

Representative Bill Wright proposes the following substitute bill:

WATER QUALITY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill modifies and enacts provisions of the Water Quality Act.

Highlighted Provisions:

This bill:

▶ authorizes the Water Quality Board to make rules relating to agriculture water that are more stringent than federal regulations if the Conservation Commission approves;

▶ requires board and commission cooperation in making rules related to agriculture water; and

▶ establishes provisions relating to damages resulting from an agriculture discharge.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-102, as last amended by Laws of Utah 2001, Chapter 274

19-5-105, as renumbered and amended by Laws of Utah 1991, Chapter 112



26 ENACTS:

27 **19-5-105.5**, Utah Code Annotated 1953



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

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

31 **19-5-102. Definitions.**

32 As used in this chapter:

33 (1) "Agriculture discharge":

34 (a) means the release of agriculture water from the property of a farm, ranch, or feed lot

35 that:

36 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,

37 watercourse, waterway, river, ditch, and other water conveyance system of the state;

38 (ii) pollutes the ground water of the state; or

39 (iii) constitutes a significant nuisance on urban land; and

40 (b) does not include:

41 (i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land

42 that is not part of a body of water; or

43 (ii) a release into a normally dry water conveyance to an active body of water, unless

44 the release reaches the water of a lake, pond, stream, marshland, river, or other active body of

45 water.

46 (2) "Agriculture water" means:

47 (a) water used by a farmer, rancher, or feed lot for the production of food, fiber, or fuel;

48 (b) return flows from irrigated agriculture; and

49 (c) agricultural storm water runoff.

50 ~~[(1)]~~ (3) "Board" means the Water Quality Board created in Section 19-1-106.

51 (4) "Commission" means the Conservation Commission created in Section 4-18-4.

52 ~~[(2)]~~ (5) "Contaminant" means any physical, chemical, biological, or radiological

53 substance or matter in water.

54 ~~[(3)]~~ (6) "Discharge" means the addition of any pollutant to any waters of the state.

55 ~~[(4)]~~ (7) "Discharge permit" means a permit issued to a person who:

56 (a) discharges or whose activities would probably result in a discharge of pollutants

57 into the waters of the state; or

58 (b) generates or manages sewage sludge.

59 [~~(5)~~] (8) "Disposal system" means a system for disposing of wastes, and includes
60 sewerage systems and treatment works.

61 [~~(6)~~] (9) "Effluent limitations" means any restrictions, requirements, or prohibitions,
62 including schedules of compliance established under this chapter which apply to discharges.

63 [~~(7)~~] (10) "Executive secretary" means the executive secretary of the board.

64 [~~(8)~~] (11) "Point source":

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

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

70 [~~(9)~~] (12) "Pollution" means any man-made or man-induced alteration of the chemical,
71 physical, biological, or radiological integrity of any waters of the state, unless the alteration is
72 necessary for the public health and safety.

73 [~~(10)~~] (13) "Publicly owned treatment works" means any facility for the treatment of
74 pollutants owned by the state, its political subdivisions, or other public entity.

75 [~~(11)~~] (14) "Schedule of compliance" means a schedule of remedial measures,
76 including an enforceable sequence of actions or operations leading to compliance with this
77 chapter.

78 [~~(12)~~] (15) "Sewage sludge" means any solid, semisolid, or liquid residue removed
79 during the treatment of municipal wastewater or domestic sewage.

80 [~~(13)~~] (16) "Sewerage system" means pipelines or conduits, pumping stations, and all
81 other constructions, devices, appurtenances, and facilities used for collecting or conducting
82 wastes to a point of ultimate disposal.

83 [~~(14)~~] (17) "Treatment works" means any plant, disposal field, lagoon, dam, pumping
84 station, incinerator, or other works used for the purpose of treating, stabilizing, or holding
85 wastes.

86 [~~(15)~~] (18) "Underground injection" means the subsurface emplacement of fluids by
87 well injection.

88 ~~[(16)]~~ (19) "Underground wastewater disposal system" means a system for disposing of
89 domestic wastewater discharges as defined by the board and the executive director.

90 ~~[(17)]~~ (20) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator
91 residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
92 radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and
93 industrial, municipal, and agricultural waste discharged into water.

94 ~~[(18)]~~ (21) "Waters of the state":

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

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

102 Section 2. Section **19-5-105** is amended to read:

103 **19-5-105. Rulemaking authority and procedure.**

104 (1) Except as provided in ~~[Subsection]~~ Subsections (2) and (3), no rule ~~[which]~~ that the
105 board makes for the purpose of the state administering a program under the federal Clean
106 Water Act or the federal Safe Drinking Water Act may be more stringent than the
107 corresponding federal regulations which address the same circumstances. In making rules, the
108 board may incorporate by reference corresponding federal regulations.

109 (2) The board may make rules more stringent than corresponding federal regulations
110 for the purpose described in Subsection (1), only if it makes a written finding after public
111 comment and hearing and based on evidence in the record that the corresponding federal
112 regulations are not adequate to protect public health and the environment of the state. Those
113 findings shall be accompanied by an opinion referring to and evaluating the public health and
114 environmental information and studies contained in the record which form the basis for the
115 board's conclusion.

116 (3) The board may make rules related to agriculture water more stringent than the
117 corresponding federal regulations if the commission approves.

118 Section 3. Section **19-5-105.5** is enacted to read:

119 19-5-105.5. Agriculture water.

120 (1) (a) The board shall draft any rules relating to agriculture water in cooperation with
121 the commission.

122 (b) The commission shall advise the board before the board may adopt rules relating to
123 agriculture water.

124 (2) A program or rule adopted by the board for agriculture production or irrigation
125 water shall:

126 (a) be consistent with the federal Clean Water Act; and

127 (b) if possible, be developed in a voluntary cooperative program with the agriculture
128 producer associations and the commission.

129 (3) (a) The board's authority to regulate a discharge is subject to Subsection (3)(b)
130 relating to an agriculture discharge.

131 (b) (i) A person responsible for an agriculture discharge shall mitigate the resulting
132 damage in a reasonable manner, as approved by the executive secretary after consulting with
133 the commission chair.

134 (ii) A penalty imposed on an agriculture discharge shall be proportionate to the
135 seriousness of the resulting harm, as determined by the executive secretary in consultation with
136 the commission chair.

137 (iii) An agriculture producer may not be held liable for an agriculture discharge
138 resulting from a large weather event if the agriculture producer has taken reasonable measures
139 to prevent an agriculture discharge.

FISCAL NOTE

H.B. 132 1st Sub. (Buff)

SHORT TITLE: **Water Quality Amendments**

SPONSOR: **Wright, B.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.