

HB0132S01 compared with HB0132

~~deleted text~~ shows text that was in HB0132 but was deleted in HB0132S01.

inserted text shows text that was not in HB0132 but was inserted into HB0132S01.

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Representative Bill Wright proposes the following substitute bill:

WATER QUALITY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: _____

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

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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

ENACTS:

19-5-105.5, 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) "Agriculture discharge":

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

(i) ~~{impairs}~~pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, and other water conveyance system of the state ~~{ that is for the state's beneficial use or classification;~~

~~— (ii) harms public health;~~

~~— (iii) causes significant harm to wildlife or the environment};~~

~~{iv}~~ii pollutes the ground water of the state; or

~~{v}~~iii constitutes a significant nuisance on urban ~~{ or developed}~~ land; and

(b) does not include:

(i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land that is not part of a body of water; or

(ii) a release into a normally dry water conveyance to an active body of water, unless the release reaches the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) "Agriculture water" means:

(a) ~~{means}~~ water used by a farmer, rancher, or feed lot for the production of food,

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fiber, or fuel; ~~and~~

(b) ~~does not include water used by an agriculture processing facility;~~ return flows from irrigated agriculture; and

(c) agricultural storm water runoff.

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

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

~~(2)~~ (5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

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

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

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

(b) generates or manages sewage sludge.

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

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

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

~~(8)~~ (11) "Point source":

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

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

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

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

~~(11)~~ (14) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with this

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chapter.

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

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

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

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

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

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

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

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

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

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

19-5-105. Rulemaking authority and procedure.

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

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board may incorporate by reference corresponding federal regulations.

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

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

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

19-5-105.5. Agriculture water.

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

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

(2) A program or rule adopted by the board for agriculture production or irrigation water ~~, not including water for an agriculture processing facility,~~ shall:

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

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

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

~~(3)(b) (a) A person responsible for an agriculture discharge shall mitigate the resulting damage in a reasonable manner, as approved by the executive secretary after consulting with the commission chair.~~

~~(b) ii) A penalty imposed on an agriculture discharge shall be proportionate to the seriousness of the resulting ~~damage~~ harm, as determined ~~jointly~~ by the executive secretary ~~and~~ in consultation with the commission chair.~~

~~(c) The executive secretary, after consulting with the commission chair, may classify an agriculture discharge as a discharge.~~

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

~~{~~ ~~(4) Under this section, the Division of Water Quality:~~

~~—— (a) may address only an agriculture discharge; and~~

~~—— (b) may not take any action against an agriculture producer based on a claim of a potential for an agriculture discharge.~~

Legislative Review Note

~~—— as of 2-17-11 6:16 PM~~

~~————— Office of Legislative Research and General Counsel}~~