

**Effective 5/12/2020**

## **Chapter 31 Water Banking Act**

### **Part 1 General Provisions**

#### **73-31-101 Title.**

This chapter is known as the "Water Banking Act."

Enacted by Chapter 342, 2020 General Session

#### **73-31-102 Definitions.**

As used in this chapter:

- (1) "Applicant" means:
  - (a) a record holder of a perfected water right or a valid diligence claim applying for board approval of a statutory water bank under Part 2, Statutory Water Banks; or
  - (b) a public entity applying for board approval of a contract water bank under Part 3, Contract Water Banks.
- (2) "Application" means an application submitted to the board to approve a water bank.
- (3) "Approved change application" means a change application that the state engineer approves to authorize a water right holder to deposit a water right in a water bank pursuant to this chapter and Section 73-3-3 or 73-3-3.5.
- (4) "Banked water right" means a water right, or a portion of a water right, deposited in a water bank that the state engineer has authorized for use in a water bank through an approved change application.
- (5) "Board" means the Board of Water Resources.
- (6) "Borrower" means a person seeking to use a banked water right within a water bank's service area.
- (7) "Contract water bank" means a water bank created pursuant to Part 3, Contract Water Banks.
- (8) "Delivery request" means a request to use a banked water right made by a borrower in accordance with a water bank's policies approved under the water bank's application.
- (9) "Deposit" means depositing a banked water right for use within the service area of a water bank.
- (10) "Depositor" means a person seeking to deposit a water right in a water bank.
- (11) "Hereafter use" means the conditions of use the state engineer authorizes for a banked water right during the term of an approved change application.
- (12) "Heretofore use" means the authorized conditions of use that were in effect before the state engineer approved a change application authorizing new conditions for the use of a banked water right.
- (13) "Loaned water rights" means a banked water right that is used pursuant to an approved delivery request.
- (14) "Perfected water right" means a water right evidenced by:
  - (a) a decree;
  - (b) a certificate of appropriation; or
  - (c) a proposed determination or court order issued in a general adjudication.

- (15) "Public entity" means the same as that term is defined in Section 73-1-4 except for the United States or an agency of the United States.
- (16) "Reporting year" means November 1 through October 31.
- (17) "Service area" means the geographic area where a water bank is approved to operate and operates.
- (18) "State engineer" means the state engineer appointed under Section 73-2-1.
- (19) "Statutory water bank" means a water bank created pursuant to Part 2, Statutory Water Banks.
- (20) "Water bank" means a contract water bank or a statutory water bank.
- (21) "Water banking website" means a website overseen by the board in accordance with Section 73-31-103.

Enacted by Chapter 342, 2020 General Session

**73-31-103 Notice -- Website.**

- (1) A notice required under this chapter shall be posted in accordance with Subsection 73-3-6(1) and to a water bank's website, unless otherwise specified.
- (2) The board may create and oversee a website for the purpose of making water banking information available to the public.

Enacted by Chapter 342, 2020 General Session

**73-31-104 Objectives of water banks.**

The objectives in creating a water bank are to:

- (1) promote:
  - (a) the optimal use of the public's water;
  - (b) transparency and access to water markets;
  - (c) temporary, flexible, and low cost water transactions between water users; and
  - (d) Utah's agricultural economy by providing access to water resources and income for Utah's agricultural industry; and
- (2) facilitate:
  - (a) robust and sustainable agricultural production while meeting growing municipal and industrial water demands, such as following arrangements;
  - (b) water quality improvement;
  - (c) water rights administration and distribution; and
  - (d) a healthy and resilient natural environment.

Enacted by Chapter 342, 2020 General Session

**73-31-105 Scope.**

Nothing in this chapter prevents a person from entering into an agreement regarding the use of a water right that differs from the requirements of this chapter, except that only a water bank approved under this chapter may avail itself of the statutory provisions that apply to a water bank.

Enacted by Chapter 342, 2020 General Session

**73-31-106 Board assistance.**

The board may direct the Division of Water Resources to assist the board in fulfilling the board's responsibilities under this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-107 Fees.**

- (1) The board may charge fees, set pursuant to Section 63J-1-504, to cover the costs of processing and administering:
  - (a) a statutory water bank application; or
  - (b) a contract water bank application.
- (2) The board shall charge a uniform fee for a statutory water bank application and a uniform fee for a contract water bank application.
- (3) The board may charge a different fee for a statutory water bank application than is charged for a contract water bank application.
- (4) Fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the board to implement this chapter.

Enacted by Chapter 342, 2020 General Session

**Part 2**  
**Statutory Water Banks**

**73-31-201 Approval of statutory water bank.**

- (1) The board shall approve an application to create a statutory water bank that satisfies this part.
- (2) As a condition of approval, a statutory water bank is subject to this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-202 Statutory water bank application.**

- (1) A record holder, other than the United States or an agency of the United States, of a perfected water right or a valid diligence claim may request approval for a proposed statutory water bank if the place of use and point of diversion for the applicant's water right are encompassed within the proposed service area of the proposed statutory water bank and the applicant files an application with the board that includes the following:
  - (a) the name of the statutory water bank;
  - (b) the mailing address for the statutory water bank;
  - (c) the type of legal entity recognized under Utah law that constitutes the statutory water bank;
  - (d) a proposed service area map for the statutory water bank;
  - (e) whether the statutory water bank will accept deposits of surface water rights or groundwater rights, provided that:
    - (i) a statutory water bank may not accept deposits of both surface water rights and groundwater rights; and
    - (ii) the applicant's perfected water right or valid diligence claim is of the type accepted by the statutory water bank;
  - (f) a copy of the statutory water bank's governing documents that specify:
    - (i) the number of members of the governing body, which may not be an even number;

- (ii) the qualifications for governing members, including terms and election or appointment procedures; and
- (iii) the initial governing members' names, telephone numbers, and post office addresses;
- (g) a confirmation that the applicant satisfies the criteria listed in Subsection (1)(e)(ii);
- (h) procedures that describe how the statutory water bank will:
  - (i) determine and fund the water bank's administrative costs;
  - (ii) design, facilitate, and conduct transactions between borrowers and depositors for the use of a banked water right; and
  - (iii) accept, reject, and manage banked water rights, including:
    - (A) what information a depositor shall provide to inform the statutory water bank, the state engineer, or any other distributing entity regarding the feasibility of using the water right within the statutory water bank's designated service area;
    - (B) how a potential depositor is to work with the statutory water bank to jointly file a change application seeking authorization from the state engineer to deposit a water right within the statutory water bank;
    - (C) conditions for depositing a water right with the statutory water bank;
    - (D) how payments to depositors are determined; and
    - (E) under what conditions a depositor may use a water right at the heretofore place of use pursuant to Subsection 73-31-501(4);
  - (iv) accept, review, and approve delivery requests, including:
    - (A) deadlines for submitting a delivery request to the statutory water bank;
    - (B) a cost or fee associated with submitting a delivery request and how that cost or fee is to be applied or used by the statutory water bank;
    - (C) what information a borrower is to include on a delivery request to sufficiently inform the statutory water bank, state engineer, or another distributing entity whether the delivery request is feasible within the statutory water bank's designated service area;
    - (D) any notice and comment procedures for notifying other water users of the delivery request;
    - (E) the criteria the statutory water bank will use to evaluate delivery requests;
    - (F) how the statutory water bank will inform water users who have submitted a delivery request if the delivery request is approved or denied, the reasons for denial if denied, and any applicable conditions if approved;
    - (G) appeal or grievance procedures, if any, for a borrower seeking to challenge a denial of a delivery request, including identifying who has the burden in an appeal and the standards of review;
    - (H) how the statutory water bank will determine prices for the use of loaned water rights; and
    - (I) how the statutory water bank will coordinate with the state engineer to facilitate distribution of approved delivery requests;
  - (v) how the statutory water bank will ensure that the aggregate amount of loaned water rights during a calendar year does not exceed the total sum of the banked water rights within the statutory water bank; and
  - (vi) how the statutory water bank will resolve complaints regarding the statutory water bank's operations;
- (i) the process that the statutory water bank will follow if the statutory water bank terminates, dissolves, or if the board revokes the statutory water bank's permission to operate pursuant to this chapter, including how the statutory water bank will return banked water rights to depositors and how the statutory water bank will return any amounts owing to depositors; and

- (j) a signed declaration or affidavit from at least two governing members of the statutory water bank affirming that:
  - (i) the information submitted is correct;
  - (ii) as a condition for permission to operate, the statutory water bank may not discriminate between the nature of use, depositors, or borrowers;
  - (iii) the statutory water bank shall comply with the conditions of an approved changed application for a banked water right; and
  - (iv) the statutory water bank shall report to the state engineer known violations of approved change applications.
- (2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

Amended by Chapter 4, 2020 Special Session 5

**73-31-203 Action by board on statutory water bank applications.**

- (1) Upon receipt of an application under Section 73-31-202, the board shall record the date the board receives the application.
- (2) The board shall:
  - (a) examine an application for completeness to determine whether the application satisfies this part;
  - (b) review an application to determine whether it meets the objectives of a water bank described in Section 73-31-103;
  - (c) consider an application complete if the application satisfies the requirements of this part; and
  - (d) notify the applicant of any additional information or changes needed to process the application.
- (3) Within 30 days of the date the board determines that an application is complete, the board shall post notice of the application pursuant to Section 73-31-103.
- (4) The notice required by Subsection (3) shall state:
  - (a) that an application to create a statutory water bank has been filed with the board;
  - (b) where an interested party may obtain a copy of the application and any additional information related to the application; and
  - (c) the date, time, and place of the public meeting required by Section 73-31-204.

Enacted by Chapter 342, 2020 General Session

**73-31-204 Public meeting -- Comments.**

- (1) On the date indicated in the notice posted under Subsection 73-31-203(3), the board shall hold a public meeting to:
  - (a) inform water users within the service area of the proposed statutory water bank; and
  - (b) receive comments from water users regarding the application.
- (2) The board shall accept public comments for a period of time no less than 30 days after the adjournment of the public meeting.
- (3) The board shall review public comments when reviewing the proposed statutory water bank's application, but submitting a comment does not create a right of appeal of the board's decision under Title 63G, Chapter 4, Administrative Procedures Act, nor is the board required to address how or whether public comments impacted the board's decision.
- (4) A statutory water bank may review public comments and comments from the board before a final decision is made by the board. If the statutory water bank desires to make changes to

the statutory water bank's application, the statutory water bank may notify the board in writing before the board takes action on the application that the statutory water bank will submit a revised application following the same process that governs the filing and review of the original application for a statutory water bank under this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-205 Review of statutory bank application.**

- (1) After complying with Sections 73-31-203 and 73-31-204, the board shall approve an application if the application satisfies Section 73-31-202, which is to be liberally interpreted by the board to facilitate the objectives described in Section 73-31-104.
- (2) In approving an application, the board shall:
  - (a) issue an order approving the statutory water bank;
  - (b) approve persons to serve as the initial members of the governing body in accordance with the proposed statutory water bank's structure and Section 73-31-202; and
  - (c) publish the approved application on the water banking website.
- (3) If the board denies an application, the board shall issue a written explanation to the applicant that sets forth the reason for denial, provided that the board's decision regarding an application does not create a right of appeal under Title 63G, Chapter 4, Administrative Procedures Act.

Enacted by Chapter 342, 2020 General Session

**73-31-206 Amending application.**

- (1) After the board approves a statutory water bank's application under this part, the statutory water bank may seek to amend the statutory water bank's application by filing a description of the proposed amendment with the board. The board shall follow the procedures of Sections 73-31-201, 73-31-204, and 73-31-205 to approve an amendment to a statutory water bank's application.
- (2) An amendment approved by the board becomes effective on the first day of the next reporting year.

Enacted by Chapter 342, 2020 General Session

**Part 3  
Contract Water Banks**

**73-31-301 Approval of contract water bank.**

- (1) The board shall approve an application to create a contract water bank that satisfies this part.
- (2) As a condition of approval, a contract water bank is subject to this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-302 Contract water bank application.**

- (1) A public entity may seek to have a contract for water use approved as a contract water bank under this chapter by submitting an application to the board that meets the following criteria:
  - (a) the name of the contract water bank;

- (b) the mailing address for the contract water bank;
  - (c) the proposed service area map for the contract water bank;
  - (d) a description of how the contract water bank's governing body will be structured and operate;
  - (e) a description for how water delivery requests and loaned water rights are to be administered;
  - (f) criteria for the participation, if any, of non-public entities;
  - (g) includes a copy of the contract, provided that a public entity may redact any information that is private, controlled, protected, or otherwise restricted under Title 63G, Chapter 2, Government Records Access and Management Act;
  - (h) information regarding how the public can learn when the submittal of an application or contract that is the basis of the contract water bank is on the agenda of a public meeting of the public entity under Title 52, Chapter 4, Open and Public Meetings Act;
  - (i) whether the contract water bank will accept deposits of surface water rights or groundwater rights, provided that a contract water bank may not accept deposits of both surface water rights and groundwater rights; and
  - (j) the process the contract water bank will follow if the contract water bank terminates, dissolves, or the board revokes the contract water bank's approval to operate pursuant to this chapter, including how the contract water bank will return banked water rights to depositors and how the contract water bank will return any amounts owing to depositors.
- (2) The board may prepare a form or online application for an applicant to use in submitting an application to the board under this part.

Enacted by Chapter 342, 2020 General Session

**73-31-303 Action by board on contract water bank application.**

- (1) Upon receipt of an application for a proposed contract water bank, the board shall record the day on which the board receives the application.
- (2) The board shall:
- (a) examine the application to determine whether changes are required for the board to process the application in accordance with this part;
  - (b) review the application to determine whether it meets the objectives of a water bank described in Section 73-31-103;
  - (c) consider the application complete if the application satisfies this part; and
  - (d) notify the applicant of any additional information or changes needed to process the application.
- (3) Within 30 days of the date the board determines that an application is complete, the board shall post notice of the application in accordance with Section 73-31-103.
- (4) The notice required by Subsection (3), shall state:
- (a) that an application to approve a contract water bank has been filed with the board; and
  - (b) where a person may review the application.

Enacted by Chapter 342, 2020 General Session

**73-31-304 Review of contract water bank application.**

- (1) After complying with Section 73-31-303, the board shall approve an application for a contract water bank if the application satisfies Section 73-31-302, which is to be liberally interpreted by the board to facilitate the objectives described in Section 73-31-104.
- (2) In approving an application, the board shall:
- (a) issue an order approving the contract water bank; and

- (b) publish a summary of the information submitted by the public entity under Subsection 73-31-302(1) on the water banking website.
- (3) If the board denies an application, the board shall issue a written explanation to the applicant that sets forth the reason for the denial, provided that the board's decision regarding an application does not create a right of appeal under Title 63G, Chapter 4, Administrative Procedures Act.
- (4) A contract water bank may review public comments and comments from the board before a final decision is made by the board. If the contract water bank desires to make changes to the contract water bank's application, the contract water bank may notify the board in writing before the board takes action on the application that the contract water bank will submit a revised application following the same process that governs the filing of an original application.

Enacted by Chapter 342, 2020 General Session

**73-31-305 Amending application.**

- (1) After the board approves a contract water bank's application under this part, the contract water bank may seek to amend the contract water bank's application by filing a description of the proposed amendment with the board. The board shall follow the procedures of Sections 73-31-303 and 73-31-304 to approve an amendment to a contract water bank's application.
- (2) An amendment approved by the board becomes effective on the first day of the next reporting year.

Enacted by Chapter 342, 2020 General Session

**Part 4  
Reporting by Water Banks**

**73-31-401 Annual reports.**

- (1)
  - (a) On or before November 30 of each year, the governing body of a water bank shall submit to the board an annual report on the governing body's management of the water bank's operations for the previous reporting year on a form provided by the board that provides the information in Subsection (2).
  - (b) Proof to the satisfaction of the board that the water bank has mailed, hand-delivered, or sent the annual report electronically is considered compliance with this Subsection (1).
- (2) The annual report shall include the following information for the prior reporting year:
  - (a) a tabulation of the volume and change application number of water rights deposited in the water bank;
  - (b) the nature of use of each banked water right before the banked water right was deposited in the water bank and the volumes of water allocated to each use before being deposited;
  - (c) a tabulation of loaned water rights from that water bank, which includes:
    - (i) the change application number;
    - (ii) the volume of water derived from the loaned water rights;
    - (iii) the nature of use of the loaned water rights and the volumes of water allocated to each use; and
    - (iv) for a statutory water bank, the borrower;



- (d) for a statutory water bank:
  - (i) the amounts charged for the loaned water rights, including a breakdown by nature of use if appropriate;
  - (ii) the revenue generated by the statutory water bank, including the sources of revenue;
  - (iii) the amounts paid out to depositors;
  - (iv) the statutory water bank's expenses;
  - (v) the balance at the end of the reporting year of the statutory water bank's bank account;
  - (vi) the accounting practices used by the statutory water bank;
  - (vii) whether there is pending or ongoing litigation involving the statutory water bank;
  - (viii) whether there are, or have been, any governmental audits of the statutory water bank;
  - (ix) any proposed amendments to an approved statutory water bank's procedures for the coming reporting year;
  - (x) a narrative explanation of any inconsistencies in the annual report or in the operation of the statutory water bank; and
  - (xi) a narrative explanation of how the statutory water bank is or is not fulfilling the objectives described in Section 73-31-104; and
- (e) a declaration or affidavit signed by at least two governing members of the statutory water bank stating that the information in the report is correct.
- (3) The board shall deliver a copy of the prescribed form to each water bank before August 30 of each year.
- (4) If the annual report contains the information required by this section, the board shall post notice of the annual report in accordance with Section 73-31-103.
- (5) If the annual report does not contain the information required by this section, the board shall promptly notify the reporting water bank in writing and return the report to the water bank for correction, providing a written explanation to the water bank that sets forth the information that needs to be corrected. The water bank shall remain in good standing if the water bank submits a corrected annual report that satisfies this section within 90 days of the written notice of the board.
- (6) If a water bank fails to submit an annual report by November 30, or fails to submit a corrected annual report within 90 days of the rejection of an annual report, the water bank is considered in noncompliance under this chapter.

Enacted by Chapter 342, 2020 General Session

**73-31-402 Water bank noncompliance -- Revocation of application.**

- (1) If a water bank is in noncompliance with this chapter pursuant to Section 73-31-401, the board shall give the water bank a written notice of noncompliance that:
  - (a) explains why the water bank is in noncompliance; and
  - (b) gives the water bank a 90-day corrective period from the date of the notice to correct the cause of the noncompliance.
- (2) The board shall:
  - (a) post a notice given under Subsection (1) pursuant to Section 73-31-103; and
  - (b) notify the state engineer of the water bank's noncompliance.
- (3) If the board determines that the water bank has corrected the noncompliance within the 90-day corrective period, the board shall:
  - (a) provide the water bank written notice that the water bank's noncompliance has been cured;
  - (b) post the written notice required under Subsection (3)(a) pursuant to Section 73-31-103; and

- (c) notify the state engineer that the water bank has corrected the noncompliance within the 90-day corrective period.
- (4)
  - (a) If the water bank fails to correct the noncompliance within the 90-day corrective period, the water bank's approval to operate terminates at the end of the current calendar year.
  - (b) The board shall mail notice to the water bank that the water bank's approval to operate has terminated and that the water bank's operations under the application shall cease at the end of the current calendar year.
  - (c) The board shall post the notice required under Subsection (4)(b) pursuant to Section 73-31-103.
  - (d) A water bank shall notify the water bank's depositors and borrowers of the dissolution within 60 days of receiving a notice under this Subsection (4) and shall enact the procedures set forth in the water bank's application ceasing the water bank's operations.
- (5) The state engineer may not approve a change application that seeks to deposit a water right into a water bank that the board determines to be in noncompliance under this chapter.
- (6) A depositor retains title to deposited water rights and the water bank retains no ownership in the deposited water rights.

Enacted by Chapter 342, 2020 General Session

## **Part 5 Deposits**

### **73-31-501 Banking water.**

- (1) A water right may be deposited with a water bank pursuant to an approved change application filed under Section 73-3-3 or 73-3-3.5.
- (2) The state engineer may not approve a change application that authorizes the use of a water right within a water bank for any period of time that exceeds December 31, 2030.
- (3) A banked water right is excused from beneficial use requirements pursuant to Subsection 73-1-4(2)(e)(xi).
- (4) A depositor of a banked water right may use the banked water right in its heretofore use if:
  - (a) the depositor does so under the authority, control, and accounting of the water bank;
  - (b) the water bank informs the state engineer that the depositor's heretofore use is consistent with the water bank's operating procedures for loaned water rights; and
  - (c) during the time the depositor uses the banked water right in its heretofore use, the water bank does not allow the banked water right to be used for other uses within the water bank.
- (5) If an entity authorized to condemn a water right leases a water right under this chapter, the entity may not begin the process of condemning the water right:
  - (a) while the entity leases the water right under this chapter; or
  - (b) within five years after the day on which the entity's lease of the water right under this chapter ends.

Enacted by Chapter 342, 2020 General Session

### **73-31-502 Delivery request for loaned water rights in water bank.**

- (1) A borrower may use water from a water bank for any use within the water bank's service area consistent with the objectives in Section 73-31-104 and the conditions, if any, of the underlying approved change application.
- (2) A borrower shall make use of a banked water right by submitting a delivery request to the water bank that complies with the water bank's requirements.
- (3) The state engineer administratively supervises delivery of water to a borrower. The state engineer may:
  - (a) review an approved delivery request at any point in time to ensure the delivery request complies with a state engineer order approving water rights for use in the water bank, established distribution procedures based on priority, or both; and
  - (b) restrict delivery of loaned water rights if the approved delivery request causes impairment to other water users.
- (4) A water bank shall keep a daily accounting of loaned water rights.
- (5) A water bank shall refer known illegal water use actions to the state engineer's enforcement program pursuant to Section 73-2-25.
- (6) A water bank is responsible for the payment of all distribution costs assessed for the delivery of a banked water right under Section 73-5-1.

Enacted by Chapter 342, 2020 General Session

**73-31-503 State engineer enforcement.**

This chapter does not limit or impair the state engineer's enforcement powers set forth in Section 73-2-25.

Enacted by Chapter 342, 2020 General Session

**Part 6  
Board Reports**

**73-31-601 Reports.**

- (1) In accordance with Section 68-3-14, the board shall report annually by no later than the November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee regarding the implementation of this chapter.
- (2) The board shall submit a written report to the Natural Resources, Agriculture, and Environment Interim Committee by October 31, 2029, recommending whether the Legislature should take one or more of the following actions:
  - (a) remove or extend the repeal date in Section 63I-1-273;
  - (b) amend the chapter, a provision in the chapter, or a provision in the Utah Code; or
  - (c) take no action and allow the chapter to repeal under Section 63I-1-273.
- (3) At a minimum, the written report described under Subsection (2) shall include the following:
  - (a) a summary of the implementation of the chapter;
  - (b) a statement describing and justifying the recommendation; and
  - (c) a description of the positive and negative aspects of the recommendation.
- (4) Before the board's submission of the written report described in Subsection (2), the Department of Natural Resources shall prepare and submit a draft report to the board for the board's review, provided that the executive director of the Department of Natural Resources may

consult with another state agency or person that the executive director considers necessary to prepare the draft report.

- (5)
- (a) Upon receipt of the draft report described in Subsection (4), the board shall review the draft report and solicit public comment on the draft report by:
    - (i) requesting written comments; and
    - (ii) holding no less than one public hearing at which:
      - (A) the Department of Natural Resources shall explain and justify the draft report's recommendation; and
      - (B) an interested person may comment on or speak for or against the draft report's recommendations.
  - (b) The board shall give notice of the opportunities to provide public comment under this Subsection (5) by:
    - (i) mailing notice to the address of record for each water bank;
    - (ii) publishing notice in a newspaper of general circulation in the state; and
    - (iii) publishing notice as required in Section 45-1-101.
  - (c) The board may give separate notices for any public hearings the board may hold pursuant to Subsection 73-31-601(5)(a)(ii).
  - (d) The notice described in Subsection (5)(b) shall state:
    - (i) that the board is soliciting public comment on the draft report and shall hold a public hearing on a certain day, time, and place fixed in the notice, which shall not be less than 30 days after the day the first notice is published, for the purpose of hearing comments regarding the draft report;
    - (ii) that the board shall accept written comments on the draft report for a period of no less than 30 days after the day the first notice is published, and include instructions for how the public may submit comments; and
    - (iii) how the public may obtain a copy of the draft report.
  - (6) The board shall consider timely public comments submitted under this section, and may require the Department of Natural Resources to make revisions the board considers necessary before approving and submitting the final written report required in Subsection (2).

Enacted by Chapter 342, 2020 General Session