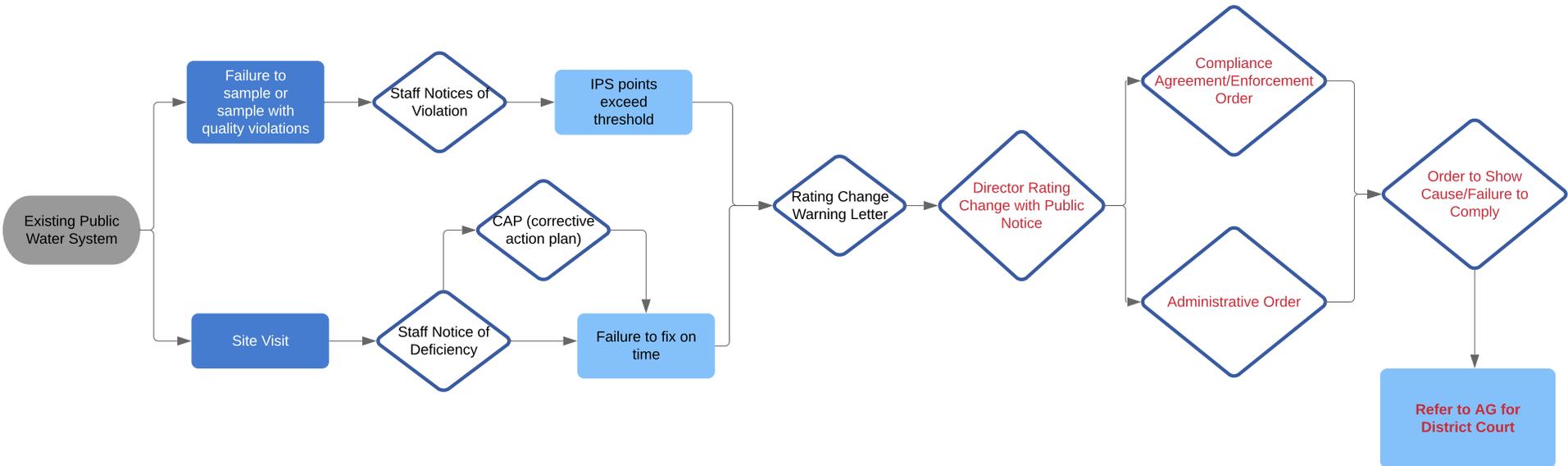


DDW Enforcement Workflow

November 2018

Informal Enforcement

Formal Enforcement



Effective 7/21/2018

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;
- (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 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) 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, and regulations of local jurisdictions;

(iii) 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;

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

(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).
- (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)(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:
 - (i) other types of water use data required to be collected in addition to that listed in Subsection (6)(a); and
 - (ii) alternative methods for calculating the water use data listed in Subsection (6)(a).

Repealed and Re-enacted by Chapter 5, 2018 Special Session 2

19-4-107 Notice of violation of rule or order -- Action by attorney general.

(1) Upon discovery of any violation of a rule or order of the board, the board or the director shall promptly notify the supplier of the violation, state the nature of the violation, and issue an order requiring correction of that violation or the filing of a request for variance or exemption by a specific date.

(2) The attorney general shall, upon request of the director, commence an action for an injunction or other relief relative to the order.

Amended by Chapter 360, 2012 General Session

19-4-109 Violations -- Penalties -- Reimbursement for expenses.

(1) Any person that violates any rule or order made or issued pursuant to this chapter is subject to a civil penalty of not more than \$1,000 per day for each day of violation. The board may assess and make a demand for payment of a penalty under this section by directing the director to issue a notice of agency action under Title 63G, Chapter 4, Administrative Procedures Act.

(2)

(a) Any person that willfully violates any rule or order made or issued pursuant to this chapter, or that willfully fails to take any corrective action required by such an order, is guilty of a class B misdemeanor and subject to a fine of not more than \$5,000 per day for each day of violation.

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than \$5,000 per day for each day of violation.

(3)

(a) Except as provided in Subsection (3)(b), all penalties assessed and collected under the authority of this section shall be deposited in the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules that:

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

Amended by Chapter 360, 2012 General Session