R309-400. Improvement Priority System and Public Water System Ratings.

# R309-400-1. Purpose.

The purpose of this rule is to establish the Improvement Priority System used by the division to assign compliance ratings to public water systems and to prioritize enforcement action based on points assessed for noncompliance with drinking water rules.

# R309-400-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104, of the Utah Code and in accordance with 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

# R309-400-3. Definitions.

“Improvement Priority System (IPS)” is a point system used by the division to evaluate a public water system’s performance and compliance with the drinking water rules in Title 309, *Environmental Quality, Drinking Water.*

“Public Water System Rating” is assigned to a public water system by the director to characterize the water system’s compliance with drinking water rules and overall operation and performance.

# R309-400-4. Improvement Priority System – Assessment of Points.

1. The division shall:
2. maintain and make public an improvement priority system (IPS) program that includes:
	1. a table specifying the number of points associated with each instance of noncompliance with a drinking water rule requirement and noncompliance with a directive or order issued by the director, and
	2. the point thresholds for assigning an Approved or Not Approved rating to each type of public water system; and
3. obtain approval from the Drinking Water Board for substantive revisions to the IPS program.
4. The division incorporates by reference the IPS program dated August 27, 2019.
5. Implementation of the IPS program approved by Drinking Water Board starts on January 1, 2020.
6. The director may assess points to a public water system and take enforcement action in accordance with the implementation policy and the table of points based on:
7. noncompliance with Title R309 of the Utah Administrative Code;
8. noncompliance with a directive or order issued by the director; or
9. operational practices or performance that may result in a threat to public health.

# R309-400-5. Public Water System Ratings.

1. The director may assign a rating to a public water system of:
2. Approved based on the total number of points assessed for noncompliance;
3. Not Approved based on:
4. the total number of points assessed for noncompliance, or
5. an immediate public health threat; or
6. Corrective Action based on a current, written agreement with the division to resolve underlying noncompliance according to a compliance schedule.
7. A public water system shall maintain an Approved rating.
8. A public water system with a Not Approved rating shall:
9. take immediate action to resolve the noncompliance that resulted in the Not Approved rating; or
10. enter into a written agreement with the division to resolve the noncompliance that resulted in the Not Approved rating according to a compliance schedule.

# R309-400-6. Administrative Appeals.

1. The assessment of points does not constitute a permit order per R305-7-102(1)(l) and may not be appealed pursuant to R305-7.
2. The assignment of a rating to a public water system constitutes an initial order per R305-7-102(1)(g) and may be appealed by submitting, filing, and serving a written Request for Agency Action pursuant to R305-7-303 within 30 days of the date of the order issued by the director.

**KEY: drinking water, environmental protection, penalties**

**Date of Enactment or Last Substantive Amendment: November 8, 2019**

**Notice of Continuation: March 13, 2015**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

**Utah Division of Drinking Water**

**Improvement Priority System (IPS) Program**

**I. Introduction**

The Improvement Priority System (IPS) program is used by the Division of Drinking Water (the Division) to evaluate public water system compliance with Title R309 of the Utah Administrative Code, and to prioritize noncompliance for enforcement action. Under IPS, the Division assesses points for noncompliance or public health risk and assigns ratings to public water systems.

Three documents affect how the Division implements the IPS program:

**IPS Program**

The IPS program, which is this document, identifies the points associated with noncompliance and the point thresholds for assigning public water system ratings. Substantive changes to the IPS program must be approved by the Drinking Water Board.

**Utah Administrative Code R309-400, Improvement Priority System and Public Water System Ratings**

The IPS rule establishes the IPS program, the Division’s and the Director’s authority, and a public water system’s responsibility. Changes to the rule must go through the official rulemaking process. The Division plans to revise R309-400 in 2019. The implementation of the revised R309-400 starts January 1, 2020.

**IPS Implementation Standard Operating Procedure (SOP)**

The IPS SOP outlines the Division’s internal procedures for implementing the IPS program. The SOP may be modified as needed by the Division.

**II. Assessment of Points**

1. The Division will assess points based on noncompliance with Title R309 of the Utah Administrative Code, noncompliance with a directive or order issued by the director, or operational practices or performance that may result in a threat to public health.
2. In general, the Points assessed for each category of health threat are as follows:
3. Low health risk – 5 points
4. Minor potential to cause harm – 15 points
5. Moderate potential to cause harm; chronic monitoring violations – 25 points
6. Significant potential to cause harm – 50 points
7. Acute monitoring violations – 100 points
8. Imminent health threat (automatic not-approved status) – 200 Points
9. **Appendix A** of the IPS program contains a table specifying the number of points associated with each instance of noncompliance with a drinking water rule requirement and noncompliance with a directive or order issued by the Director.
10. **Appendix B** of the IPS program contains a table specifying the number of points associated with each instance of noncompliance with a drinking water rule requirement when a violation is issued.
11. The Division may remove points when a water system submits written documentation of correction of a deficiency and/or violation with supporting evidence or when the noncompliance is resolved. In some cases, a site inspection by the Division staff may be required.

**III. Public Water System Rating Thresholds**

1. The Division will rate a public water system based on the point thresholds shown below or based on a written agreement with the Director.
2. The point thresholds for rating a public water system as Approved or Not Approved are different for each type of water system and are given below:
* Community Water System – 150 points
* Non-transient Non-community Water System – 120 points
* Transient Non-community Water System – 100 points
1. The Division will assign Ratings to water systems in accordance with R309-400 as follows:
* **Approved** – the total number of points is below the point threshold
* **Not Approved** – the total number of points is equal to or greater than the point threshold or the Director finds a threat to public health
* **Corrective Action** – a water system has entered into a written agreement with the Director to resolve its deficiencies according to a compliance schedule

**IV. Changes to the IPS Program**

1. Substantive changes to the IPS program must be reviewed and approved by the Drinking Water Board.
2. The Division may make non-substantive changes to the IPS Program.

**Date of Approval by Drinking Water Board:** August 27, 2019

Appendix A

Utah Division of Drinking Water R309-400 Rule - IPS Program Deficiency Points Table























Appendix B

Utah Division of Drinking Water R309-400 − IPS Program Violation Points Table



