

HOUSE BILL NO. HB0174

Safe drinking water act.

Sponsored by: Representative(s) Zwonitzer, Anderson, R., Buchanan, Hageman, Petersen and Samuelson and Senator(s) Anderson, J. and Geis

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

13

ARTICLE 19

14

SAFE DRINKING WATER

15

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

1

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

4

5 **35-11-1902. Coverage.**

6

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

9

10 **35-11-1903. Prohibited acts.**

11

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

19

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

22

23 (a) The administrator, after receiving public
24 comment, 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, 2005, demonstrate capacity
9 development capabilities by July 1, 2006, 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

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35-11-1905. Variances and exemptions.

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

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

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

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

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

(iii) Establish a compliance schedule for the 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 United States environmental protection
20 agency; or

21
22 (II) If it is determined by the United
23 States environmental protection agency that it is not
24 economically or technologically feasible to ascertain the

1 level of such contaminant, each treatment technique known
2 to the United States environmental protection agency that
3 leads to a reduction in the levels of the contaminant
4 sufficient to satisfy the requirements of the Wyoming Safe
5 Drinking Water Act; and

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

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

20
21 (vii) "Public water supply" means the system for
22 the provision to the public of piped water for human
23 consumption, if the system has at least fifteen (15)

1 service connections or regularly serves at least twenty-
2 five (25) individuals including:

3

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

8

9 (B) Any collection or pretreatment storage
10 facility not under such control which is used primarily in
11 connection with the system.

12

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

23

1 (ix) "Service connection" means the connection
2 between a public water supply and a customer that enables
3 the customer to receive potable water from the public water
4 supply;

5
6 (x) "Supplier of water" or "water supplier"
7 means any person who owns or operates a public water
8 supply.

9

10 **35-11-105. Divisions enumerated.**

11

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

14

15 (vii) Drinking water division.

16

17 **35-11-108. Appointment of director and division**
18 **administrators; qualifications of director; term; salaries;**
19 **employment of assistants.**

20

21 The governor with the advice and consent of the senate
22 shall appoint a director of the department who is the
23 department's executive and administrative head. The
24 director shall possess technical qualifications and

1 administrative and other experience sufficient to fulfill
2 the duties of his position. The director shall appoint
3 administrators for each of the divisions of abandoned mine
4 land, industrial siting, solid and hazardous waste
5 management, air quality, water quality, ~~and~~ land quality
6 and drinking water, who are the executive and
7 administrative heads of their respective divisions. The
8 administrators shall serve at the pleasure of the director
9 and are responsible to and under the control and
10 supervision of the director. The salary and qualifications
11 of each administrator shall be determined by the human
12 resources division. The director, with the advice of the
13 respective administrators, may employ professional,
14 technical and other assistants, along with other employees
15 as may be necessary to carry out the purposes of this act.
16 The governor may remove the director as provided in W.S.
17 9-1-202.

18

19 **35-11-109. Powers and duties of director.**

20

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

23

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

3
4 (xvii) Designate authorized officers, employees
5 or representatives to enter and inspect any public water
6 supply including the right to sample, whether or not the
7 department has evidence the system is in violation of any
8 applicable legal requirement.

9
10 **35-11-110. Powers of administrators of the divisions.**

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

19
20 (f) The administrator of the drinking water division
21 shall enforce and administer the provisions of W.S.
22 35-11-1901 through 35-11-1908. He shall have the powers
23 set forth in subsection (a) of this section.

24

1 **35-11-112. Powers and duties of the environmental**
2 **quality council.**

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

17
18 **35-11-601. Applications; authority to grant; hearing;**
19 **limitations; renewals; judicial review; emergencies.**

20
21 (s) Any application for a variance or exemption from
22 the primary drinking water regulations shall be made solely
23 under the provisions of W.S. 35-11-1905.

24

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

3

4 **Section 4.** There is appropriated from the general
5 fund to the department of environmental quality two hundred
6 fifty thousand dollars (\$250,000.00) for the purposes of
7 this act. There is authorized three (3) additional full-
8 time positions for the department of environmental quality
9 for the purpose of implementing this act.

10

11 **Section 5.** This act is effective July 1, 2005.

12

13

(END)