

TITLE 23

Health and Safety

CHAPTER 23-23

Air Pollution

SECTION 23-23-5

§ 23-23-5 Powers and duties of the director. – In addition to the other powers and duties granted in this chapter, the director shall have and may exercise the following powers and duties:

- (1) To exercise general supervision of the administration and enforcement of this chapter and all rules and regulations and orders promulgated under this chapter;
- (2) To develop comprehensive programs, for the prevention, control, and abatement of new or existing pollution of the air resources of this state on the basis of air quality standards adopted by the environmental standards board;
- (3) To advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, and other states and interstate agencies, and with effective groups in industries in furthering the purposes of this chapter;
- (4) To promulgate standards of air quality adopted by the environmental standards board;
- (5) To hold hearings, to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, and to administer oaths and to take testimony as he or she may deem necessary;
- (6) To encourage and conduct studies and research on air pollution and to collect and disseminate this information;
- (7) To enter at all reasonable times in or upon any private or public property, except private residences, and to detain and inspect any motor vehicle for the purpose of inspecting or investigating any condition which the director shall believe to be either an air pollution source or in violation of any of the rules or regulations or orders promulgated under this chapter;
- (8) To issue, modify, amend, or revoke any orders prohibiting or abating air pollution in accordance with the purposes of this chapter and the rules and regulations promulgated under this chapter. In making the orders authorized by this chapter, the director shall consider all relevant factors including, but not limited to, population density, air pollution levels, and the character and degree of injury to health or physical property;
- (9) To accept, receive, and administer grants or other funds or gifts for the purpose of carrying out any of the functions of this chapter including any moneys given under any federal law to the state for air pollution control activities, surveys, or programs;
- (10) To require the prior submission and approval of plans, specifications, and other data relative to the construction, installation, and modification of air pollution control systems, devices, or any of its

(19) No person shall operate any machine, facility, or device which is subject to approval or permit by the department without an approval or permit of the department. No source may operate after an approval or permit has been denied. Any approval or permit issued under this section may be suspended, revoked or amended by the director at any time upon a showing, after notice and hearing, that the permittee has failed to comply with the provisions of this chapter, rules and regulations promulgated by the director pursuant to this chapter, or the terms and conditions of the approval or permit, or upon a showing, after notice and hearing, that the continued operation of the approved or permitted source constitutes a threat to the health and safety of the public or to the environment. In any proceeding for revocation, suspension, or amendment of an approval or permit pursuant to this subsection, the director will provide the affected party with the opportunity for an adequate hearing. No revocation, annulment, or withdrawal of any approval or permit is lawful unless, the agency sent notice by mail to the permittee or possessor of an approval of the facts or conduct or violation which warrant the action, and the permittee or possessor of an approval is given an opportunity at hearing to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of approval or permit may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined;

(20) No approval or permit required under this chapter shall be issued by the director if the approval or permit contains provisions that are determined by the administrator of the Environmental Protection Agency not to be in compliance with the requirements of the federal Clean Air Act (42 U.S.C § 7401 et seq.). The administrator of the EPA shall provide a statement of the reasons for the objection to the director. A copy of the objection and statement shall be provided to the applicant. The director shall withhold the issuance of the approval or permit until the applicant has successfully satisfied the concerns of the administrator of EPA or his or her designee;

(21) The department may establish a small business stationary source technical and environmental compliance assistance program. The department may use general revenue funding to cover the cost of administering this program. The department shall have the power to give grants, and conduct educational and/or outreach programs;

(22) To promulgate regulations to apply at the earliest to the 1993 model year and beyond, relating to emission standards for new motor vehicles and new motor vehicle engines, warranties for motor vehicles and motor vehicle parts, recall of motor vehicles, accreditation of motor vehicle parts, and any other matters relating to the enforcement of these regulations, provided, the regulations so promulgated shall not be more stringent than the mandatory standards established by federal law or regulation, unless the regulations are needed for the attainment or maintenance of air quality standards;

(23) Nothing in this section shall allow the department to administer an inspection and maintenance program for automobiles without approval of the general assembly;

(24) In addition to the powers and duties enumerated in this section, the director shall have all appropriate power to adopt rules, regulations, procedures, programs, and standards as mandated by the authorization of the federal Clean Air Act, 42 U.S.C. § 7401 et seq.

History of Section.

(P.L. 1966, ch. 256, § 1; P.L. 1977, ch. 182, § 9; G.L. 1956, § 23-25-5; P.L. 1979, ch. 39, § 1; G.L. 1956, § 23-23-5; P.L. 1980, ch. 24, § 1; P.L. 1985, ch. 502, § 1; P.L. 1992, ch. 361, § 1; P.L. 1994, ch. 395, § 1; P.L. 1995, ch. 370, art. 40, § 69.)

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SECTION 23-23-16

§ 23-23-16 Emergencies. – Notwithstanding the provisions of this chapter or any other provisions of this law, if the director of environmental management finds or has cause to believe or is notified by the director of health that any person is violating any provision of this chapter or any rule or regulation or any order made under this chapter and that violation or alleged violation is an immediate danger to public health or safety, he or she may order that person to cease the violation or alleged violation. Within twenty-four (24) hours after issuing the order or any longer time as the alleged violator may designate, the director shall grant the person a hearing. Not more than twenty-four (24) hours after the conclusion of the hearing, the director shall affirm, modify, or set aside the order.

History of Section.

(P.L. 1966, ch. 256, § 1; P.L. 1977, ch. 182, § 9; G.L. 1956, § 23-25-16; P.L. 1979, ch. 39, § 1; P.L. 1980, ch. 24, § 1.)