



Newsletter

Environmental Connection

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Sponsored by the Utah Department of Environmental Quality

Donna Kemp Spangler, Editor

2012 Legislative Session

Bills on DEQ Boards, Underground Storage Tanks, and Emissions Testing

The 2012 State Legislature passed a number of environmental bills during the 45-day session ending last week. Some made minor modifications to existing statutes, while others caused substantial changes. Here are some of the highlights from the 2012 session—all subject to Governor Gary Herbert's signature.

Department of Environmental Quality Boards

DEQ Boards will see some changes under two bills sponsored by Sen. Margaret Dayton (R-Orem). Most notably, these two pieces of legislation mark a shift in the functioning of DEQ boards, concentrating board efforts on policymaking and rulemaking rather than the adjudication of disputes.

Senate Bill 11 modifies requirements and procedures for adjudicative proceedings where a party challenges an agency order, other than a termination order, relating to a permit, plan, license, approval order, or other administrative authorization made by an executive secretary. The bill requires adjudicative proceedings to be based on the administrative record.

Senate Bill 21 amends a broader range of board roles and responsibilities. The bill modifies the composition of boards, including size and representation, and specifies the qualifications required for board members. It clarifies the duties and position of the Executive Director serving on boards. It gives the Department rulemaking authority to establish attendance standards and conflict of interest procedures for board members, transfers adjudicatory powers from the boards to the executive director, and provides a transition period to implement these changes.

Motor Vehicle Emissions

Legislators proposed several bills that sought to exempt certain vehicles from the current emissions testing schedule. The Division of Air Quality expressed concern this legislation would violate the provisions of the State Implementation Plan (SIP) and contribute to air quality problems in

nonattainment areas. Another bill, subsequently amended, would have struck down Salt Lake City's Anti-Idling Ordinance. Two house bills that would have threatened Utah's compliance with the State SIP by changing the schedule for emissions testing were defeated.

Bills passed:

- H.B. 407 New Car Safety and Emissions Inspection (Rep. Don Ipson, R-St. George). Exempts vehicles less than two years old from emissions testing.
- H.B. 104S1 Local Highway Authority Regulatory Powers (Rep. Wayne Harper, R-West Jordan). Provides that local anti-idling ordinances may be enforced on public property or private property if the property is open to the public and the owner posts a sign informing the public of the ordinance requirements.

Underground Storage Tanks

Underground storage tanks attracted a lot attention this session. Several bills make modifications to the Petroleum Storage Tank Fund, which acts as a cost-effective private insurance for underground storage tank owners/operators. The amendments made will change the method for identifying tanks that are out of compliance and transfer responsibilities from the State Risk Manager to DEQ. A house bill requiring DEQ to study the financial viability of the Environmental Assurance Program and Petroleum Storage Tank Fund failed to pass.

Bills passed:

- H.B. 195 Petroleum and Underground Storage Tank Fees (Rep. Greg Hughes, R-Draper)

Transfers responsibility for the determination of actuarial soundness of the Petroleum Storage Tank Trust Fund from the State Risk Manager to the Executive Director of DEQ. DEQ supported this legislation.

- H.B. 343 Underground Storage Tank Amendments. (Rep. Kay Mciff, R-Richfield) Changes the definition of a certified underground storage tank consultant and grants rulemaking authority to the Board for the certification and registration of underground storage tank operators. Modifies tagging requirement for tanks so only tanks that do not qualify for a certificate of compliance are tagged.

Other highlights include:

- A new two-year Economic Development Task Force will review public and private sector efforts to improve air quality and suggest changes to improve air quality.
- The Air Quality Board can establish work practice, certification, and clearance air sampling requirements for asbestos.
- The use of e-cigarettes and hookah pipes will be prohibited in place of public access. Hookah bars and e-cigarette shops are exempted from this ban for five years.
- Pharmacies can take back unused prescriptions if federal rules allow a take back program.
- Local health departments cannot establish standards stricter than federal standards except under certain circumstances.
- Certain recycling market development zone credits have been carried forward to January 2021
- Membership changes to the State Water Development Commission reserve voting membership to legislators. The principle focus of the commission will be on major water supply projects, such as the Lake Powell Pipeline and the Bear River Pipeline.

- Waste tire recyclers must meet certain requirements for the transfer of ownership of waste tires and the partial reimbursement for the costs of transporting or processing waste tires.
- Demilitarized waste will be subject to a lower hazardous waste disposal fee. The Division of Solid and Hazardous Waste is required to establish a flat fee structure for hazardous wastes by 2014.
- Qualifying water conservancy districts are required to repeal their property taxes.
- A joint resolution by the legislature encourages the Utah State Board of Education and Utah's school districts to consider ways to establish green schools in the state.
- A concurrent resolution by the legislature and the Governor approves the state's participation in the Interlocal Cooperation Agreement Establishing the Jordan River Commission.
- Mercury Switch Removal Act reauthorized for 5 years.
- Radiation Control Act removed from the sunset list.

Governor Herbert has 60 days to sign these bills into law or veto them. Lawmakers could override any vetoed bills with a two-thirds majority. If there is no veto, most of the new laws will take effect in mid-May, with the exception of the budget bills, which take effect at the start of the fiscal year, July 1, 2012.

DEQ's Budget One-Time funding for ALJ; Legislature Gives Employees 1% Raise

The Utah Legislature passed a final \$13 billion-plus budget plan that includes \$150,000 —so the Department of Environmental Quality (DEQ) can hire an administrative law judge (ALJ) to help settle permitting disputes, removing a burden before DEQ's policy-making boards. That amount is 60 percent of what the Governor's budget recommended.

And for the first time in five years, lawmakers gave state employees a 1 percent pay raise.

An increase in the number of permit appeals has prompted the need for an administrative law judge, a duty assigned to the assistant attorneys at the Attorney General's (AG) Office. An ALJ would serve a key function under a bill passed this session that removes the adjudicatory function from DEQ's regulatory boards (see Legislature article).

"An administrative law judge would help remove any legal roadblocks and improve efficiencies within the Department," said Smith. "It means we can free up our assistant AGs to focus on the environmental legal work at hand."

The Legislature also authorized the transfer of \$400,000 from the Environmental Quality Restricted Account to the Hazardous Substances Mitigation Fund—which provides a 10 percent state match for Superfund cleanups. That however, won't happen until fiscal year 2013, as stated in the motion to approve the request.

The Office of Energy Development (OED) did receive the money needed to keep its office functioning and \$70,000 one-time funds to help move to a new location.

"I'm very pleased the Legislature accepted the Governor's budget recommendations, which included \$770,000 for the Office of Energy Development," added Smith, who also serves as the Governor's Energy Advisor.

This coming year, OED, currently housed within DEQ's portion of the Multi State Agency Office Building, will be relocating to the state office building occupied by the Office of Economic Development.

Governor Gary Herbert signed into law state agencies base budget and now will consider the priority projects in a bill the Legislature passed when the session ended March 8. The 2013 fiscal year budget runs from July 1, 2012 to June 30, 2013. The Utah Legislature passed a final \$13 billion-plus budget plan that includes \$150,000 —so the Department of Environmental Quality (DEQ) can hire an administrative law judge (ALJ) to help settle permitting disputes, removing a burden before DEQ's policy-making boards. That amount is 60 percent of what the Governor's budget recommended.

Plug-Ins Available for Electric Cars at DEQ

The Utah Department of Environmental Quality staff will soon be behind the wheel of two electric vehicles purchased as fleet replacement vehicles, and is making six charging stations here available to the public with electric cars.

The Division of Air Quality (DAQ) partnered with Utah Department of Administrative Services and Utah Clean Cities to install six electric vehicle (EV) level 2 charging stations at the Multi Agency State Government Office Building, located at 195 North 1950 West.

"There are three different level of recharging stations: Level 1, Level 2, and Level 3. Level 1 charging stations can take 8 to 20 hours to full charge a depleted battery. Level 2 charging stations allow electric vehicles to recharge its battery in about 4 to 8 hours. Level 3 charging stations can full recharge a battery from 20-45 minutes," said Mat Carlile, environmental planning coordinator for DAQ's Mobile Source Section.

Bryce Bird, director of DAQ, said he expects electric vehicles to be more available in the marketplace, which in the end will help improve Utah's air.

"When charged from Utah's grid, electric vehicles emit less CO₂ and other pollutants with the greatest impact to our urban areas over their entire fuel cycle than all other available vehicles. If combined with optional clean energy purchases, the vehicles can operate with no net air emission," Bird added.

The \$20,000 project is funded by a cost share grant from the US Department of Energy and DAQ. The six charging stations are located in the southern parking lot of the Multi Agency State Government Office Building. Three of the stations are inside the fleet corral and will be used to recharge DEQ fleet Electric plug-in vehicles.

The other three charging stations are located in the southwest portion of the parking lot adjacent to the fleet corral and will be available to the public.

"We are excited to have electric vehicles as part of our fleet," said Amanda Smith, executive director of DEQ. "We're hoping this project will expand Utah's EV charging network."

Think Outside the (Disposable) Box

The Utah Department of Environmental Quality (DEQ) is helping businesses think outside the box when it comes to packaging.

The stacks of discarded cardboard boxes—though headed for recycling—can be converted to reusable packaging, saving businesses time and money. To learn more about reusable packaging, DEQ is co-sponsoring, along with Davis Applied Technology College (DATC), a Use Reusables workshop held on March 21 from 8-11:30 a.m. at the DATC campus in Kaysville. Examples of reusable packaging include pallets, boxes, totes, bins and other containers used to ship materials.

Some Utah businesses are reaping the benefits.

"By converting to reusable packaging, we were able to eliminate waste, decrease product damage, and reduce the costs associated with the use of wood pallets and cardboard boxes," said Bill Webb, Production Control, Autoliv.

Autoliv, a worldwide leader in automotive safety, specializes in the manufacture of airbags at its Ogden facility. In 1994, Autoliv made the switch to reusable containers using collapsible and nestable containers of all sizes. The collapsible or stackable containers take up less space—as much as 5 times the density—on the return trip to the factory. Due to the frequent reuse of the containers, Autoliv realizes a timely return on investment made.

Other workshop sponsors include the StopWaste Partnership and the Reusable Packaging Association through the "Use Reusables" campaign with support from the U.S. Environmental Protection Agency (EPA) through a Climate Showcase Communities grant. The workshop features a speaker from the Reusable Packaging Association.

Launched in 2007 to serve businesses in Alameda County, the campaign expanded to the San Francisco Bay Area in 2009 and the Utah workshop is the first workshop of their nationwide campaign. The campaign provides free educational resources, training workshops and expert advice to help businesses transition to reusable transport packaging.

Corporate executives, supply chain directors, packaging engineers, sustainability managers, materials managers, and anyone interested in learning more about the environmental and economic value of reusable transport packaging are encouraged to attend.

For registration information, go to the Use Reusables Workshop.

This article was written by Frances Bernards of DEQ's Business Assistance Program, which organized the workshop.