

UNDERGROUND WASTEWATER DISPOSAL SYSTEMS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

This act modifies the Water Quality Act to require certification for individuals who design, inspect, maintain, or conduct percolation tests or soils tests for underground wastewater disposal systems. This act directs the Water Quality Board to make rules to implement the certification program. A fee is imposed on new underground wastewater disposal systems, and the Underground Wastewater Disposal System Restricted Account is created. This act takes effect on July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

19-5-102, as last amended by Chapter 114, Laws of Utah 1995

19-5-104, as last amended by Chapter 282, Laws of Utah 2000

ENACTS:

19-5-121, Utah Code Annotated 1953

19-5-122, Utah Code Annotated 1953

19-5-123, Utah Code Annotated 1953

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

Section 1. Section **19-5-102** is amended to read:

19-5-102. Definitions.

As used in this chapter:

- (1) "Board" means the Water Quality Board created in Section 19-1-106.
- (2) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (3) "Discharge" means the addition of any pollutant to any waters of the state.
- (4) "Discharge permit" means a permit issued to a person who:
 - (a) discharges or whose activities would probably result in a discharge of pollutants into the waters of the state; or

(b) generates or manages sewage sludge.

(5) "Disposal system" means a system for disposing of wastes, and includes sewerage systems and treatment works.

(6) "Effluent limitations" means any restrictions, requirements, or prohibitions, including schedules of compliance established under this chapter which apply to discharges.

(7) "Executive secretary" means the executive secretary of the board.

~~[(9)]~~ (8) "Point source":

(a) means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged; and

(b) does not include return flows from irrigated agriculture.

~~[(10)]~~ (9) "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for the public health and safety.

~~[(11)]~~ (10) "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, its political subdivisions, or other public entity.

~~[(12)]~~ (11) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with this chapter.

~~[(13)]~~ (12) "Sewage sludge" means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage.

~~[(14)]~~ (13) "Sewerage system" means pipelines or conduits, pumping stations, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to a point of ultimate disposal.

~~[(15)]~~ (14) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

~~[(16)]~~ (15) "Underground injection" means the subsurface emplacement of fluids by well injection.

[~~(8)~~] (16) "[~~Individual~~] Underground wastewater disposal system" means a system for disposing of domestic wastewater discharges as defined by the board and the executive director.

(17) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(18) "Waters of the state":

(a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and

(b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Section 2. Section **19-5-104** is amended to read:

19-5-104. Powers and duties of board.

(1) The board has the following powers and duties, but the board shall give priority to pollution that results in hazards to the public health:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;

(b) advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies, and with affected groups, political subdivisions, and industries to further the purposes of this chapter;

(c) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution as the board finds necessary to discharge its duties;

(d) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;

(e) adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses in the interest of the public under conditions the board may prescribe for the prevention, control, and abatement of pollution;

(f) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, taking into account Subsection (2), to:

(i) implement the awarding of construction loans to political subdivisions and municipal authorities under Section 11-8-2, including:

(A) requirements pertaining to applications for loans;

(B) requirements for determination of eligible projects;

(C) requirements for determination of the costs upon which loans are based, which costs may include engineering, financial, legal, and administrative expenses necessary for the construction, reconstruction, and improvement of sewage treatment plants, including major interceptors, collection systems, and other facilities appurtenant to the plant;

(D) a priority schedule for awarding loans, in which the board may consider in addition to water pollution control needs any financial needs relevant, including per capita cost, in making a determination of priority; and

(E) requirements for determination of the amount of the loan;

(ii) implement the awarding of loans for nonpoint source projects pursuant to Section 73-10c-4.5;

(iii) set effluent limitations and standards subject to Section 19-5-116;

(iv) implement or effectuate the powers and duties of the board; and

(v) protect the public health for the design, construction, operation, and maintenance of [~~individual~~] underground wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies;

(g) issue, modify, or revoke orders:

(i) prohibiting or abating discharges;

(ii) requiring the construction of new treatment works or any parts of them, or requiring the modification, extension, or alteration of existing treatment works as specified by board rule or any

parts of them, or the adoption of other remedial measures to prevent, control, or abate pollution;

(iii) setting standards of water quality, classifying waters or evidencing any other determination by the board under this chapter; and

(iv) requiring compliance with this chapter and with rules made under this chapter;

(h) review plans, specifications, or other data relative to disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them;

(i) after public notice and opportunity for a public hearing, issue, continue in effect, revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe to control the management of sewage sludge or to prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state;

(j) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;

(k) exercise all incidental powers necessary to carry out the purposes of this chapter, including delegation to the department of its duties as appropriate to improve administrative efficiency;

(l) meet the requirements of federal law related to water pollution;

(m) establish and conduct a continuing planning process for control of water pollution including the specification and implementation of maximum daily loads of pollutants;

(n) make rules governing inspection, monitoring, recordkeeping, and reporting requirements for underground injections and require permits for them, to protect drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil, recognizing that underground injection endangers drinking water sources if:

(i) injection may result in the presence of any contaminant in underground water which supplies or can reasonably be expected to supply any public water system, as defined in Section 19-4-102; and

(ii) the presence of the contaminant may result in the public water system not complying with any national primary drinking water standards or may otherwise adversely affect the health of

persons;

(o) make rules governing sewage sludge management, including permitting, inspecting, monitoring, recordkeeping, and reporting requirements;

(p) adopt and enforce rules and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions; and

(q) notwithstanding the provisions of Section 19-4-112, make rules governing design and construction of irrigation systems which convey sewage treatment facility effluent of human origin in pipelines under pressure, unless contained in surface pipes wholly on private property and for agricultural purposes, and which are constructed after May 4, 1998.

(2) In determining eligible project costs and in establishing priorities pursuant to Subsection (1)(f)(i), the board shall take into consideration the availability of federal grants.

(3) In establishing certification rules under Subsection (1)(p), the board shall:

(a) base the requirements for certification on the size, treatment process type, and complexity of the treatment works and sewerage systems operated by political subdivisions;

(b) allow operators until three years after the date of adoption of the rules to obtain initial certification;

(c) allow new operators one year from the date they are hired by a treatment plant or sewerage system or three years after the date of adoption of the rules, whichever occurs later, to obtain certification;

(d) issue certification upon application and without testing, at a grade level comparable to the grade of current certification to operators who are currently certified under the voluntary certification plan for wastewater works operators as recognized by the board; and

(e) issue a certification upon application and without testing that is valid only at the treatment works or sewerage system where that operator is currently employed if the operator:

(i) is in charge of and responsible for the treatment works or sewerage system on March 16, 1991;

(ii) has been employed at least ten years in the operation of that treatment works or sewerage system prior to March 16, 1991; and

(iii) demonstrates to the board his capability to operate the treatment works or sewerage system at which he is currently employed by providing employment history and references as required by the board.

Section 3. Section **19-5-121** is enacted to read:

19-5-121. Underground wastewater disposal systems -- Certification required to design, inspect, maintain, or conduct percolation or soil tests -- Exemptions -- Rules -- Fees.

(1) As used in this section, "maintain" does not include the pumping of an underground wastewater disposal system.

(2) (a) Except as provided in Subsections (2)(b) and (2)(c), beginning January 1, 2002, a person may not design, inspect, maintain, or conduct percolation or soil tests for an underground wastewater disposal system, without first obtaining certification from the board.

(b) An individual is not required to obtain certification from the board to maintain an underground wastewater disposal system that serves a noncommercial, private residence owned by the individual or a member of the individual's family and in which the individual or a member of the individual's family resides or an employee of the individual resides without payment of rent.

(c) The board shall make rules allowing an uncertified individual to conduct percolation or soil tests for an underground wastewater disposal system that serves a noncommercial, private residence owned by the individual and in which the individual resides or intends to reside, or which is intended for use by an employee of the individual without payment of rent, if the individual:

(i) has the capability of properly conducting the tests; and

(ii) is supervised by a certified individual when conducting the tests.

(3) (a) The board shall adopt and enforce rules for the certification and recertification of individuals who design, inspect, maintain, or conduct percolation or soil tests for underground wastewater disposal systems.

(b) (i) The rules shall specify requirements for education and training and the type and duration of experience necessary to obtain certification.

(ii) The rules shall recognize the following in meeting the requirements for certification:

(A) the experience of a contractor licensed under Title 58, Chapter 55, Utah Construction

Trades Licensing Act, who has five or more years of experience installing underground wastewater disposal systems;

(B) the experience of an environmental health scientist licensed under Title 58, Chapter 20a, Environmental Health Scientist Act; or

(C) the educational background of a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(iii) If eligibility for certification is based on experience, the applicant for certification must show proof of experience.

(4) The department may establish fees in accordance with Section 63-38-3.2 for the testing and certification of individuals who design, inspect, maintain, or conduct percolation or soil tests for underground wastewater disposal systems.

Section 4. Section **19-5-122** is enacted to read:

19-5-122. Underground wastewater disposal systems -- Fee imposed on new systems.

(1) Beginning July 1, 2001, a one-time fee is imposed on each new underground wastewater disposal system installed.

(2) (a) From July 1, 2001 through June 30, 2002, the fee shall be \$25.

(b) Beginning July 1, 2002, the fee shall be established by the department in accordance with Section 63-38-3.2.

(3) (a) The fee shall be paid when plans and specifications for the construction of a new underground wastewater disposal system are approved by the local health department or the Department of Environmental Quality.

(b) A local health department shall remit the fee revenue to the Division of Finance quarterly.

(4) The fee revenue shall be:

(a) deposited into the Underground Wastewater Disposal Restricted Account created in Section 19-5-123; and

(b) used to pay for costs of underground wastewater disposal system training programs.

Section 5. Section **19-5-123** is enacted to read:

19-5-123. Underground Wastewater Disposal System Restricted Account created --

Contents -- Use of account monies.

(1) The Underground Wastewater Disposal System Restricted Account is created within the General Fund.

(2) The contents of the account shall consist of:

(a) revenue from fees collected under Sections 19-5-121 and 19-5-122; and

(b) interest and earnings on account monies.

(3) Monies in the account shall be appropriated by the Legislature to the department for costs of training, testing, and certifying individuals who design, inspect, maintain, or conduct percolation or soils tests for underground wastewater disposal systems.

Section 6. Effective date.

This act takes effect on July 1, 2001.