the public who is trained and experienced in public health.

90 (2) A member of the board shall:

91 (a) be knowledgeable about air pollution matters, as evidenced by a professional degree,
92 a professional accreditation, or documented experience;

- 93 (b) be a resident of Utah;
- 94 (c) attend board meetings in accordance with the attendance rules made by the
95 department under Subsection 19-1-201(1)(d)(i)(A); ~~and~~
- 96 (d) comply with all applicable statutes, rules, and policies, including the conflict of
97 interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B); and
- 98 (e) carry out the purpose of this chapter as set forth in Section 19-2-101.
- 99 (3) No more than five of the appointed members of the board shall belong to the same
100 political party.
- 101 (4) A majority of the members of the board may not derive any significant portion of
102 their income from persons subject to permits or orders under this chapter.
- 103 (5) (a) Members shall be appointed for a term of four years.
- 104 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time
105 of appointment or reappointment, adjust the length of terms to ensure that the terms of board
106 members are staggered so that half of the appointed board is appointed every two years.
- 107 (6) A member may serve more than one term.
- 108 (7) A member shall hold office until the expiration of the member's term and until the
109 member's successor is appointed, but not more than 90 days after the expiration of the member's
110 term.
- 111 (8) When a vacancy occurs in the membership for any reason, the replacement shall be
112 appointed for the unexpired term.
- 113 (9) The board shall elect annually a chair and a vice chair from its members.
- 114 (10) (a) The board shall meet at least quarterly.

115 (b) Special meetings may be called by the chair upon the chair's own initiative, upon the
116 request of the director, or upon the request of three members of the board.

117 (c) Three days' notice shall be given to each member of the board before a meeting.

118 (11) Five members constitute a quorum at a meeting, and the action of a majority of
119 members present is the action of the board.

120 (12) A member may not receive compensation or benefits for the member's service, but
121 may receive per diem and travel expenses in accordance with:

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

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

124 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-
125 107.

126 Section 3. Section **19-2-104** is amended to read:

127 **19-2-104. Powers of board.**

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

130 (a) regarding the control, abatement, and prevention of air pollution from all sources and
131 the establishment of the maximum quantity of air pollutants that may be emitted by an air
132 pollutant source;

133 (b) establishing air quality standards;

134 (c) requiring persons engaged in operations that result in air pollution to:

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

136 (ii) file periodic reports containing information relating to the rate, period of emission,
137 and composition of the air pollutant; and

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

140 (d) (i) implementing:

141 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response,
142 15 U.S.C. 2601 et seq.;

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

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

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

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

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

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

155 (h) with the approval of the governor, implementing in air quality nonattainment areas
156 employer-based trip reduction programs applicable to businesses having more than 100
157 employees at a single location and applicable to federal, state, and local governments to the
158 extent necessary to attain and maintain ambient air quality standards consistent with the state
159 implementation plan and federal requirements under the standards set forth in Subsection (2);

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

163 (j) to implement the requirements of Section 19-2-107.5.

164 (2) Notwithstanding the provisions of Section 63G-3-301-12(a), a rule made in
165 accordance with Subsection (1) becomes effective on any date specified by the board that is no
166 fewer than seven calendar days after the close of the public comment period under Section 63G-
167 3-301(11), nor more than 160 days after the publication date.

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

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

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

172 (3) (a) The board may:

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

175 (ii) recommend that the director:

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

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

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

179 (D) advise, consult, contract, and cooperate with other agencies of the state, local

180 governments, industries, other states, interstate or interlocal agencies, the federal government, or

181 interested persons or groups; and

182 (iii) establish certification requirements for asbestos project monitors, which shall
183 provide for experience-based certification of a person who:
184 (A) receives relevant asbestos training, as defined by rule; and
185 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work
186 experience.

187 (b) The board shall:
188 (i) to ensure compliance with applicable statutes and regulations:
189 (A) review a settlement negotiated by the director in accordance with Subsection 19-2-
190 107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and
191 (B) approve or disapprove the settlement;
192 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
193 purposes of this chapter;
194 (iii) meet the requirements of federal air pollution laws;
195 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
196 Act, establish work practice and certification requirements for persons who:
197 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
198 involving friable asbestos-containing materials, or asbestos inspections if:
199 (I) the contract work is done on a site other than a residential property with four or fewer
200 units; or
201 (II) the contract work is done on a residential property with four or fewer units where a
202 tested sample contained greater than 1% of asbestos;

203 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general
204 public has unrestrained access or in school buildings that are subject to the federal Asbestos
205 Hazard Emergency Response Act of 1986;

206 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic
207 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

208 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,
209 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

210 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et
211 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be
212 accredited as an inspector, management planner, abatement project designer, asbestos abatement
213 contractor and supervisor, or an asbestos abatement worker;

214 (vi) establish certification procedures and requirements for certification of the
215 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the tax
216 credit granted in Section 59-7-605 or 59-10-1009;

217 (vii) establish certification requirements for a person required under 15 U.S.C. 2601 et
218 seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an
219 inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust
220 sampling technician; and

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

223 (4) A rule adopted under this chapter shall be consistent with provisions of federal laws,
224 if any, relating to control of motor vehicles or motor vehicle emissions.

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

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

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

232 (ii) the testing is for:

233 (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos
234 fiber;

235 (B) asbestos cement siding or roofing materials;

236 (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient
237 flooring backing material, whether attached or unattached, and mastic;

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

239 (E) vermiculite type insulation materials.

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

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

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

244 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
245 following that are subject to the authority granted to the director under Section 19-2-107 or 19-2-
246 108:

247 (a) a permit;

- 248 (b) a license;
- 249 (c) a registration;
- 250 (d) a certification; or
- 251 (e) another administrative authorization made by the director.

252 (8) A board member may not speak or act for the board unless the board member is
253 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

254 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
255 board by a federally enforceable state implementation plan.

256 Section 4. Section **19-2-105** is amended to read:

257 **19-2-105. Duties of board.**

258 The board, ~~in conjunction with the governing body of each county identified in~~
259 ~~Section 41-6a-1643 and other interested parties,~~ shall order the director to perform an evaluation
260 of the inspection and maintenance program developed under Section 41-6a-1643 including issues
261 relating to:

- 262 (1) the implementation of a standardized inspection and maintenance program;
- 263 (2) out-of-state registration of vehicles used in Utah;
- 264 (3) out-of-county registration of vehicles used within the areas required to have an
265 inspection and maintenance program;
- 266 (4) use of the farm truck exemption;
- 267 (5) mechanic training programs;
- 268 (6) emissions standards; ~~and~~
- 269 (7) emissions waivers; and;

270 (8) the most cost effective means to achieve and maintain the maximum benefit to air
271 quality.

272 Section 5. Section **19-2-107** is amended to read:

273 **19-2-107. Director -- Appointment -- Powers.**

274 (1) The executive director shall appoint the director. The director shall serve under the
275 administrative direction of the executive director.

276 (2) (a) The director shall:

277 (i) prepare and develop comprehensive plans for the prevention, abatement, and control
278 of air pollution in Utah;

279 (ii) advise, consult, and cooperate with other agencies of the state, the federal
280 government, other states and interstate agencies, and affected groups, political subdivisions, and
281 industries in furtherance of the purposes of this chapter;

282 (iii) review plans, specifications, or other data relative to air pollution control equipment
283 or any part of the air pollution control equipment;

284 (iv) under the direction of the executive director, represent the state in all matters relating
285 to interstate air pollution, including interstate compacts and similar agreements;

286 (v) secure necessary scientific, technical, administrative, and operational services,
287 including laboratory facilities, by contract or otherwise;

288 (vi) encourage voluntary cooperation by persons and affected groups to achieve the
289 purposes of this chapter;

290 (vii) encourage local units of government to handle air pollution within their respective
291 jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

292 (viii) determine by means of field studies and sampling the degree of air contamination
293 and air pollution in all parts of the state;

294 (ix) monitor the effects of the emission of air pollutants from motor vehicles on the
295 quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

296 (x) collect and disseminate information relating to air contamination and air pollution and
297 conduct educational and training programs relating to air contamination and air pollution;

298 (xi) assess and collect noncompliance penalties as required in Section 120 of the federal
299 Clean Air Act, 42 U.S.C. Section 7420;

300 (xii) comply with the requirements of federal air pollution laws;

301 (xiii) subject to the provisions of this chapter, enforce rules through the issuance of
302 orders, including:

303 (A) prohibiting or abating discharges of wastes affecting ambient air;

304 (B) requiring the construction of new control facilities or any parts of new control
305 facilities or the modification, extension, or alteration of existing control facilities or any parts of
306 new control facilities; or

307 (C) adopting other remedial measures to prevent, control, or abate air pollution; and

308 (xiv) as authorized by the board and subject to the provisions of this chapter, act as
309 executive secretary of the board under the direction of the chairman of the board.

310 (b) The director may:

311 (i) employ full-time, temporary, part-time, and contract employees necessary to carry out
312 this chapter;

313 (ii) subject to the provisions of this chapter, authorize an employee or representative of
314 the department to enter at reasonable times and upon reasonable notice in or upon public or

315 private property for the purposes of inspecting and investigating conditions and plant records
316 concerning possible air pollution;

317 (iii) encourage, participate in, or conduct studies, investigations, research, and
318 demonstrations relating to air pollution and its causes, effects, prevention, abatement, and
319 control, as advisable and necessary for the discharge of duties assigned under this chapter,
320 including the establishment of inventories of pollution sources;

321 (iv) collect and disseminate information relating to air pollution and the prevention,
322 control, and abatement of it;

323 (v) cooperate with studies and research relating to air pollution and its control,
324 abatement, and prevention;

325 (vi) subject to Subsection (3), upon request, consult concerning the following with a
326 person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

327 (A) the efficacy of proposed air pollution control equipment for the source; or

328 (B) the air pollution problem that may be related to the source;

329 (vii) accept, receive, and administer grants or other funds or gifts from public and private
330 agencies, including the federal government, for the purpose of carrying out any of the functions
331 of this chapter;

332 (viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action
333 initiated by the division to compel compliance with this chapter or the rules made under this
334 chapter; or

335 (ix) subject to the provisions of this chapter, exercise all incidental powers necessary to
336 carry out the purposes of this chapter, including certification to state or federal authorities for tax

337 purposes that air pollution control equipment has been certified in conformity with Title 19,
338 Chapter 12, Pollution Control Act.

339 (3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the
340 requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

341 (x) establish guidelines for approval of a person to conduct no-cost vehicle emissions
342 inspections for vehicles model year 2006 and newer that would meet the requirements of section
343 41-6a-1642.

344 Section 6. Section **41-6a-1643** is amended to read:

345 **41-6a-1643. Development of standardized emissions inspection and maintenance**
346 **program.**

347 (1) The county legislative body of each county in which an emissions inspection and
348 maintenance program for motor vehicles is implemented to meet National Ambient Air Quality
349 Standards may enter into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, to
350 develop an emissions inspection and maintenance program that:

351 (a) requires standardized, computerized testing equipment;

352 (b) provides for reciprocity, so that a person required to submit an emissions certificate
353 for vehicle registration may obtain an emissions certificate from any county in which a vehicle
354 emissions inspection and maintenance program is in operation; and

355 (c) requires standardized emissions standards for all counties entering into an agreement
356 under this section.

357 (2) Emissions standards set under Subsection (1) shall allow all counties identified in
358 Subsection (1) to meet the National Ambient Air Quality Standards.

359 (3) Each county legislative body entering into an agreement under Subsection (1) shall
360 make regulations or ordinances to implement the emissions inspection and maintenance program
361 developed under Subsection (1).

362 (4) A person required to submit an emissions certificate for vehicle registration may
363 comply with this requirement by completing an inspection by a person authorized in section 19-
364 2-107(2)(b)(x).

365 Section 7. Section **19-2-107.8** is enacted to read:

366 **19-2-107.8 Inland port – Maximum reduction of air pollutants – Use of switcher**
367 **locomotives and engines.**

368 (1) The division shall ensure the maximum reduction of emissions from operations of an
369 inland port established pursuant to Part 11-58, taking into account technological feasibility,
370 economic costs, adverse environmental effects and adverse impacts on the surrounding
371 community.

372 (2) an inland port shall comply with the provisions regarding switcher engines and
373 engines used in locomotives in section 11-58-205(10).