

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the Water Quality Board.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

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

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

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



28 (1) Before sending a board-approved report, strategy, or recommendation that will  
29 recommend a total maximum daily load end point and implementation strategy to the EPA for  
30 review and approval, or before the board adopts a rule or standard, the Water Quality Board  
31 shall submit the report, strategy, [or] recommendation, rule, or standard:

32 (a) for review to the Natural Resources, Agriculture, and Environment Interim  
33 Committee if the report, strategy, [or] recommendation, rule, or standard will require a public  
34 or private expenditure, during the life of an impacted facility, in excess of \$10,000,000 but less  
35 than \$100,000,000 for compliance; or

36 (b) for approval to the Legislature if the report, strategy, recommendation, rule, or  
37 standard will require a public or private expenditure, during the life of an impacted facility, of  
38 \$100,000,000 or more.

39 (2) Determination of an expenditure under Subsections (1)(a) and (b) shall be based on  
40 a cost estimate determined by the impacted facility or facilities.

41 [~~(2)~~] (3) In reviewing a report, strategy, [or] recommendation, rule, or standard under  
42 Subsection (1)(a), the Natural Resources, Agriculture, and Environment Interim Committee  
43 may:

44 (a) suggest additional areas of consideration; or

45 (b) recommend the report, strategy, or recommendation be re-evaluated by the Water  
46 Quality Board and returned to the committee for further review.

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

48 **63G-3-501. Administrative Rules Review Committee.**

49 (1) (a) There is created an Administrative Rules Review Committee of the following  
50 10 permanent members:

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

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

55 (b) Each permanent member shall serve:

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

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

58 (c) (i) A vacancy exists when a permanent member ceases to be a member of the

59 Legislature, or when a permanent member resigns from the committee.

60 (ii) When a vacancy exists:

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

63 (B) if the departing member is a member of the House of Representatives, the speaker  
64 of the House of Representatives shall appoint a member of the House of Representatives to fill  
65 the vacancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (vi) whether adoption of the rule requires legislative notice or approval.

89 (c) To carry out these duties, the committee may examine any other issues that the

90 committee considers necessary. The committee may also notify and refer rules to the chairs of  
91 the interim committee that has jurisdiction over a particular agency when the committee  
92 determines that an issue involved in an agency's rules may be more appropriately addressed by  
93 that committee.

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

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

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

102 (b) If the fiscal impact of a rule is greater than \$10,000,000 to a single entity or  
103 \$100,000,000 to a group of entities, as determined by the Office of the Legislative Fiscal  
104 Analyst under Subsection (5)(a), the rule shall be referred to the relevant appropriations  
105 subcommittee for review.

106 (6) In order to accomplish the committee's functions described in this chapter, the  
107 committee has all the powers granted to legislative interim committees under Section 36-12-11.

108 (7) (a) The committee may prepare written findings of the committee's review of a rule  
109 and may include any recommendations, including legislative action.

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

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

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

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

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

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

118 (iii) the president of the Senate;

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

120 (v) the Senate and House chairs of the standing committee that has jurisdiction over the

121 agency that made the rule; and

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

124 (8) (a) The committee may submit a report on its review of state agency rules to each  
125 member of the Legislature at each regular session.

126 (b) The report shall include:

127 (i) any findings and recommendations the committee made under Subsection (7);

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

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

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**