

DRINKING WATER SOURCE SIZING REQUIREMENTS

2018 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts provisions related to drinking water source and storage requirements; and
- ▶ requires the director of the Division of Drinking Water to include necessary fire storage capacity in accordance with the state fire code and as determined by the local fire code official.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

REPEALS AND REENACTS:

19-4-102, as last amended by Laws of Utah 2018, Chapter 335

19-4-104, as last amended by Laws of Utah 2018, Chapter 335

19-4-114, as enacted by Laws of Utah 2018, Chapter 335

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

Section 1. Section **19-4-102** is repealed and reenacted to read:

30 19-4-102. Definitions.

31 As used in this chapter:

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

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

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

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

38 (5) "Division" means the Division of Drinking Water, created in Subsection
39 19-1-105(1)(b).

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

42 (b) "Groundwater source" includes:

43 (i) a well;

44 (ii) a spring;

45 (iii) a tunnel; or

46 (iv) an adit.

47 (7) "Maximum contaminant level" means the maximum permissible level of a
48 contaminant in water that is delivered to a user of a public water system.

49 (8) (a) "Public water system" means a system providing water for human consumption
50 and other domestic uses that:

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

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

53 (b) "Public water system" includes:

54 (i) a collection, treatment, storage, or distribution facility under the control of the
55 operator and used primarily in connection with the system; and

56 (ii) a collection, pretreatment, or storage facility used primarily in connection with the
57 system but not under the operator's control.

- 58 (9) "Retail water supplier" means a person that:
- 59 (a) supplies water for human consumption and other domestic uses to an end user; and
- 60 (b) has more than 500 service connections.
- 61 (10) "Supplier" means a person who owns or operates a public water system.
- 62 (11) "Wholesale water supplier" means a person that provides most of that person's
- 63 water to a retail water supplier.

64 Section 2. Section **19-4-104** is repealed and reenacted to read:

65 **19-4-104. Powers of board.**

66 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah

67 Administrative Rulemaking Act:

68 (i) establishing standards that prescribe the maximum contaminant levels in any public

69 water system and provide for monitoring, record-keeping, and reporting of water quality related

70 matters;

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

72 systems;

73 (iii) granting variances and exemptions to the requirements established under this

74 chapter that are not less stringent than those allowed under federal law;

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

76 (v) governing capacity development in compliance with Section 1420 of the federal

77 Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

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

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

80 (A) establishing fines and penalties, including posting on the division's web page those

81 community water systems that fail to comply with the reporting requirements; and

82 (B) allowing a community water system, in lieu of penalties established under

83 Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the division that

84 requires compliance and establishes a compliance schedule approved by the director.

85 (b) The board may:

86 (i) order the director to:
87 (A) issue orders necessary to enforce the provisions of this chapter;
88 (B) enforce the orders by appropriate administrative and judicial proceedings; or
89 (C) institute judicial proceedings to secure compliance with this chapter;
90 (ii) (A) hold a hearing that is not an adjudicative proceeding relating to the
91 administration of this chapter; or
92 (B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
93 or
94 (iii) request and accept financial assistance from other public agencies, private entities,
95 and the federal government to carry out the purposes of this chapter.
96 (c) The board shall:
97 (i) require the submission to the director of plans and specifications for construction of,
98 substantial addition to, or alteration of public water systems for review and approval by the
99 board before that action begins and require any modifications or impose any conditions that
100 may be necessary to carry out the purposes of this chapter;
101 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into
102 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,
103 municipalities, local health departments, educational institutions, and others necessary to carry
104 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of
105 local jurisdictions;
106 (iii) develop and implement an emergency plan to protect the public when declining
107 drinking water quality or quantity creates a serious health risk and issue emergency orders if a
108 health risk is imminent;
109 (iv) require a community water system serving a population of 500 or more to annually
110 collect accurate water use data, described in Subsection (6), and annually report that data to the
111 Division of Water Rights;
112 (v) require a certified operator, or a professional engineer performing the duties of a
113 certified water operator, to verify by certification or license number the accuracy of water use

114 data reported by a public water system, including the data required from a community water
115 system under Subsection (1)(c)(iv); and

116 (vi) meet the requirements of federal law related or pertaining to drinking water.

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

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

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

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

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

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

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

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

132 (5) A board member may not speak or act for the board unless the board member is
133 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

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

137 (b) The division may, by rule, establish:

138 (i) other types of water use data required to be collected in addition to that listed in
139 Subsection (6)(a); and

140 (ii) alternative methods for calculating the water use data listed in Subsection (6)(a).

141 Section 3. Section 19-4-114 is repealed and reenacted to read:

142 19-4-114. Source and storage minimum sizing requirements for public water
143 systems.

144 (1) (a) Except as provided in Subsection (1)(b) and upon submission of plans for a
145 substantial addition to or alteration of a community water system, the director shall establish
146 system-specific source and storage minimum sizing requirements for a community water
147 system serving a population of more than 3,300 based on at least the most recent three years of
148 a community water system's actual water use data submitted in accordance with Subsections
149 19-4-104(1)(c)(iv) and (v).

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

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

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

157 (A) submitted by the community water system; and

158 (B) accepted by the director.

159 (c) A community water system serving a population of more than 3,300 shall provide
160 the information necessary to establish the system-specific standards described in this
161 Subsection (1) by no later than March 1, 2019.

162 (2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b),
163 the director shall establish system-specific source and storage minimum sizing requirements for
164 a community water system serving a population of between 500 and no more than 3,300 based
165 on at least the most recent three years of a community water system's actual water use data
166 submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

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

170 requirements for the community water system based on:

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

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

174 (A) submitted by the community water system; and

175 (B) accepted by the director.

176 (c) A community water system serving a population of between 500 and no more than
177 3,300 shall provide the information necessary to establish system-specific standards described
178 in this Subsection (2) by no later than March 1, 2023.

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

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

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

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

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

188 (4) The director shall:

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

191 (b) establish minimum sizing standards for public water systems that are not
192 community water systems;

193 (c) provide for the routine evaluation of changes to the system-specific standards; and

194 (d) include, as part of system-specific standards, necessary fire storage capacity in
195 accordance with the state fire code adopted under Section [15A-1-403](#) and as determined by the
196 local fire code official.

197 (5) The director may adjust system-specific sizing standards, established under this

198 section for a public water system, based on information submitted by the public water system
199 addressing the effect of any wholesale water deliveries or other system-specific conditions
200 affecting infrastructure needs.

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

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

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

205 **Section 4. Effective date.**

206 If approved by two-thirds of all the members elected to each house, this bill takes effect
207 upon approval by the governor, or the day following the constitutional time limit of Utah
208 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
209 the date of veto override.