

# HB0303S01 compared with HB0303

~~{deleted text}~~ shows text that was in HB0303 but was deleted in HB0303S01.

Inserted text shows text that was not in HB0303 but was inserted into HB0303S01.

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Representative Scott D. Sandall proposes the following substitute bill:

## DRINKING WATER SOURCE SIZING REQUIREMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

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

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### 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 the Drinking Water Board to withhold approval of plans for the substantial addition to a community water system under certain circumstances;~~

- ▶ 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.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date. }~~ 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

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

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

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

As used in this chapter:

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

(2) "Community water system" means a public water system that serves residents year-round.

~~(2)~~ (3) "Contaminant" means a physical, chemical, biological, or radiological substance or matter in water.

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

~~(4)~~ (5) "Division" means the Division of Drinking Water, created in Subsection 19-1-105(1)(b).

~~(5)~~ (6) (a) "Groundwater source" means an underground opening from or through which groundwater flows or is pumped from a subsurface water-bearing formation.

(b) "Groundwater source" includes:

(i) a well;

(ii) a spring;

(iii) a tunnel; or

(iv) an adit.

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

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

~~[(7)]~~ (8) (a) "Public water system" means a system providing water for human consumption and other domestic uses that:

- (i) has at least 15 service connections; or
- (ii) serves an average of 25 individuals daily for at least 60 days of the year.

(b) "Public water system" includes:

- (i) a collection, treatment, storage, or distribution facility under the control of the operator and used primarily in connection with the system; and
- (ii) a collection, pretreatment, or storage facility used primarily in connection with the system but not under the operator's control.

~~[(8)]~~ (9) "Retail water supplier" means a person that:

- (a) supplies water for human consumption and other domestic uses to an end user; and
- (b) has more than 500 service connections.

~~[(9)]~~ (10) "Supplier" means a person who owns or operates a public water system.

~~[(10)]~~ (11) "Wholesale water supplier" means a person that provides most of that person's water to a retail water supplier.

Section 2. Section **19-4-104** is amended to read:

### **19-4-104. Powers of board.**

(1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring, record-keeping, and reporting of water quality related matters;

(ii) governing design, construction, operation, and maintenance of public water systems;

(iii) granting variances and exemptions to the requirements established under this chapter that are not less stringent than those allowed under federal law;

(iv) protecting watersheds and water sources used for public water systems; and

(v) governing capacity development in compliance with Section 1420 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(vi) for a community water system failing to comply with the reporting requirements

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under Subsections (1)(c)(iv) and (v):

(A) establishing fines and penalties, including posting on the division's web page those community water systems that fail to comply with the reporting requirements; and

(B) allowing a community water system, in lieu of penalties established under Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the division that requires compliance and establishes a compliance schedule approved by the director.

(b) The board may:

(i) order the director to:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; or

(C) institute judicial proceedings to secure compliance with this chapter;

(ii) (A) hold a hearing that is not an adjudicative proceeding relating to the

administration of this chapter; or

(B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

or

(iii) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter.

(c) The board shall:

(i) require the submission to the director of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the board before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

~~{ (ii) withhold approval of plans for the substantial addition to a community water system, submitted under Subsection (1)(c)(i) by a community water system serving a population of more than 500, if the community water system fails to provide:~~

~~— (A) the water use data required under Subsection (1)(c)(v); or~~

~~— (B) water system sizing data described in Subsection 19-4-114(1)(a), (b)(i), or (b)(ii);~~

~~{~~ (ii) ~~{~~ (iii) ~~}~~ advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, and others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules,

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and regulations of local jurisdictions;

~~{(iii)}{(iv)}~~ develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent;

~~{(v) require a community water system serving a population of more than 500 to annually collect accurate water use data, described in Subsection (6), and annually report that data to the Division of Water Rights;~~

~~{(iv) require a certified operator of a public water supplier to verify by signature and certification number, or a professional engineer performing the duties of a certified water operator to verify by signature and stamp, the accuracy of any data on water use and water supply submitted by the public water supplier to the division; and]~~

{(vi)iv} require a community water system serving a population of 500 or more to annually collect accurate water use data, described in Subsection (6), and annually report that data to the Division of Water Rights.

{(v) require a certified operator of a community water system, or a professional engineer performing the duties of a certified water operator, to verify by certification or license number the accuracy of the water use data reported by a public water system, including the data required from a community water system under Subsection (1)(c){(v)iv}; and

~~{(v)}~~ {(vii)vi} meet the requirements of federal law related or pertaining to drinking water.

(2) (a) The board may adopt and enforce standards and establish fees for certification of operators of any public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the system's ability to provide an adequate supply of water are exempt from the provisions of Subsection (1)(c)(i).

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(4) (a) The board may adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

(5) 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.

(6) (a) The water use data required to be collected in Subsection (1)(c)(~~fv~~iv) shall include peak day source demand, average annual demand, the number of equivalent residential connections for retail service, and the quantity of non-revenue water.

(b) The division may, by rule, establish other types of water use data required to be collected in addition to that listed in Subsection (6)(a).

Section 3. Section **19-4-114** is enacted to read:

**19-4-114. Source and storage minimum sizing requirements for public water systems.**

(1) (a) Except as provided in Subsection (1)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of more than ~~500~~3300 based on at least the most recent ~~rolling average of at least~~ three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(~~fv~~iv) and (~~vi~~v).

(b) If the water use data required under ~~Subsections~~ Subsection 19-4-104(1)(c)(~~fv~~ and (~~vi~~iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of more than 3300 shall provide the information necessary to establish the system-specific standards described in this Subsection (1) by no later than March 1, 2019.

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(2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of between 500 and no more than 3300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of between 500 and no more than 3300 shall provide the information necessary to establish system-specific standards described in this Subsection (2) by no later than March 1, 2023.

(~~2~~3) The director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of ~~fewer than 500~~ ~~or less~~ based on:

(a) ~~at least~~ the ~~rolling average~~ ~~most recent three years~~ of ~~the~~ a community water system's actual water use data submitted to the division and accepted by the director;

(b) an engineering study submitted by the community water system and accepted by the director;

(c) standards, comparable to those of established community water systems, as determined by the director; or

(d) relevant information, as determined by the director.

(~~3~~4) The director shall:

(a) for community water systems described in Subsection (~~2~~3), establish a schedule to transition from statewide sizing standards to system-specific standards;

(b) establish minimum sizing standards for public water systems that are not

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community water systems; and

(c) provide for the routine evaluation of changes to the system-specific standards.

~~{Section 4. Effective date:~~

~~— This bill takes effect on October 1, 2018.~~

### Legislative Review Note

~~Office of Legislative Research and General Counsel~~ (5) The director may adjust system-specific sizing standards, established under this section for a public water system, based on information submitted by the public water system addressing the effect of any wholesale water deliveries or other system-specific conditions affecting infrastructure needs.

(6) A wholesale water supplier is exempt from this section if the wholesale water supplier serves:

(a) a total population of more than 10,000; and

(b) a wholesale population that is 75% or more of the total population served.