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DRINKING WATER SOURCE SIZING REQUIREMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions related to drinking water source and storage requirements.

Highlighted Provisions:

This bill:

- amends definitions;
- amends powers of the Drinking Water Board;
- requires certain public water systems to provide certain water use data;
- requires the director of the Division of Drinking Water to establish water source sizing requirements for certain public water systems; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-4-102, as last amended by Laws of Utah 2012, Chapter 360

19-4-104, as last amended by Laws of Utah 2016, Chapter 58

ENACTS:

19-4-114, Utah Code Annotated 1953

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

30 Section 1. Section **19-4-102** is amended to read:

31 **19-4-102. Definitions.**

32 As used in this chapter:

33 (1) "Board" means the Drinking Water Board appointed under Section 19-4-103.

34 (2) "Community water system" means a public water system that serves residents

35 year-round.

36 [~~(2)~~] (3) "Contaminant" means a physical, chemical, biological, or radiological

37 substance or matter in water.

38 [~~(3)~~] (4) "Director" means the director of the Division of Drinking Water.

39 [~~(4)~~] (5) "Division" means the Division of Drinking Water, created in Subsection

40 19-1-105(1)(b).

41 [~~(5)~~] (6) (a) "Groundwater source" means an underground opening from or through

42 which groundwater flows or is pumped from a subsurface water-bearing formation.

43 (b) "Groundwater source" includes:

44 (i) a well;

45 (ii) a spring;

46 (iii) a tunnel; or

47 (iv) an adit.

48 [~~(6)~~] (7) "Maximum contaminant level" means the maximum permissible level of a

49 contaminant in water that is delivered to a user of a public water system.

50 [~~(7)~~] (8) (a) "Public water system" means a system providing water for human

51 consumption and other domestic uses that:

52 (i) has at least 15 service connections; or

53 (ii) serves an average of 25 individuals daily for at least 60 days of the year.

54 (b) "Public water system" includes:

55 (i) a collection, treatment, storage, or distribution facility under the control of the

56 operator and used primarily in connection with the system; and

57 (ii) a collection, pretreatment, or storage facility used primarily in connection with the

58 system but not under the operator's control.
59 [~~(8)~~] (9) "Retail water supplier" means a person that:
60 (a) supplies water for human consumption and other domestic uses to an end user; and
61 (b) has more than 500 service connections.
62 [~~(9)~~] (10) "Supplier" means a person who owns or operates a public water system.
63 [~~(10)~~] (11) "Wholesale water supplier" means a person that provides most of that
64 person's water to a retail water supplier.
65 Section 2. Section **19-4-104** is amended to read:
66 **19-4-104. Powers of board.**
67 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah
68 Administrative Rulemaking Act:
69 (i) establishing standards that prescribe the maximum contaminant levels in any public
70 water system and provide for monitoring, record-keeping, and reporting of water quality related
71 matters;
72 (ii) governing design, construction, operation, and maintenance of public water
73 systems;
74 (iii) granting variances and exemptions to the requirements established under this
75 chapter that are not less stringent than those allowed under federal law;
76 (iv) protecting watersheds and water sources used for public water systems; [~~and~~]
77 (v) governing capacity development in compliance with Section 1420 of the federal
78 Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and
79 (vi) for a community water system failing to comply with the reporting requirements
80 under Subsections (1)(c)(iv) and (v):
81 (A) establishing fines and penalties, including posting on the division's web page those
82 community water systems that fail to comply with the reporting requirements; and
83 (B) allowing a community water system, in lieu of penalties established under
84 Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the division that
85 requires compliance and establishes a compliance schedule approved by the director.

86 (b) The board may:
87 (i) order the director to:
88 (A) issue orders necessary to enforce the provisions of this chapter;
89 (B) enforce the orders by appropriate administrative and judicial proceedings; or
90 (C) institute judicial proceedings to secure compliance with this chapter;
91 (ii) (A) hold a hearing that is not an adjudicative proceeding relating to the
92 administration of this chapter; or
93 (B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
94 or
95 (iii) request and accept financial assistance from other public agencies, private entities,
96 and the federal government to carry out the purposes of this chapter.
97 (c) The board shall:
98 (i) require the submission to the director of plans and specifications for construction of,
99 substantial addition to, or alteration of public water systems for review and approval by the
100 board before that action begins and require any modifications or impose any conditions that
101 may be necessary to carry out the purposes of this chapter;
102 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into
103 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,
104 municipalities, local health departments, educational institutions, and others necessary to carry
105 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of
106 local jurisdictions;
107 (iii) develop and implement an emergency plan to protect the public when declining
108 drinking water quality or quantity creates a serious health risk and issue emergency orders if a
109 health risk is imminent;
110 [~~(iv) require a certified operator of a public water supplier to verify by signature and~~
111 ~~certification number, or a professional engineer performing the duties of a certified water~~
112 ~~operator to verify by signature and stamp, the accuracy of any data on water use and water~~
113 ~~supply submitted by the public water supplier to the division; and~~]

114 (iv) require a community water system serving a population of 500 or more to annually
115 collect accurate water use data, described in Subsection (6), and annually report that data to the
116 Division of Water Rights;
117 (v) require a certified operator, or a professional engineer performing the duties of a
118 certified water operator, to verify by certification or license number the accuracy of water use
119 data reported by a public water system, including the data required from a community water
120 system under Subsection (1)(c)(iv); and
121 [~~(v)~~] (vi) meet the requirements of federal law related or pertaining to drinking water.
122 (2) (a) The board may adopt and enforce standards and establish fees for certification
123 of operators of any public water system.
124 (b) The board may not require certification of operators for a water system serving a
125 population of 800 or less except:
126 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking
127 Water Act, 42 U.S.C. Sec. 300f et seq.; and
128 (ii) for a system that is required to treat its drinking water.
129 (c) The certification program shall be funded from certification and renewal fees.
130 (3) Routine extensions or repairs of existing public water systems that comply with the
131 rules and do not alter the system's ability to provide an adequate supply of water are exempt
132 from the provisions of Subsection (1)(c)(i).
133 (4) (a) The board may adopt and enforce standards and establish fees for certification
134 of persons engaged in administering cross connection control programs or backflow prevention
135 assembly training, repair, and maintenance testing.
136 (b) The certification program shall be funded from certification and renewal fees.
137 (5) A board member may not speak or act for the board unless the board member is
138 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
139 (6) (a) The water use data required to be collected in Subsection (1)(c)(iv) shall include
140 peak day source demand, average annual demand, the number of equivalent residential
141 connections for retail service, and the quantity of non-revenue water.

142 (b) The division may, by rule, establish:
143 (i) other types of water use data required to be collected in addition to that listed in
144 Subsection (6)(a); and
145 (ii) alternative methods for calculating the water use data listed in Subsection (6)(a).
146 Section 3. Section **19-4-114** is enacted to read:
147 **19-4-114. Source and storage minimum sizing requirements for public water**
148 **systems.**
149 (1) (a) Except as provided in Subsection (1)(b) and upon submission of plans for a
150 substantial addition to or alteration of a community water system, the director shall establish
151 system-specific source and storage minimum sizing requirements for a community water
152 system serving a population of more than 3300 based on at least the most recent three years of
153 a community water system's actual water use data submitted in accordance with Subsections
154 19-4-104(1)(c)(iv) and (v).
155 (b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available
156 to the division, or if the community water system determines that the data submitted does not
157 represent future system use, the director may establish source and storage minimum sizing
158 requirements for the community water system based on:
159 (i) an engineering study submitted by the community water system and accepted by the
160 director; or
161 (ii) at least three years of historical water use data that is:
162 (A) submitted by the community water system; and
163 (B) accepted by the director.
164 (c) A community water system serving a population of more than 3300 shall provide
165 the information necessary to establish the system-specific standards described in this
166 Subsection (1) by no later than March 1, 2019.
167 (2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b),
168 the director shall establish system-specific source and storage minimum sizing requirements for
169 a community water system serving a population of between 500 and no more than 3300 based

170 on at least the most recent three years of a community water system's actual water use data
171 submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).
172 (b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available
173 to the division, or if the community water system determines that the data submitted does not
174 represent future system use, the director may establish source and storage minimum sizing
175 requirements for the community water system based on:
176 (i) an engineering study submitted by the community water system and accepted by the
177 director; or
178 (ii) at least three years of historical water use data that is:
179 (A) submitted by the community water system; and
180 (B) accepted by the director.
181 (c) A community water system serving a population of between 500 and no more than
182 3300 shall provide the information necessary to establish system-specific standards described
183 in this Subsection (2) by no later than March 1, 2023.
184 (3) The director shall establish system-specific source and storage minimum sizing
185 requirements for a community water system serving a population of fewer than 500 based on:
186 (a) at least the most recent three years of a community water system's actual water use
187 data submitted to the division and accepted by the director;
188 (b) an engineering study submitted by the community water system and accepted by the
189 director;
190 (c) standards, comparable to those of established community water systems, as
191 determined by the director; or
192 (d) relevant information, as determined by the director.
193 (4) The director shall:
194 (a) for community water systems described in Subsection (3), establish a schedule to
195 transition from statewide sizing standards to system-specific standards;
196 (b) establish minimum sizing standards for public water systems that are not
197 community water systems;

198 (c) provide for the routine evaluation of changes to the system-specific standards; and
199 (d) include, as part of system-specific standards, necessary fire storage capacity in
200 accordance with the state fire code adopted under Section 15A-1-403.
201 (5) The director may adjust system-specific sizing standards, established under this
202 section for a public water system, based on information submitted by the public water system
203 addressing the effect of any wholesale water deliveries or other system-specific conditions
204 affecting infrastructure needs.
205 (6) A wholesale water supplier is exempt from this section if the wholesale water
206 supplier serves:
207 (a) a total population of more than 10,000; and
208 (b) a wholesale population that is 75% or more of the total population served.