

1 **DEPARTMENT OF ENVIRONMENTAL QUALITY AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

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5 **LONG TITLE**

6 **General Description:**

7 This bill amends provisions relating to the Water Quality Board.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ provides for review of certain Water Quality Board rules or standards;
- 11 ▶ modifies the duties of the Administrative Rules Review Committee; and
- 12 ▶ makes technical amendments.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **19-5-104.5**, as enacted by Laws of Utah 2011, Chapter 304

20 **63G-3-501**, as last amended by Laws of Utah 2016, Chapter 193

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

23 Section 1. Section **19-5-104.5** is amended to read:

24 **19-5-104.5. Legislative approval.**

25 (1) Before sending a board-approved report, strategy, or recommendation that will  
26 recommend a total maximum daily load end point and implementation strategy to the EPA for  
27 review and approval, the Water Quality Board shall submit the report, strategy, or  
28 recommendation:

29 (a) for review to the Natural Resources, Agriculture, and Environment Interim  
30 Committee if the report, strategy, or recommendation will require a public or private  
31 expenditure in excess of \$10,000,000 but less than \$100,000,000 for compliance; or

32 (b) for approval to the Legislature if the strategy will require a public or private

33 expenditure of \$100,000,000 or more.

34 (2) Before the board adopts a state established nitrogen, phosphorus, or ammonia rule  
 35 or standard, the board shall submit the rule or standard:

36 (a) for review to the Natural Resources, Agriculture, and Environment Interim  
 37 Committee if the report, strategy, rule, standard, or recommendation will require an individual  
 38 public facility with an approved Utah pollutant discharge elimination system permit, or group  
 39 of private agricultural facilities, to make an expenditure in excess of \$10,000,000 but less than  
 40 \$100,000,000 for compliance either through an initial capital investment or through operational  
 41 costs over a 20-year period; or

42 (b) for approval to the Legislature if the strategy, rule, or standard will require an  
 43 individual public facility, with an approved Utah pollutant discharge elimination system  
 44 permit, or group of private agricultural facilities, to make an expenditure of \$100,000,000 or  
 45 more either through an initial capital investment or through operational costs over a 20-year  
 46 period.

47 (3) (a) An impacted facility, using an independent licensed engineer employed by a  
 48 facility, shall determine an expenditure under this Section using industry accepted project  
 49 budgetary cost estimate methods.

50 (b) The board may evaluate and report on an expenditure estimate determined under  
 51 Subsection (3)(a).

52 ~~[(2)]~~ (4) In reviewing a report, strategy, rule, standard, or recommendation, the Natural  
 53 Resources, Agriculture, and Environment Interim Committee may:

54 (a) consider the impact of the report, strategy, rule, standard, or recommendation on:

55 (i) economic costs and benefit;

56 (ii) public health; and

57 (iii) the environment;

58 ~~[(a)]~~ (b) suggest additional areas of consideration; [or] and

59 (b) [recommend] refer the report, strategy, rule, standard, or recommendation [be  
 60 re-evaluated by the Water Quality Board.] to the board for:

61 (i) final action; or

62 (ii) re-evaluation followed by further review by the committee.

63 Section 2. Section **63G-3-501** is amended to read:

64           **63G-3-501. Administrative Rules Review Committee.**

65           (1) (a) There is created an Administrative Rules Review Committee of the following  
66 10 permanent members:

67           (i) five members of the Senate appointed by the president of the Senate, no more than  
68 three of whom may be from the same political party; and

69           (ii) five members of the House of Representatives appointed by the speaker of the  
70 House of Representatives, no more than three of whom may be from the same political party.

71           (b) Each permanent member shall serve:

72           (i) for a two-year term; or

73           (ii) until the permanent member's successor is appointed.

74           (c) (i) A vacancy exists when a permanent member ceases to be a member of the  
75 Legislature, or when a permanent member resigns from the committee.

76           (ii) When a vacancy exists:

77           (A) if the departing member is a member of the Senate, the president of the Senate  
78 shall appoint a member of the Senate to fill the vacancy; or

79           (B) if the departing member is a member of the House of Representatives, the speaker  
80 of the House of Representatives shall appoint a member of the House of Representatives to fill  
81 the vacancy.

82           (iii) The newly appointed member shall serve the remainder of the departing member's  
83 unexpired term.

84           (d) (i) The president of the Senate shall designate a member of the Senate appointed  
85 under Subsection (1)(a)(i) as a cochair of the committee.

86           (ii) The speaker of the House of Representatives shall designate a member of the  
87 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

88           (e) Three representatives and three senators from the permanent members are a quorum  
89 for the transaction of business at any meeting.

90           (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each  
91 month to review new agency rules, amendments to existing agency rules, and repeals of  
92 existing agency rules.

93           (ii) The committee chairs may suspend the meeting requirement described in  
94 Subsection (1)(f)(i) at the committee chairs' discretion.

95 (2) The office shall submit a copy of each issue of the bulletin to the committee.

96 (3) (a) The committee shall exercise continuous oversight of the rulemaking process.

97 (b) The committee shall examine each rule submitted by an agency to determine:

98 (i) whether the rule is authorized by statute;

99 (ii) whether the rule complies with legislative intent;

100 (iii) the rule's impact on the economy and the government operations of the state and  
101 local political subdivisions; ~~and~~

102 (iv) the rule's impact on affected persons[-];

103 (v) the rule's total cost to entities regulated by the state;

104 (vi) the rules benefits to the citizens of the state; and

105 (vii) whether adoption of the rule requires legislative notice or approval.

106 (c) To carry out these duties, the committee may examine any other issues that the  
107 committee considers necessary. The committee may also notify and refer rules to the chairs of  
108 the interim committee that has jurisdiction over a particular agency when the committee  
109 determines that an issue involved in an agency's rules may be more appropriately addressed by  
110 that committee.

111 (d) In reviewing a rule, the committee shall follow generally accepted principles of  
112 statutory construction.

113 (4) When the committee reviews existing rules, the committee chairs shall invite the  
114 Senate and House chairs of the standing committee and of the appropriation subcommittee that  
115 have jurisdiction over the agency whose existing rules are being reviewed to participate as  
116 nonvoting, ex officio members with the committee.

117 (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare  
118 a fiscal note on any rule.

119 (6) If the fiscal impact of a rule is greater than \$2,000,000 to a single entity or  
120 \$50,000,000 to a group of entities, as determined by the Office of the Legislative Fiscal  
121 Analyst, the rule shall be referred to the relevant appropriations subcommittee for review.

122 ~~[(6)]~~ (7) In order to accomplish the committee's functions described in this chapter, the  
123 committee has all the powers granted to legislative interim committees under Section 36-12-11.

124 ~~[(7)]~~ (8) (a) The committee may prepare written findings of the committee's review of a  
125 rule and may include any recommendations, including legislative action.

126 (b) When the committee reviews a rule, the committee shall provide to the agency that  
127 enacted the rule:

128 (i) the committee's findings, if any; and

129 (ii) a request that the agency notify the committee of any changes the agency makes to  
130 the rule.

131 (c) The committee shall provide a copy of the committee's findings, if any, to:

132 (i) any member of the Legislature, upon request;

133 (ii) any person affected by the rule, upon request;

134 (iii) the president of the Senate;

135 (iv) the speaker of the House of Representatives;

136 (v) the Senate and House chairs of the standing committee that has jurisdiction over the  
137 agency that made the rule; and

138 (vi) the Senate and House chairs of the appropriation subcommittee that has  
139 jurisdiction over the agency that made the rule.

140 [~~8~~] 9 (a) The committee may submit a report on its review of state agency rules to  
141 each member of the Legislature at each regular session.

142 (b) The report shall include:

143 (i) any findings and recommendations the committee made under Subsection [~~7~~] 8;

144 (ii) any action an agency took in response to committee recommendations; and

145 (iii) any recommendations by the committee for legislation.