

UTAH STATE IMPLEMENTATION PLAN
SECTION XIX
SMALL BUSINESS ASSISTANCE PROGRAM

Adopted by the Utah Air Quality Board

December 18, 1992

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XIX.A. Introduction

Section 507 of the federal Clean Air Act, amended November 15, 1990, requires Utah to develop a program to assist small business stationary sources to comply with the Clean Air Act. The Clean Air Act outlines a variety of new and expanded requirements to reduce air pollution in non-attainment areas, reduce emissions of hazardous air pollutants, and to increase the enforceability of federal requirements through mandatory operating permits.

These new requirements will apply to many industries in Utah that have not previously been regulated by federal or state rules, including many small businesses. Small businesses will have an especially hard time keeping up with the swiftly developing air quality rules because they cannot afford a full time environmental and legal staff. A Small Business Assistance Program (SBAP) shall be established to ease the regulatory burden on these small businesses, and to assist them in understanding and achieving compliance with state and federal air quality rules.

XIX.B Eligible Businesses

XIX.B.1 The SBAP may provide assistance to small businesses that do not have the technical and legal expertise that is necessary to keep abreast of and understand state and federal air pollution laws. Any information developed by the SBAP shall be available to all businesses and the general public. To qualify for technical assistance under this program, however, a business must meet all of the following criteria:

- 1) the business is owned or operated by a person that employs 100 or fewer individuals;
- 2) the business is independently owned and operated and not dominant in its field as defined in 13 CFR Part 121;
- 3) the source is not a Major Part 70 source or a Major Hazardous Air Pollutant Source;
- 4) The source does not have the potential to emit more than 50 tons per year of any regulated air pollutant; and
- 5) The source does not have the potential to emit more than 75 tons per year of any combination of regulated air pollutants (including hazardous air pollutants).

XIX.B.2. Upon petition by a source that does not meet the criteria of 1, 2, or 3 above, and that has the potential to emit less than 100 tons per year of any combination of regulated air pollutants (including hazardous air pollutants), the Executive Secretary may, after notice and opportunity for public comment, designate the source as an eligible small business.

XIX.B.3 The Executive Secretary, after consultation with the Administrators of EPA and the Federal Small Business Administration, may exclude certain small businesses from the program if these businesses have sufficient

financial and technical support to meet state and federal requirements. Before excluding a small business from the program, the Executive Secretary shall provide notice and opportunity for public comment. The decision made by the Executive Secretary to exclude or not to exclude a business from the SBAP may be appealed to the Air Quality Board.

XIX.C. Small Business Assistance Program

XIX.C.1. A Small Business Assistance Program (SBAP) shall be established within the Division of Air Quality. The SBAP shall be funded by an emission fee, collected through the Title V operating permit program. The activities of the SBAP shall be closely coordinated with the Department of Environmental Quality's Outreach program and with the Small Business Ombudsman. The Outreach program was developed to increase public awareness of Department programs. The Outreach program may actively seek to inform small businesses of the services provided by the SBAP through the distribution of informational material, education programs, fairs, and public service announcements.

XIX.C.2. The SBAP shall help small businesses fill out permit application forms and emission inventory forms. The SBAP may answer questions from small business stationary sources about pollution prevention and accidental release detection and prevention. The SBAP may answer questions from small businesses concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

XIX.C.3. The SBAP shall develop a library of information concerning compliance methods and technologies for small business stationary sources. This library may include information provided by the EPA and, general descriptions of available control technology for small business categories.

XIX.C.4. The SBAP shall provide timely information to small businesses concerning their rights and obligations under the State and Federal Clean Air Act requirements. The SBAP may perform audits of the operations of small businesses, if resources are available, to determine whether the source is subject to any state or federal rules and to identify possible methods of pollution prevention and accidental release detection. If the SBAP is not able to perform an audit, the SBAP will refer that small business stationary source to qualified auditors. The performance of an audit does not shield a small business from any pending or future compliance actions.

XIX.C.5. The SBAP shall establish programs to notify small business stationary sources of new and existing state and federal rules that apply to those sources. The SBAP shall work with trade organizations and with state and local governments to inform small businesses of new state and federal regulations and to gain their cooperation in implementing the new regulations. A toll-free environmental hotline may be established to enable small businesses to ask questions about air quality rules, compliance issues, control technologies, and prevention of accidental releases, and make general comments about the program.

XIX.C.6. The SBAP shall consider requests from a small business stationary source for modifications of any work practice or technological method of compliance, or the schedule of milestones for implementing these modifications. The SBAP shall work within the Division of Air Quality to expedite the request. The required compliance date and the technological and financial capability of any such small business stationary source may be considered when reviewing the request. A modification shall not be granted unless it is in compliance with the applicable requirements of state and federal air quality rules.

XIX.D. Small Business Compliance Advisory Panel

XIX.D.1. Utah Code Ann., Section 19-2-109.2 created a Compliance Advisory Panel to advise and monitor the activities of the SBAP. The panel consists of the following seven members:

- 1) two members, who are not owners or representatives of owners of small business stationary sources, selected by the Governor to represent the general public.
- 2) four members who are owners, or who represent owners of small business stationary sources selected as follows:
 - a) one member selected by the majority leader of the Utah Senate;
 - b) one member selected by the minority leader of the Utah Senate;
 - c) one member selected by the majority leader of the Utah House;
 - d) one member selected by the minority leader of the Utah House;and
- 3) one member selected by the Executive Director of the Department of Environmental Quality to represent the Division of Air Quality.

A representative from the SBAP shall act as Secretary to the Panel, and shall assist in the preparation of any required reports and the collection of any required data, and make arrangements for the meetings.

XIX.D.2 The Panel shall operate as an advisory panel to the Air Quality Board and the SBAP. The Panel shall monitor the progress of the SBAP and make suggestions to the Air Quality Board through the Executive Secretary to improve the effectiveness of the program. The Panel shall:

- 1) render advisory opinions to the Executive Secretary concerning the effectiveness of the SBAP, difficulties encountered, and the degree and severity of enforcement;
- 2) make reports to the EPA when required by the Administrator concerning the compliance of the SBAP with the requirements of the Federal Paperwork Reduction Act, Regulatory Flexibility Act, and Equal Access to Justice Act to the extent these laws apply to the state program; and
- 3) review information prepared by the SBAP for small business stationary sources to make sure the information is understandable by the layperson, and recommend any necessary changes.

XIX.D.3. The Panel shall be funded through the air pollution emission fee established pursuant to Utah Code Ann., Section 19-2-109.1.

XIX.E. Small Business Ombudsman

XIX.E.1. The Office of the Small Business Ombudsman shall be located in the Department of Environmental Quality, Office of the Executive Director. The Ombudsman shall have sufficient independent authority to identify problems and make recommendations as they relate to implementation of the SBAP. The Office of the Small Business Ombudsman shall be funded through the air pollution emission fee established pursuant to Utah Code Ann., Section 19-2-109.1.

XIX.E.2 The Ombudsman shall be an advocate for the needs of small businesses, and may refer small businesses to the SBAP for technical assistance. The Ombudsman shall make any necessary reports to the Environmental Protection

Agency concerning compliance of the SBAP with the requirements of the federal Clean Air Act. The Ombudsman shall respond to complaints from small businesses about the SBAP, and shall make suggestions to the Executive Secretary to improve the effectiveness of the SBAP.

XIX.E.3. The Ombudsman may work with state, federal, and local government agencies to identify methods of funding for pollution prevention programs and to inform small businesses of any new state or federal air pollution regulations. The Ombudsman may work with other State Ombudsmen to share information about methods to assist small businesses.

XIX.F. Schedule for Implementation of the Small Business Assistance Program

The State of Utah intends to implement Section 17 of the State Implementation Plan (SIP), the Small Business Assistance Program, according to the following schedule:

July 1, 1993	Designate the Office of the Small Business Ombudsman in the Department of Environmental Quality. Fund the Office of the Small Business Ombudsman through emission fees.
November 15, 1993	Appoint the members of the Compliance Advisory Panel.
November 15, 1994 (or date of approval Operating Permit Program if earlier)	Fully implement the SBAP in Utah.