

Representative Thomas V. Hatch proposes to substitute the following bill:

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



26 matter in water.

27 (3) "Discharge" means the addition of any pollutant to any waters of the state.

28 (4) "Discharge permit" means a permit issued to a person who:

29 (a) discharges or whose activities would probably result in a discharge of pollutants into
30 the waters of the state; or

31 (b) generates or manages sewage sludge.

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

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

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

37 [~~9~~] (8) "Point source":

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

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

43 [~~10~~] (9) "Pollution" means any man-made or man-induced alteration of the chemical,
44 physical, biological, or radiological integrity of any waters of the state, unless the alteration is
45 necessary for the public health and safety.

46 [~~11~~] (10) "Publicly owned treatment works" means any facility for the treatment of
47 pollutants owned by the state, its political subdivisions, or other public entity.

48 [~~12~~] (11) "Schedule of compliance" means a schedule of remedial measures, including
49 an enforceable sequence of actions or operations leading to compliance with this chapter.

50 [~~13~~] (12) "Sewage sludge" means any solid, semisolid, or liquid residue removed during
51 the treatment of municipal wastewater or domestic sewage.

52 [~~14~~] (13) "Sewerage system" means pipelines or conduits, pumping stations, and all other
53 constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to
54 a point of ultimate disposal.

55 [~~15~~] (14) "Treatment works" means any plant, disposal field, lagoon, dam, pumping
56 station, incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

57 [~~(16)~~] (15) "Underground injection" means the subsurface emplacement of fluids by well
58 injection.

59 [~~(8)~~] (16) "[~~Individual~~] Underground wastewater disposal system" means a system for
60 disposing of domestic wastewater discharges as defined by the board and the executive director.

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

65 (18) "Waters of the state":

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

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

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

74 **19-5-104. Powers and duties of board.**

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

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

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

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

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

87 (e) adopt, modify, or repeal standards of quality of the waters of the state and classify those

88 waters according to their reasonable uses in the interest of the public under conditions the board
89 may prescribe for the prevention, control, and abatement of pollution;

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

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

94 (A) requirements pertaining to applications for loans;

95 (B) requirements for determination of eligible projects;

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

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

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

104 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
105 73-10c-4.5;

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

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

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

111 (g) issue, modify, or revoke orders:

112 (i) prohibiting or abating discharges;

113 (ii) requiring the construction of new treatment works or any parts of them, or requiring
114 the modification, extension, or alteration of existing treatment works as specified by board rule or
115 any parts of them, or the adoption of other remedial measures to prevent, control, or abate
116 pollution;

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

- 119 (iv) requiring compliance with this chapter and with rules made under this chapter;
- 120 (h) review plans, specifications, or other data relative to disposal systems or any part of
- 121 disposal systems, and issue construction permits for the installation or modification of treatment
- 122 works or any parts of them;
- 123 (i) after public notice and opportunity for a public hearing, issue, continue in effect,
- 124 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe
- 125 to control the management of sewage sludge or to prevent or control the discharge of pollutants,
- 126 including effluent limitations for the discharge of wastes into the waters of the state;
- 127 (j) give reasonable consideration in the exercise of its powers and duties to the economic
- 128 impact of water pollution control on industry and agriculture;
- 129 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,
- 130 including delegation to the department of its duties as appropriate to improve administrative
- 131 efficiency;
- 132 (l) meet the requirements of federal law related to water pollution;
- 133 (m) establish and conduct a continuing planning process for control of water pollution
- 134 including the specification and implementation of maximum daily loads of pollutants;
- 135 (n) make rules governing inspection, monitoring, recordkeeping, and reporting
- 136 requirements for underground injections and require permits for them, to protect drinking water
- 137 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,
- 138 recognizing that underground injection endangers drinking water sources if:
- 139 (i) injection may result in the presence of any contaminant in underground water which
- 140 supplies or can reasonably be expected to supply any public water system, as defined in Section
- 141 19-4-102; and
- 142 (ii) the presence of the contaminant may result in the public water system not complying
- 143 with any national primary drinking water standards or may otherwise adversely affect the health
- 144 of persons;
- 145 (o) make rules governing sewage sludge management, including permitting, inspecting,
- 146 monitoring, recordkeeping, and reporting requirements;
- 147 (p) adopt and enforce rules and establish fees to cover the costs of testing for certification
- 148 of operators of treatment works and sewerage systems operated by political subdivisions; and
- 149 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design and

150 construction of irrigation systems which convey sewage treatment facility effluent of human origin
151 in pipelines under pressure, unless contained in surface pipes wholly on private property and for
152 agricultural purposes, and which are constructed after May 4, 1998.

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

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

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

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

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

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

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

168 (i) is in charge of and responsible for the treatment works or sewerage system on March
169 16, 1991;

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

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

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

176 **19-5-121. Underground wastewater disposal systems -- Certification required to**
177 **design, inspect, maintain, or conduct percolation or soil tests -- Exemptions -- Rules -- Fees.**

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

180 (2) (a) Except as provided in Subsections (2)(b) and (2)(c), beginning January 1, 2002, a

181 person may not design, inspect, maintain, or conduct percolation or soil tests for an underground
 182 wastewater disposal system, without first obtaining certification from the board.

183 (b) An individual is not required to obtain certification from the board to maintain an
 184 underground wastewater disposal system that serves a noncommercial, private residence owned
 185 by the individual § OR A MEMBER OF THE INDIVIDUAL'S FAMILY § and in which the individual §
 185a OR A MEMBER OF THE INDIVIDUAL'S FAMILY § resides § OR AN EMPLOYEE OF THE INDIVIDUAL
 185b RESIDES WITHOUT PAYMENT OF RENT §.

186 (c) The board shall make rules allowing an uncertified individual to conduct percolation
 187 or soil tests for an underground wastewater disposal system that serves a noncommercial, private
 188 residence owned by the individual and in which the individual resides or intends to reside, § OR
 188a WHICH IS INTENDED FOR USE BY AN EMPLOYEE OF THE INDIVIDUAL WITHOUT PAYMENT OF
 188b RENT, § if the
 189 individual:

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

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

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

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

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

198 (A) the experience of a contractor licensed under Title 58, Chapter 55, Utah Construction
 199 Trades Licensing Act, who has five or more years of experience installing underground wastewater
 200 disposal systems;

201 (B) the experience of an environmental health scientist licensed under Title 58, Chapter
 202 20a, Environmental Health Scientist Act; or

203 (C) the educational background of a professional engineer licensed under Title 58, Chapter
 204 22, Professional Engineers and Professional Land Surveyors Licensing Act.

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

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

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

211 **19-5-122. Underground wastewater disposal systems -- Fee imposed on new systems.**

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

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

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

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

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

222 (4) The fee revenue shall be:

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

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

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

227 **19-5-123. Underground Wastewater Disposal System Restricted Account created --**

228 **Contents -- Use of account monies.**

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

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

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

233 (b) interest and earnings on account monies.

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

237 Section 6. **Effective date.**

238 This act takes effect on July 1, 2001.