

HOUSE BILL NO. HB0022

Safe Drinking Water Act.

Sponsored by: Representative(s) Huckfeldt

A BILL

for

1 AN ACT relating to public health and safety; providing for  
 2 the Wyoming Safe Drinking Water Act; providing for  
 3 authority, administration and enforcement of the act as  
 4 specified; providing definitions; making conforming  
 5 amendments; providing an appropriation and positions; and  
 6 providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 35-11-1901 through 35-11-1908 are  
 11 created to read:

12

ARTICLE 19

13

SAFE DRINKING WATER

14

15

16 **35-11-1901. Short title.**

17

1 This article is known and may be cited as the "Wyoming Safe  
2 Drinking Water Act."

3

4 **35-11-1902. Coverage.**

5

6 The requirements of this article shall apply to each public  
7 water supply as defined in W.S. 35-11-103(h) (vii).

8

9 **35-11-1903. Prohibited acts.**

10

11 No person, except when authorized by a permit, variance,  
12 exemption or compliance schedule issued pursuant to the  
13 provisions of this article, shall operate a public water  
14 supply as defined in W.S. 35-11-103(h) (vii) which is not in  
15 compliance with the primary drinking water regulation as  
16 defined in W.S. 35-11-103(h) (v) and the requirements of  
17 this section.

18

19 **35-11-1904. Administrator's authority to recommend**  
20 **standards, rules, regulations or permits.**

21

22 (a) The administrator, after receiving public comment  
23 and after consultation with the advisory board created by  
24 W.S. 35-11-113, shall recommend to the director rules,

1 regulations, standards and permit systems to promote the  
2 purposes of this article and meet the requirements of the  
3 National Primary Drinking Water Regulations. The rules,  
4 regulations, standards and permit systems shall prescribe:

5

6 (i) Drinking water standards which are no less  
7 stringent than the National Primary Drinking Water  
8 Regulations promulgated in 40 C.F.R. § 141;

9

10 (ii) Standards for the issuance of variances and  
11 exemptions and opportunities for public input and hearings  
12 as authorized by W.S. 35-11-1905;

13

14 (iii) Standards for the development and  
15 implementation of a source water assessment program to  
16 address all public water supplies;

17

18 (iv) Standards for water quality sampling,  
19 record keeping and reporting;

20

21 (v) Standards for public notice requirements for  
22 public water supplies;

23

1           (vi) Standards for community water systems to  
2 provide consumer confidence reports;

3

4           (vii) Standards for the determination of  
5 capacity development capabilities to ensure that all new or  
6 modified community water systems and new or modified  
7 nontransient noncommunity water systems commencing  
8 operation after July 1, 2002, demonstrate capacity  
9 development capabilities and by July 1, 2003, develop a  
10 strategy to assist all community and noncommunity water  
11 systems in acquiring and maintaining capacity development  
12 by adopting procedures governing capacity development in  
13 compliance with § 1420 of the Safe Drinking Water Act (42  
14 U.S.C. § 300g-9). The department shall have the authority  
15 to require new systems in noncompliance of capacity  
16 development capabilities to take corrective actions to  
17 correct inadequacies or cease water system operations;

18

19           (viii) Standards for the development of  
20 emergency response plans by public water supplies pursuant  
21 to W.S. 35-11-1908;

22

23           (ix) Standards for the establishment of  
24 administrative penalties pursuant to W.S. 35-11-1906; and

1

2 (x) Standards for the certification of  
3 laboratories servicing public water supplies.

4

5 **35-11-1905. Variances and exemptions.**

6

7 (a) The director may grant a variance or exemption  
8 from the primary drinking water regulations after  
9 documenting all findings that are required under §§ 1415  
10 and 1416 of the Safe Drinking Water Act (42 U.S.C. §§  
11 300g-4 and 300g-5) and 40 C.F.R. § 142.20.

12

13 (b) Before a variance or exemption is granted, the  
14 director shall:

15

16 (i) Find that the variance or exemption will not  
17 result in an unreasonable risk to public health;

18

19 (ii) Provide an opportunity for public input and  
20 a hearing on the proposed variance; and

21

22 (iii) Establish a compliance schedule for the  
23 public water supply to install the best technology,

1 treatment techniques or other means available to the  
2 system.

3

4 **35-11-1906. Administrative penalties.**

5

6 Notwithstanding and in lieu of W.S. 35-11-901 through  
7 35-11-904, the department shall have the authority to  
8 assess administrative penalties. For public water supplies  
9 serving a population of more than ten thousand (10,000)  
10 individuals, the department shall have the authority to  
11 impose a penalty of one thousand dollars (\$1,000.00) to ten  
12 thousand dollars (\$10,000.00) per day per violation. For  
13 public water supplies serving a population of ten thousand  
14 (10,000) or fewer individuals the department shall  
15 establish a penalty that is adequate to ensure compliance  
16 with the regulations pursuant to this article, but in no  
17 case shall the penalty exceed one thousand dollars  
18 (\$1,000.00) per day.

19

20 **35-11-1907. Duties of department.**

21

22 (a) The department shall:

23

1           (i) Maintain an inventory of public water  
2 supplies;

3

4           (ii) Conduct periodic sanitary surveys of  
5 potable water systems and sources, take water samples and  
6 inspect records to insure the system is not creating an  
7 unreasonable risk to public health. The department shall  
8 provide written reports of sanitary surveys to the water  
9 supplier;

10

11           (iii) Require public water supplies to correct  
12 any deficiency identified by a sanitary survey;

13

14           (iv) Require regular water sampling, record  
15 keeping and reporting by public water supplies. These  
16 samples shall be analyzed in a laboratory approved by the  
17 department;

18

19           (v) Investigate any water supply that fails to  
20 meet the drinking water standards and maximum contaminant  
21 levels established by the department;

22

23           (vi) Develop and implement a source water  
24 assessment program to address all public water supplies.

1 The department may establish a program to assist public  
2 water supplies in developing and implementing source water  
3 protection plans and programs pursuant to § 1454 of the  
4 Safe Drinking Water Act (42 U.S.C. § 300j-14) including the  
5 use of set asides authorized by § 1452(k) of the Safe  
6 Drinking Water Act (42 U.S.C. § 300j-12(k));

7

8 (vii) Require every public supply system to  
9 provide public notice that is no less stringent than the  
10 applicable federal regulations;

11

12 (viii) Establish and maintain a program for the  
13 certification of laboratories conducting analytical  
14 measurements of drinking water contaminants pursuant to the  
15 primary drinking water regulations;

16

17 (ix) Require community water systems to provide  
18 consumer confidence reports required by applicable federal  
19 regulations.

20

21 **35-11-1908. Emergency response.**

22

23 (a) The department shall adopt and implement a plan  
24 for the provision of safe drinking water under emergency



1 circumstances including, but not limited to, earthquakes,  
2 floods and other natural disasters.

3

4 (b) The department shall require each supplier of  
5 water to compile an emergency plan.

6

7 (c) The director shall have the authority, in  
8 coordination with the department of health, to require boil  
9 orders or other appropriate actions when contaminant levels  
10 in a public water supply threaten public health and safety.

11

12 **Section 2.** W.S. 35-11-103(a)(xiii) and by creating a  
13 new subsection (h), 35-11-105(a) by creating a new  
14 paragraph (vii), 35-11-108, 35-11-109(a) by creating new  
15 paragraphs (xvi) and (xvii), 35-11-110(a)(intro) and by  
16 creating a new subsection (f), 35-11-112(a)(intro) and  
17 35-11-601 by creating a new subsection (s) are amended to  
18 read:

19

20 **35-11-103. Definitions.**

21

22 (a) For the purpose of this act, unless the context  
23 otherwise requires:

24

1           (xiii) "This act" means W.S. 35-11-101 through  
2 35-11-403, 35-11-405, 35-11-406, 35-11-408 through  
3 35-11-1106, 35-11-1414 through 35-11-1428, 35-11-1601  
4 through 35-11-1613, 35-11-1701, ~~and~~ 35-11-1801 through  
5 35-11-1803 and 35-11-1901 through 35-11-1908.

6

7           (h) Specific definitions applying to drinking water:

8

9           (i) "Community water system" means a public  
10 water supply that has at least fifteen (15) service  
11 connections used year-round by residents or that regularly  
12 provides water to at least twenty-five (25) residents year-  
13 round, including, but not limited to, municipalities and  
14 water and sewer districts;

15

16           (ii) "Contaminant" means any physical, chemical,  
17 biological or radiological substance or matter;

18

19           (iii) "Maximum contaminant level" means the  
20 maximum permissible level of a contaminant in water that is  
21 delivered to any user of a public water supply;

22

23           (iv) "Nontransient noncommunity water system"  
24 means a public water supply which is not a community water

1 system and which regularly provides service to at least  
2 twenty-five (25) of the same persons for more than six (6)  
3 months of the year where those persons are not full-time  
4 residents, including, but not limited to, schools,  
5 factories and office buildings;

6  
7 (v) "Primary drinking water regulation" means a  
8 regulation that:

9  
10 (A) Applies to public water supplies;

11  
12 (B) Specifies contaminants that may have an  
13 adverse effect on the health of persons;

14  
15 (C) Specifies for each such contaminant  
16 either:

17  
18 (I) A maximum contaminant level as  
19 determined by the environmental protection agency; or

20  
21 (II) If it is determined by the  
22 environmental protection agency that it is not economically  
23 or technologically feasible to ascertain the level of such  
24 contaminant, each treatment technique known to the

1 environmental protection agency that leads to a reduction  
2 in the levels of the contaminant sufficient to satisfy the  
3 requirements of the Wyoming Safe Drinking Water Act; and

4  
5 (D) Contains criteria and procedures to  
6 assure a supply of potable water that dependably complies  
7 with such maximum contaminant levels, including quality  
8 control and testing procedures to insure compliance with  
9 such levels and insure proper operation and maintenance of  
10 the public water supply, and requirements as to the minimum  
11 quality of water that may be taken into the supply and  
12 siting for new facilities for public water supplies.

13  
14 (vi) "Potable water" means water that is  
15 sufficiently free from biological, chemical, radiological  
16 or physical impurities such that individuals will not be  
17 exposed to disease or harmful physiological effects;

18  
19 (vii) "Public water supply" means the system for  
20 the provision to the public of piped water for human  
21 consumption, if the system has at least fifteen (15)  
22 service connections or regularly serves at least twenty-  
23 five (25) individuals including:

24

1                   (A) Any collection, treatment, storage and  
2 distribution facility under control of the operator of the  
3 system and used primarily in connection with the system;  
4 and

5  
6                   (B) Any collection or pretreatment storage  
7 facility not under such control which is used primarily in  
8 connection with the system.

9  
10                   (viii) "Secondary drinking water regulation"  
11 means a regulation that applies to public water supplies  
12 and that specifies the maximum contaminant levels which, in  
13 the judgment of the director, are required to protect the  
14 public welfare. A regulation may apply to any contaminant  
15 in drinking water that may adversely affect the odor or  
16 appearance of the water and consequently may cause a  
17 substantial number of the persons served by the public  
18 water supply providing the water to discontinue its use, or  
19 that may otherwise adversely affect the public welfare;

20  
21                   (ix) "Service connection" means the connection  
22 between a public water supply and a customer that enables  
23 the customer to receive potable water from the public water  
24 supply;

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(x) "Supplier of water" or "water supplier"  
means any person who owns or operates a public water  
supply.

**35-11-105. Divisions enumerated.**

(a) The department shall consist of the following divisions:

(vii) Drinking water division.

**35-11-108. Appointment of director and division administrators; qualifications of director; term; salaries; employment of assistants.**

The governor with the advice and consent of the senate shall appoint a director of the department who is the department's executive and administrative head. The director shall possess technical qualifications and administrative and other experience sufficient to fulfill the duties of his position. The director shall appoint administrators for each of the divisions of abandoned mine land, industrial siting, solid and hazardous waste

1 management, air quality, water quality, ~~and~~ land quality  
2 and drinking water, who are the executive and  
3 administrative heads of their respective divisions. The  
4 administrators shall serve at the pleasure of the director  
5 and are responsible to and under the control and  
6 supervision of the director. The salary and qualifications  
7 of each administrator shall be determined by the human  
8 resources division. The director, with the advice of the  
9 respective administrators, may employ professional,  
10 technical and other assistants, along with other employees  
11 as may be necessary to carry out the purposes of this act.  
12 The governor may remove the director as provided in W.S.  
13 9-1-202.

14

15 **35-11-109. Powers and duties of director.**

16

17 (a) In addition to any other powers and duties  
18 imposed by law, the director of the department shall:

19

20 (xvi) Issue variance and exemptions for primary  
21 drinking water regulations pursuant to W.S. 35-11-1905;

22

23 (xvii) Designate authorized officers, employees  
24 or representatives to enter and inspect any public water

1 supply including the right to sample, whether or not the  
2 department has evidence that the system is in violation of  
3 any applicable legal requirement.

4  
5 **35-11-110. Powers of administrators of the divisions.**

6  
7 (a) The administrators of the air quality, land  
8 quality, ~~and~~ water quality, solid and hazardous waste  
9 management and drinking water divisions, under the control  
10 and supervision of the director, shall enforce and  
11 administer this act and the rules, regulations and  
12 standards promulgated hereunder. Each administrator shall  
13 have the following powers:

14  
15 (f) The administrator of the drinking water division  
16 shall enforce and administer the provisions of W.S.  
17 35-11-1901 through 35-11-1908. He shall have the powers set  
18 forth in subsection (a) of this section.

19  
20 **35-11-112. Powers and duties of the environmental**  
21 **quality council.**

22  
23 (a) The council shall act as the hearing examiner for  
24 the department and shall hear and determine all cases or



1 issues arising under the laws, rules, regulations,  
2 standards or orders issued or administered by the  
3 department or its air quality, land quality, solid and  
4 hazardous waste management, ~~or~~ water quality or drinking  
5 water divisions. Notwithstanding any other provision of  
6 this act, including this section, the council shall have no  
7 authority to promulgate rules or to hear or determine any  
8 case or issue arising under the laws, rules, regulations,  
9 standards or orders issued or administered by the  
10 industrial siting or abandoned mine land divisions of the  
11 department. The council shall:

12

13 **35-11-601. Applications; authority to grant; hearing;**  
14 **limitations; renewals; judicial review; emergencies.**

15

16 (s) Any application for a variance or exemption from  
17 the primary drinking water regulations shall be made solely  
18 under the provisions of W.S. 35-11-1905.

19

20 **Section 3.** W.S. 35-11-103(c)(xvii) and (xviii) is  
21 repealed.

22

23 **Section 4.** For the purposes of this act, there is  
24 appropriated from the general fund to the department of

1 environmental quality two hundred fifty thousand dollars  
2 (\$250,000.00). Three (3) additional full-time positions are  
3 authorized for the department of environmental quality for  
4 purposes of this act.

5

6 **Section 5.** This act is effective July 1, 2002.

7

8

(END)