

19-5-104 Powers and duties of board.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:
 - (a) taking into account Subsection (6):
 - (i) implement the awarding of construction loans to political subdivisions and municipal authorities under Section 11-8-2, including:
 - (A) requirements pertaining to applications for loans;
 - (B) requirements for determination of eligible projects;
 - (C) requirements for determination of the costs upon which loans are based, which costs may include engineering, financial, legal, and administrative expenses necessary for the construction, reconstruction, and improvement of sewage treatment plants, including major interceptors, collection systems, and other facilities appurtenant to the plant;
 - (D) a priority schedule for awarding loans, in which the board may consider, in addition to water pollution control needs, any financial needs relevant, including per capita cost, in making a determination of priority; and
 - (E) requirements for determination of the amount of the loan;
 - (ii) implement the awarding of loans for nonpoint source projects pursuant to Section 73-10c-4.5;
 - (iii) set effluent limitations and standards subject to Section 19-5-116;
 - (iv) implement or effectuate the powers and duties of the board; and
 - (v) protect the public health for the design, construction, operation, and maintenance of underground wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies;
 - (b) govern inspection, monitoring, recordkeeping, and reporting requirements for underground injections and require permits for underground injections, to protect drinking water sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil, recognizing that underground injection endangers drinking water sources if:
 - (i) injection may result in the presence of any contaminant in underground water that supplies or can reasonably be expected to supply any public water system, as defined in Section 19-4-102; and
 - (ii) the presence of the contaminant may:
 - (A) result in the public water system not complying with any national primary drinking water standards; or
 - (B) otherwise adversely affect the health of persons;
 - (c) govern sewage sludge management, including permitting, inspecting, monitoring, recordkeeping, and reporting requirements; and
 - (d) notwithstanding the provisions of Section 19-4-112, govern design and construction of irrigation systems that:
 - (i) convey sewage treatment facility effluent of human origin in pipelines under pressure, unless contained in surface pipes wholly on private property and for agricultural purposes; and
 - (ii) are constructed after May 4, 1998.
- (2)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt and enforce rules and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.
 - (b) In establishing certification rules under Subsection (2)(a), the board shall:
 - (i) base the requirements for certification on the size, treatment process type, and complexity of the treatment works and sewerage systems operated by political subdivisions;

- (ii) allow operators until three years after the date of adoption of the rules to obtain initial certification;
 - (iii) allow a new operator one year from the date the operator is hired by a treatment plant or sewerage system or three years after the date of adoption of the rules, whichever occurs later, to obtain certification;
 - (iv) issue certification upon application and without testing, at a grade level comparable to the grade of current certification to operators who are currently certified under the voluntary certification plan for wastewater works operators as recognized by the board; and
 - (v) issue a certification upon application and without testing that is valid only at the treatment works or sewerage system where that operator is currently employed if the operator:
 - (A) is in charge of and responsible for the treatment works or sewerage system on March 16, 1991;
 - (B) has been employed at least 10 years in the operation of that treatment works or sewerage system before March 16, 1991; and
 - (C) demonstrates to the board the operator's capability to operate the treatment works or sewerage system at which the operator is currently employed by providing employment history and references as required by the board.
- (3) The board shall:
- (a) develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;
 - (b) adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses in the interest of the public under conditions the board may prescribe for the prevention, control, and abatement of pollution;
 - (c) give reasonable consideration in the exercise of its powers and duties to the economic impact of water pollution control on industry and agriculture;
 - (d) meet the requirements of federal law related to water pollution;
 - (e) establish and conduct a continuing planning process for control of water pollution, including the specification and implementation of maximum daily loads of pollutants;
 - (f)
 - (i) approve, approve in part, approve with conditions, or deny, in writing, an application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act;
 - (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act;
 - (g)
 - (i) review all total daily maximum load reports and recommendations for water quality end points and implementation strategies developed by the division before submission of the report, recommendation, or implementation strategy to the EPA;
 - (ii) disapprove, approve, or approve with conditions all staff total daily maximum load recommendations; and
 - (iii) provide suggestions for further consideration to the Division of Water Quality in the event a total daily maximum load strategy is rejected; and
 - (h) to ensure compliance with applicable statutes and regulations:
 - (i) review a settlement negotiated by the director in accordance with Subsection 19-5-106(2)(k) that requires a civil penalty of \$25,000 or more; and
 - (ii) approve or disapprove the settlement.
- (4) The board may:
- (a) order the director to issue, modify, or revoke orders:
 - (i) prohibiting or abating discharges;

- (ii) requiring the construction of new treatment works or any parts of them, or requiring the modification, extension, or alteration of existing treatment works as specified by board rule or any parts of them, or the adoption of other remedial measures to prevent, control, or abate pollution;
- (iii) setting standards of water quality, classifying waters or evidencing any other determination by the board under this chapter; or
- (iv) requiring compliance with this chapter and with rules made under this chapter;
- (b) advise, consult, and cooperate with other agencies of the state, the federal government, other states, or interstate agencies, or with affected groups, political subdivisions, or industries to further the purposes of this chapter; or
- (c) delegate the authority to issue an operating permit to a local health department.
- (5) In performing the duties listed in Subsections (1) through (4), the board shall give priority to pollution that results in a hazard to the public health.
- (6) The board shall take into consideration the availability of federal grants:
 - (a) in determining eligible project costs; and
 - (b) in establishing priorities pursuant to Subsection (1)(a)(i).
- (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-5-106:
 - (a) a permit;
 - (b) a license;
 - (c) a registration;
 - (d) a certification; or
 - (e) another administrative authorization made by the director.
- (8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Amended by Chapter 360, 2012 General Session