Rule revisions to R309-105 and R309-400

At the last Board meeting held on Friday July 8th in Vernal, staff presented three proposed rule changes relate to the Department of Natural Resources data collection efforts. The changes to the Division's rules were requirements assigned to the Division by House Bill 305 (a copy of the enrolled bill is attached). The Board directed staff to proceed with Rule making for all three proposed changes. On looking at the specific rule change associated with R309-105 and R309-400 staff determined that it was not totally consistent with the legislative bill language and/or consistent with the practices of the Division of Water Rights. Hence updated versions of these proposed rules have been prepared.

Staff Recommendation: Staff recommends that the Board authorize staff to proceed with the rule making process by filing the indicated changes with the State Division of Administrative Rules.

R309-105. Administration: General Responsibilities of Public Water Systems.

R309-105-15. [~~Annual~~] Report[~~s~~] Submittal.

[~~All community water systems shall be required to complete annual report forms furnished by the Division of Drinking Water. The information to be provided shall include: the status of all water system projects started during the previous year; water demands met by the system; problems experienced; and anticipated projects.~~]

(1) A public water shall submit water use data if required by a state agency and shall verify the accuracy of the data by including a certification by a certified operator or a professional engineer performing the duties of a certified operator.

Guidance: Utah Division of Water Rights requires certain water systems to submit an annual Utah Water Use Data Form.

(2) A public water system shall comply with the report submittal requirements of the R309 rules.

KEY: drinking water, watershed management
Date of Enactment or Last Substantive Amendment: [~~May 1, 2016~~]
Notice of Continuation: March 13, 2015
Authorizing, and Implemented or Interpreted Law: 19-4-104

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R309-400. Water System Rating Criteria.

R309-400-12. Reporting and Record Maintenance Issues.

Points may be assessed for failure to provide required reports to the Director by the reporting deadline. The points shall be assigned as the failure occurs and shall remain on record for a period of one year.

(1) Monthly Reports:

(a) For each failure to report the monthly water treatment plant report, 100 points shall be assessed.

(2) Quarterly Reports:

(a) For each failure to report the quarterly disinfection report, 50 points shall be assessed.

(3) Annual and Other Reports:

(a) [~~For failure to provide the annual report, 2 points shall be assessed.~~] A public water system that fails to submit water use data required by a state agency or fails to verify the accuracy of the data by including a certification by a certified operator or a professional engineer performing the duties of a certified operator shall be assessed 50 points.

(b) Community water systems that fail to send a certification to the Division stating how the consumer confidence report was distributed to its customers as required in R309-225-7(3), 10 points shall be assessed.

(c) Community water systems that fail to mail a copy of the consumer confidence report to the Division as required in R309-225-7(3), 10 points shall be assessed.

(d) A public water system that fails to submit operational reports or other reports required by the Division shall be assessed 20 points.

KEY: drinking water, environmental protection, water system rating, penalties
Date of Enactment or Last Substantive Amendment: [~~November 17, 2014~~]
Notice of Continuation: March 22, 2010
Authorizing, and Implemented or Interpreted Law: 19-4-104

R309-300. Certification Rules for Water Supply Operators.

R309-300-9. Certificate Suspension and Revocation Procedures.

1. The Secretary shall inform a certificate holder, in writing, if the certificate is being considered for suspension or revocation of an Operator's or Specialist's certificate. The communication shall state the reasons for considering such action and allow the individual an opportunity for a hearing.

2. Grounds for suspending or revoking an Operator's or a Specialist's certificate shall be any of the following:

(a) demonstrated disregard for the public health and safety;

(b) misrepresentation or falsification of figures and reports, or both, submitted to the State;

(c) cheating on a certification exam.

WATER RIGHTS AND RESOURCES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill deals with the accuracy of water use data.

Highlighted Provisions:

This bill:

- instructs the Drinking Water Board to require a certified water operator of a public water supplier, or professional engineer performing the duties of an operator, to verify the accuracy of water use and supply data submitted to the Division of Drinking Water;
- authorizes the Division of Water Rights to collect and validate water use data; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-4-104, as last amended by Laws of Utah 2012, Chapter 360

73-5-8, as last amended by Laws of Utah 2005, Chapter 215

73-10-18, as last amended by Laws of Utah 1969, Chapter 198

73-10-19, as last amended by Laws of Utah 1983, Chapter 318

73-10-20, as last amended by Laws of Utah 1977, Chapter 281

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30 *Be it enacted by the Legislature of the state of Utah:*
31 Section 1. Section **19-4-104** is amended to read:
32 **19-4-104. Powers of board.**
33 (1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah
34 Administrative Rulemaking Act:
35 (i) establishing standards that prescribe the maximum contaminant levels in any public
36 water system and provide for monitoring, record-keeping, and reporting of water quality related
37 matters;
38 (ii) governing design, construction, operation, and maintenance of public water
39 systems;
40 (iii) granting variances and exemptions to the requirements established under this
41 chapter that are not less stringent than those allowed under federal law;
42 (iv) protecting watersheds and water sources used for public water systems; and
43 (v) governing capacity development in compliance with Section 1420 of the federal
44 Safe Drinking Water Act, 42 U.S.C.[~~A.~~] Sec. 300f et seq.;
45 (b) The board may:
46 (i) order the director to:
47 (A) issue orders necessary to enforce the provisions of this chapter;
48 (B) enforce the orders by appropriate administrative and judicial proceedings; or
49 (C) institute judicial proceedings to secure compliance with this chapter;
50 (ii) (A) hold a hearing that is not an adjudicative proceeding relating to the
51 administration of this chapter; or
52 (B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;
53 or
54 (iii) request and accept financial assistance from other public agencies, private entities,
55 and the federal government to carry out the purposes of this chapter.
56 (c) The board shall:
57 (i) require the submission to the director of plans and specifications for construction of,

58 substantial addition to, or alteration of public water systems for review and approval by the
59 board before that action begins and require any modifications or impose any conditions that
60 may be necessary to carry out the purposes of this chapter;
61 (ii) advise, consult, cooperate with, provide technical assistance to, and enter into
62 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,
63 municipalities, local health departments, educational institutions, and others necessary to carry
64 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of
65 local jurisdictions;
66 (iii) develop and implement an emergency plan to protect the public when declining
67 drinking water quality or quantity creates a serious health risk and issue emergency orders if a
68 health risk is imminent; [~~and~~]
69 (iv) require a certified operator of a public water supplier to verify by signature and
70 certification number, or a professional engineer performing the duties of a certified water
71 operator to verify by signature and stamp, the accuracy of any data on water use and water
72 supply submitted by the public water supplier to the division; and
73 [~~(iv)~~] (v) meet the requirements of federal law related or pertaining to drinking water.
74 (2) (a) The board may adopt and enforce standards and establish fees for certification
75 of operators of any public water system.
76 (b) The board may not require certification of operators for a water system serving a
77 population of 800 or less except:
78 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking
79 Water Act, 42 U.S.C.[~~A.~~] Sec. 300f et seq.; and
80 (ii) for a system that is required to treat its drinking water.
81 (c) The certification program shall be funded from certification and renewal fees.
82 (3) Routine extensions or repairs of existing public water systems that comply with the
83 rules and do not alter the system's ability to provide an adequate supply of water are exempt
84 from the provisions of Subsection (1)(c)(i).
85 (4) (a) The board may adopt and enforce standards and establish fees for certification

86 of persons engaged in administering cross connection control programs or backflow prevention
87 assembly training, repair, and maintenance testing.
88 (b) The certification program shall be funded from certification and renewal fees.
89 (5) A board member may not speak or act for the board unless the board member is
90 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
91 Section 2. Section **73-5-8** is amended to read:
92 **73-5-8. Audits -- Reports by users to engineer.**
93 (1) The Division of Water Rights shall, in accordance with Title 63G, Chapter 3, Utah
94 Administrative Rulemaking Act, make rules specifying:
95 (a) what water use data a person shall report, pursuant to this section; and
96 (b) how the Division of Water Rights shall validate the data described in Subsection
97 (1)(a).
98 (2) The Division of Water Rights may collect and validate water use data.
99 (3) Every person using water from any river system or water source, when requested by
100 the state engineer, shall within 30 days after such request report to the state engineer in writing:
101 [~~(1)~~] (a) the nature of the use of any such water;
102 [~~(2)~~] (b) the area on which used;
103 [~~(3)~~] (c) the kind of crops to be grown; [~~and~~]
104 [~~(4)~~] (d) water elevations on wells or tunnels; and
105 (e) quantity of [~~underground~~] water used.
106 Section 3. Section **73-10-18** is amended to read:
107 **73-10-18. Division of Water Resources -- Creation -- Power and authority.**
108 (1) There is created the Division of Water Resources, which shall be within the
109 Department of Natural Resources under the administration and general supervision of the
110 executive director of natural resources and under the policy direction of the Board of Water
111 Resources.
112 (2) The Division of Water Resources shall:
113 (a) be the water [~~resource(s)~~] resource authority for the state [~~of Utah, shall~~]; and

114 (b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah
115 water and power board except those which are delegated to the board by this act and is vested
116 with such other functions, powers, duties, rights and responsibilities as provided in this act and
117 other law.
118 Section 4. Section **73-10-19** is amended to read:
119 **73-10-19. Director's power and authority.**
120 The director shall:
121 (1) be the executive and administrative head of the Division of Water Resources;
122 (2) [~~and shall be a person~~] be selected with special reference to [~~his~~] training,
123 experience, and interest in the field of water conservation and development[~~.~~];
124 [~~The director of the Division of Water Resources shall~~]
125 (3) administer the Division of Water Resources [~~and shall~~];
126 (4) succeed to all of the powers and duties conferred upon the executive secretary of
127 the Utah water and power board pursuant to Title 73, Chapter 10, Board of Water Resources -
128 Division of Water Resources[~~. The director shall~~]; and
129 (5) have the power, within [~~policies~~] rules established by the Board of Water
130 Resources, to:
131 [~~(1)~~] (a) make studies, investigations, and plans for the full development and utilization
132 and promotion of the water and power resources of the state, including preliminary surveys,
133 stream gauging, examinations, tests, and other estimates either separately or in consultation
134 with federal, state, and other agencies;
135 [~~(2)~~] (b) initiate and conduct water resource investigations, surveys and studies,
136 prepare plans and estimates, make reports thereon, and perform necessary work to develop an
137 over-all state water plan;
138 [~~(3)~~] (c) file applications in the name of the division for the appropriation of water[~~.~~
139 ~~All pending water applications heretofore filed in behalf of the state or any agency thereof for~~
140 ~~the use and benefit of the state are transferred to the board, and it is authorized to take such~~
141 ~~action thereon as it may deem proper~~];

142 [~~(4)~~] (d) take all action necessary to acquire or perfect water rights for projects
143 sponsored by the board; and
144 [~~(5)~~] (e) accept, execute, and deliver deeds and all other conveyances.
145 Section 5. Section **73-10-20** is amended to read:
146 **73-10-20. Loans for water systems -- Legislative declaration -- Authority of**
147 **Division of Water Resources to audit water data.**
148 The Legislature recognizes and declares that:
149 (1) the development, protection, and maintenance of adequate and safe water supplies
150 for human consumption is vital to public health, safety, and welfare;
151 (2) [~~that~~] there exists within the state a need to assist cities, towns, improvement
152 districts, and special service districts in providing an adequate and safe water supply for those
153 users from municipal and district systems; and
154 (3) [~~that~~] the acquisition or construction of systems and the improvement and extension
155 of existing systems, based on proper planning and sound engineering, will not only provide
156 safer water supplies, but will also serve to ensure that the water resources of the state are used
157 in an efficient manner and will avoid wasteful practices.