

Water Quality Board Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill addresses the Utah Water Quality Board.

Highlighted Provisions:

This bill:

- establishes a process for members of the Utah Water Quality Board to conduct a mediated settlement conference between the director and a party in alleged violation of the Utah Water Quality Act; and

- authorizes members of the Utah Water Quality Board to recommend a reasonable penalty amount to the director.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-104, as last amended by Laws of Utah 2023, Chapter 176

19-5-106, as last amended by Laws of Utah 2023, Chapter 176

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

Section 1. Section **19-5-104** is amended to read:

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

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:

(a) taking into account Subsection (6):

(i) implement the awarding of construction loans to political subdivisions and

- 29 municipal authorities under Section 11-8-2, including:
- 30 (A) requirements pertaining to applications for a loan;
- 31 (B) requirements for determination of an eligible project;
- 32 (C) requirements for determination of the costs upon which a loan is based, which
- 33 costs may include engineering, financial, legal, and administrative expenses
- 34 necessary for the construction, reconstruction, and improvement of a sewage
- 35 treatment plant, including a major interceptor, collection system, or other
- 36 facility appurtenant to the plant;
- 37 (D) a priority schedule for awarding loans, in which the board may consider, in
- 38 addition to water pollution control needs, any financial needs relevant,
- 39 including per capita cost, in making a determination of priority; and
- 40 (E) requirements for determination of the amount of the loan;
- 41 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
- 42 73-10c-4.5;
- 43 (iii) set effluent limitations and standards subject to Section 19-5-116;
- 44 (iv) implement or effectuate the powers and duties of the board; and
- 45 (v) protect the public health for the design, construction, operation, and maintenance
- 46 of underground wastewater disposal systems, liquid scavenger operations, and
- 47 vault and earthen pit privies;
- 48 (b) govern inspection, monitoring, recordkeeping, and reporting requirements for
- 49 underground injections and require permits for underground injections, to protect
- 50 drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5
- 51 regarding gas and oil, recognizing that underground injection endangers drinking
- 52 water sources if:
- 53 (i) injection may result in the presence of a contaminant in underground water that
- 54 supplies or can reasonably be expected to supply a public water system, as defined
- 55 in Section 19-4-102; and
- 56 (ii) the presence of the contaminant may:
- 57 (A) result in the public water system not complying with any national primary
- 58 drinking water standards; or
- 59 (B) otherwise adversely affect the health of persons;
- 60 (c) govern sewage sludge management, including permitting, inspecting, monitoring,
- 61 recordkeeping, and reporting requirements; and
- 62 (d) notwithstanding Section 19-4-112, govern design and construction of irrigation

63 systems that:

64 (i) convey sewage treatment facility effluent of human origin in pipelines under
65 pressure, unless contained in surface pipes wholly on private property and for
66 agricultural purposes; and

67 (ii) are constructed after May 4, 1998.

68 (2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
69 the board shall adopt and enforce rules and establish fees to cover the costs of:

70 (i) managing the certification and testing program; and

71 (ii) testing for certification of operators of treatment works and sewerage systems
72 operated by political subdivisions.

73 (b) In establishing certification rules under Subsection (2)(a), the board shall:

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

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

79 (iii) allow a new operator one year from the date the operator is hired by a treatment
80 plant or sewerage system or three years after the date of adoption of the rules,
81 whichever occurs later, to obtain certification;

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

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

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

91 (B) has been employed at least 10 years in the operation of that treatment works or
92 sewerage system before March 16, 1991; and

93 (C) demonstrates to the board the operator's capability to operate the treatment
94 works or sewerage system at which the operator is currently employed by
95 providing employment history and references as required by the board.

96 (3) The board shall:

- (a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;
- (b) 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;
- (c) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;
- (d) meet the requirements of federal law related to water pollution;
- (e) establish and conduct a continuing planning process for control of water pollution, including the specification and implementation of maximum daily loads of pollutants;
- (f)(i) review total daily maximum load reports and recommendations for water quality end points and implementation strategies developed by the division before submission of the report, recommendation, or implementation strategy to the EPA;
- (ii) disapprove, approve, or approve with conditions the staff total daily maximum load recommendations; and
- (iii) provide suggestions for further consideration to the Division of Water Quality in the event a total daily maximum load strategy is rejected; ~~and~~
- (g) to ensure compliance with applicable statutes and regulations:
- (i) review a settlement negotiated by the director ~~[in accordance with]~~ under Subsection 19-5-106(2)(k) that requires a civil penalty of \$25,000 or more; and
- (ii) approve or disapprove the settlement described in Subsection (3)(g)(i) ~~[-]~~ ; and
- (h) to ensure a prompt and fair settlement under Subsection 19-5-106(2)(k):
- (i) review an ongoing penalty negotiation between the director and a publicly-owned alleged violator of a provision under this chapter if:
- (A) the director's proposed penalty exceeds \$25,000;
- (B) the alleged violator requests in writing that the board review the penalty negotiation;
- (C) the director and the alleged violator do not dispute the violations alleged by the director; and
- (D) the director and the alleged violator are unable to agree on a penalty amount;
- and
- (ii) upon receiving a written request for board review that meets the requirements described in Subsection (3)(h)(i):

- 131 (A) assign no more than four board members to conduct a mediated settlement
132 conference with the director and the alleged violator;
133 (B) schedule a settlement conference for no sooner than 45 days and no later than
134 90 days after the day on which the written request is received;
135 (C) recommend a reasonable penalty amount no later than 30 days after the
136 settlement conference; and
137 (D) inform the alleged violator that the director may commence a civil proceeding
138 to assess penalties if necessary to prevent the running of a statute of limitation
139 described in Sections 19-1-305 and 78B-2-307.5.
- 140 (4) The board may:
- 141 (a) order the director to issue, modify, or revoke an order:
- 142 (i) prohibiting or abating discharges;
- 143 (ii)(A) requiring the construction of new treatment works or any parts of the new
144 treatment works;
- 145 (B) requiring the modification, extension, or alteration of existing treatment works
146 as specified by board rule or any parts of existing treatment works; or
- 147 (C) the adoption of other remedial measures to prevent, control, or abate pollution;
- 148 (iii) setting standards of water quality, classifying waters or evidencing any other
149 determination by the board under this chapter; or
- 150 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 151 (b) advise, consult, and cooperate with another agency of the state, the federal
152 government, another state, an interstate agency, an affected group, an affected
153 political subdivision, or affected industry to further the purposes of this chapter; or
- 154 (c) delegate the authority to issue an operating permit to a local health department.
- 155 (5) In performing the duties listed in Subsections (1) through (4), the board shall give
156 priority to pollution that results in a hazard to the public health.
- 157 (6) The board shall take into consideration the availability of federal grants:
- 158 (a) in determining eligible project costs; and
- 159 (b) in establishing priorities pursuant to Subsection (1)(a)(i).
- 160 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
161 following that are subject to the authority granted to the director under Section 19-5-106:
- 162 (a) a permit;
- 163 (b) a license;
- 164 (c) a registration;

165 (d) a certification; or

166 (e) another administrative authorization made by the director.

- 167 (8) A board member may not speak or act for the board unless the board member is
168 authorized by a majority of a quorum of the board in a vote taken at a meeting of the
169 board.

170 Section 2. Section **19-5-106** is amended to read:

171 **19-5-106 . Director -- Appointment -- Duties.**

- 172 (1) The executive director shall appoint the director. The director shall serve under the
173 administrative direction of the executive director.
- 174 (2) The director shall:
- 175 (a) develop programs for the prevention, control, and abatement of new or existing
176 pollution of the waters of the state;
 - 177 (b) advise, consult, and cooperate with other agencies of the state, the federal
178 government, other states and interstate agencies, and with affected groups, political
179 subdivisions, and industries in furtherance of the purposes of this chapter;
 - 180 (c) develop programs for the management of sewage sludge;
 - 181 (d) subject to the provisions of this chapter, enforce rules made by the board through the
182 issuance of orders, which orders may include:
 - 183 (i) prohibiting or abating discharges of wastes into the waters of the state;
 - 184 (ii) requiring the construction of new control facilities or any parts of them or the
185 modification, extension, or alteration of existing control facilities or any parts of
186 them, or the adoption of other remedial measures to prevent, control, or abate
187 water pollution; or
 - 188 (iii) prohibiting any other violation of this chapter or rules made under this chapter;
 - 189 (e) review plans, specifications, or other data relative to pollution control systems or any
190 part of the systems provided for in this chapter;
 - 191 (f) issue construction or operating permits for the installation or modification of
192 treatment works or any parts of the treatment works;
 - 193 (g) after public notice and opportunity for public hearing, issue, continue in effect,
194 renew, revoke, modify, or deny discharge permits under reasonable conditions the
195 board may prescribe to:
 - 196 (i) control the management of sewage sludge; or
 - 197 (ii) prevent or control the discharge of pollutants, including effluent limitations for
198 the discharge of wastes into the waters of the state;

- (h) meet the requirements of federal law related to water pollution;
- (i) under the direction of the executive director, represent the state in all matters pertaining to water pollution, including interstate compacts and other similar agreements;
- (j) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;
- (k) subject to ~~[Subsection]~~ Subsections 19-5-104(3)(g) and (h), settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; and
- (l)(i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and
- (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act.

(3) The director may:

- (a) employ full-time employees as necessary to carry out the provisions of this chapter;
- (b) subject to the provisions of this chapter, authorize any employee or representative of the department to enter, at reasonable times and upon reasonable notice, in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible water pollution;
- (c) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution as necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;
- (d) collect and disseminate information relating to water pollution and the prevention, control, and abatement of water pollution;
- (e) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to any state or federal authorities for tax purposes only if the construction, installation, or acquisition of any facility, land, building, machinery, equipment, or any part of them conforms with this chapter;
- (f) cooperate with any person in studies and research regarding water pollution and its control, abatement, and prevention;
- (g) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution and causes of water pollution; or

233 (h) as authorized by the board and subject to the provisions of this chapter, act as
234 executive secretary of the board under the direction of the chairman of the board.

235 Section 3. **Effective Date.**

236 This bill takes effect on May 7, 2025.