

1 **STORM WATER PERMITTING AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Casey Snider**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses effects of storm water.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ addresses rulemaking by the board regarding storm water discharges and
- 13 implementation by the director;
- 14 ▶ enacts provisions related to storm water permits and certain appeals related to
- 15 post-construction retention requirements; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **19-5-108**, as last amended by Laws of Utah 2012, Chapter 360

24 ENACTS:

25 **19-5-108.5**, Utah Code Annotated 1953

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

28 Section 1. Section **19-5-108** is amended to read:

29 **19-5-108. Discharge permits -- Requirements and procedure for issuance.**

30 (1) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
31 Administrative Rulemaking Act, for and require the submission of plans, specifications, and
32 other information to the director in connection with the issuance of discharge permits.

33 (2) ~~[Each]~~ A discharge permit shall have a fixed term not exceeding five years. Upon
34 expiration of a discharge permit, a new permit may be issued by the director as authorized by
35 the board after notice and an opportunity for public hearing and upon condition that the
36 applicant meets or will meet all applicable requirements of this chapter, including the
37 conditions of any permit granted by the board.

38 (3) The board may require notice to the director of the introduction of pollutants into
39 publicly-owned treatment works and identification to the director of the character and volume
40 of any pollutant of any significant source subject to pretreatment standards under Subsection
41 307(b) of the federal Clean Water Act. The director shall provide in the permit for compliance
42 with pretreatment standards.

43 (4) The director may impose as conditions in permits for the discharge of pollutants
44 from publicly-owned treatment works appropriate measures to establish and insure compliance
45 by industrial users with any system of user charges required under this chapter or the rules
46 adopted under ~~[it]~~ this chapter.

47 (5) The director may apply and enforce against industrial users of publicly-owned
48 treatment works, toxic effluent standards and pretreatment standards for the introduction into
49 the treatment works of pollutants which interfere with, pass through, or otherwise are
50 incompatible with the treatment works.

51 (6) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
52 Administrative Rulemaking Act, establishing requirements for the permitting of storm water
53 discharges into waters of the state.

54 (7) The director shall administer storm water permits to be consistent with rules
55 established by the board.

56 Section 2. Section **19-5-108.5** is enacted to read:

57 **19-5-108.5. Storm water permits.**

58 (1) As used in this section:

59 (a) "Applicant" means a person who is conducting or proposing to conduct a use of
60 land and who a permittee requires or allows to use low impact development.

61 (b) "Independent review" is a review conducted:

62 (i) in accordance with this section; and

63 (ii) by an engineer, or engineering firm, designated by the division as having technical
64 expertise in the area of storm water calculations.

65 (c) "Low impact development" means structural or natural engineered systems located
66 close to the source of storm water that use or mimic natural processes to encourage infiltration,
67 evapotranspiration, or reuse of the storm water.

68 (d) "Permittee" means a municipality, metro township, or county with a storm water
69 permit under the Utah Pollutant Discharge Elimination System.

70 (e) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and
71 drainage.

72 (f) "Storm water permit" means a permit issued to a permittee by the division for the
73 permittee's municipal separate storm sewer system.

74 (g) "Utah Pollutant Discharge Elimination System" means the state-wide program for
75 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits
76 under the Utah Water Quality Act.

77 (2) A permittee shall reduce any requirement for an applicant to manage or control
78 storm water runoff rates or storm water runoff volumes for flood control purposes to account
79 for the reduction in storm water associated with approved low impact development practices.

80 (3) The director shall create and maintain a list of engineers, including engineering
81 firms, capable of providing independent review of low impact development designs and storm
82 water calculations for use by an applicant and a permittee pursuant to an appeal described in
83 Subsection (4).

84 (4) (a) An applicant who appeals a permittee's determination regarding
85 post-construction retention requirements under the permittee's storm water permit may request

86 the permittee to refer the appeal to independent review for purposes of determining the
87 technical aspects of the appeal, including:

88 (i) the required size of any low impact development system;

89 (ii) the calculations of reductions in storm water runoff rates or storm water runoff
90 volumes for flood control due to the use of low impact development; and

91 (iii) the feasibility of constructing low impact development practices required by the
92 permittee.

93 (b) If an applicant makes a request under Subsection (4)(a):

94 (i) the permittee shall:

95 (A) select an engineer or engineering firm from the list described in Subsection (3);

96 and

97 (B) pay one-half of the cost of the independent review.

98 (ii) An engineer or engineering firm selected by the permittee under Subsection

99 (4)(b)(i) may not be:

100 (A) associated with the application that is the subject of the appeal; or

101 (B) employed by the permittee.

102 (iii) The applicant shall pay:

103 (A) one-half of the cost of the independent review; and

104 (B) the municipality's published appeal fee.

105 **Section 3. Effective date.**

106 This bill takes effect on July 1, 2020.