

Key to Proposed Revisions to R309-500, *Facility Design and Operation: Plan Review, Operation and Maintenance Requirements*.

R309-500-1. Purpose.

Delete the word “general” from the phrase “general public health” because it is superfluous.

R309-500-2. Authority.

Correct the reference to the Administrative Rulemaking Act, which is Utah Code 63G not 63-46a.

R309-500-3. Definitions.

No changes.

R309-500-4. General.

(1) Construction and Operation of New Facilities.

Change the title of Subsection (1) from “Construction and Operation of New Facilities” to “Construction of New Facilities and Modification of Existing Facilities” to accurately reflect the types of facilities covered.

Add letter designations (a through d) to the individual paragraphs of Subsection (1) for reading ease and to permit specific reference to the individual requirements contained in the paragraphs.

New Paragraph (a): Delete the reference to Utah Code 19-4-106(3) authorizing the Director to review plans. Since that section of the Utah Code gives the Director this authority, it is unnecessary to repeat it and the citation in the rule. Add language to clarify that plans and specifications for new facilities and unapproved existing facilities must be submitted to the Director for review. State explicitly that the Director will review plans and specifications for conformance to rules R309-500 through R309-550. State that plans and specifications must come from a public water system or its agent.

Delete the statement that requires plans and specifications and a business plan as required by R309-800-5 to be submitted to the Director. The requirement to submit plans and specifications is repetitive since it is required by the previous paragraph. The requirement to submit a business plan is redundant because it is already required by rule R309-800-5.

Delete the description of when an exception to a drinking water rule may be granted and replace it with new paragraph (b), which refers to rule R309-105-6(2)(b), which explains the circumstances under which an exception to a rule may be granted.

New Paragraph (c): Rephrase the prohibition against beginning construction unless the Director has issued Plan Approval or a Plan Submittal Waiver.

New Paragraph (d): Delete the word “furthermore” as superfluous and rephrase the prohibition against operating new facilities without an Operating Permit or Plan Submittal Waiver.

(2) Existing Facilities.

Change the title of Subsection (2) from “Existing Facilities” to “Minimum Quantity and Quality Requirements for Existing Facilities” to specifically reflect the subject of the subsection.

Rephrase the requirement that public water systems meet current drinking water minimum quantity and quality requirements.

In the DDW version of the rule, delete the guidance paragraph from Subsection (2). The guidance is unnecessary because it repeats what is already established by regulations. Water systems are required by regulation to meet current design and operation standards. R309-150, *Water System Rating Criteria*, stands on its own.

(3) Operation and Maintenance of Existing Facilities.

Change the title of Subsection (3) from “Operation and Maintenance of Existing Facilities” to “Operation and Maintenance” because the operation and maintenance requirements apply to new facilities and existing facilities.

Revise the language of Subsection (3) for clarity and grammatical improvements; no changes are made to the substance.

In the DDW version of the rule, delete the guidance paragraph from Subsection (3). The guidance reiterates requirements found in other regulations.

R309-500-5. Public Drinking Water Project.

(1) Definition.

In the introductory sentence of Subsection (1), make wording changes and capitalize words for consistency throughout the rule.

Paragraph (a): Delete repetitive references to the Director’s authority to approve plans.

Paragraph (b): Replace “which” with “that.”

Paragraph (c): Replace “which” with “that” and add “may” to clarify that the water projects listed are only examples.

Paragraph (c)(ii): Delete the quotation marks around “in-situ.”

Paragraph (c)(iii): Revise the language to broaden the category of water treatment projects that must receive Plan Approval. The current language requires Plan Approval for changes in the use

of primary coagulant water treatment chemicals; the revised language requires Plan Approval for changes of any water treatment process.

In the DDW version of the rule, delete the guidance paragraph that pertains to primary treatment coagulants, which is no longer the focus of paragraph (c)(iii).

Paragraphs (c)(iv) and (v): Separate the two examples included in the current paragraph (iv) into two separate paragraphs, (iv) and (v). Also add deepening a well to the new paragraph (v) as an example of a public drinking water project that needs plan approval.

(2) On-going Operation and Maintenance Procedures.

In the introduction to Subsection (2), delete the words “operation and maintenance” from the second sentence because they are repetitive and redundant. Add “design, construction” to the description that characterizes the requirements of R309-500 through R309-550. Delete the reference to ANSI/AWWA standards for disinfection so that R309-500 will not have to be revised each time an ANSI/AWWA standard changes.

R309-500-6. Plan Approval Procedure.

In the DDW version of the rule, delete the guidance related to the submittal of plans and specifications. The guidance includes suggestions related to plans and specifications that either are or will become requirements in the revised rule. These include the requirement that plans be submitted by “the public water system or its agent” in R309-500-4(1)(a), that plans be final and complete enough for actual construction in R309-500-6(2)(c), that additional information may be required in R309-500-6(2)(b), and that plans be stamped and signed by a Utah PE in R309-500-6(2)(e).

(1) Project Notification.

In Subsection (1) the itemized list of information required in the project notification is deleted and replaced by the requirement that notification be made “on a form provided by the Division.” This eliminates the need to list every item required to be included in project notification and the necessity of revising the rule every time something is added or deleted from the list.

In the DDW version of R309-500-6, Subsection (1), remove the guidance related to the regulation of some water systems by the Utah Public Service Commission and insert it in rule R309-100-4(1), which defines public water systems and is a more appropriate location for the guidance.

Also in the DDW version of R309-500-6, Subsection (1), add guidance that alerts new public water systems to submit a New Public Water System Supplemental Form to the Director.

(2) Pre-Construction Requirements.

In the introductory sentence to Subsection (2), replace “commences” with “begins,” which is simpler.

Paragraph (a): Delete the requirement for “contract documents” to be submitted to the Division. Only plans and specifications are required to be submitted. Also, delete the language exempting systems eligible for Plan Submittal Waivers from submitting plans and specifications because it is redundant. A Plan Submittal Waiver means that plans and specifications do not have to be submitted.

In the DDW version of the rule, move the guidance that was under proposed paragraph (b) to under paragraph (a), where it more logically belongs. The guidance lets public water systems and consultants know that complicated projects may require more than 30 days of review time by DDW and make it a suggestion that plans be submitted early instead of a requirement because it is in guidance.

New Paragraph (b): Revise the list of potential documents that may be required for approval of drinking water projects and make clear that the list is not exhaustive but only includes examples.

New Paragraph (c): Delete redundant requirements that plans be submitted for every public water system project and shall conform to R309-500 through R309-550, both of which are required by other sections of the rule. Explicitly state that plans and specifications have to be “complete” and “for actual construction” to discourage the submittal of incomplete or draft plans for review. Remove the outdated reference to document storage and microfilming. Add that profile drawings may be required when problems with water line conflicts or clearances may occur.

New Paragraph (d): Change “which” to “that” and “shall” to “will.” Also delete the maximum and minimum size restrictions for plans.

New Paragraph (e): Change “in accordance with” to “as required by,” which cites the Utah Code that requires plans and specifications to be stamped and signed by a PE.

In the DDW version of the rule, delete a lengthy guidance related to the requirement that plans be prepared and sealed by a professional engineer and that explains the Plan Submittal Waiver requirements. Both requirements are adequately explained in the rules themselves.

New Paragraph (f): Delete another repetitive requirement that plans and specifications meet R309-500 through R309-550 and that Plan Approval be obtained prior to construction of drinking water projects.

Former Paragraph (e): Delete former paragraph (e), which repeats what is stated elsewhere, that the Director may grant exceptions to rules.

Former Paragraph (f): Delete former paragraph (f), which states that the Director may approve “novel equipment or treatment techniques” not specifically addressed by the rules provided that they protect public health and are as reliable as those permitted by the rules. This is just another restatement of the conditions that must be met for the Director to grant an exception to a rule. Rule R309-105-6(2)(b) already explains the circumstances under which an exception to a rule may be granted.

(3) Waiving of Plan Submittal Requirement.

Completely replace Subsection (3), *Waiving of Plan Submittal Requirement*, with two new Subsections: (3), *Eligibility for Plan Submittal Waivers*, and (4), *Using Plan Submittal Waivers*. The two new subsections are an attempt to more clearly explain the Plan Submittal Waiver process used by the division and thereby encourage wider use of the waivers by public water systems. The only change proposed for the Plan Submittal Waiver program is that projects that obtain Plan Submittal Waivers will no longer be required to obtain Operating Permits. Instead, the PE responsible for the project or for the water system will simply certify that certain requirements have been met prior to placing the new facilities into service. The division has drafted a standard form to be used for the certification.

To the DDW version of the rule, add guidance stating that the certification template to be used for Plan Submittal Waivers instead of submitting an Operating Permit request is available from DDW.

R309-500-7. Inspection during Construction.

Make a minor correction to the section title by changing the “d” in during from upper case to lower case.

Add the Department of Environmental Quality to the list of agencies authorized to make site visits to assess compliance with drinking water rules.

In the DDW version of the rule, delete the guidance paragraph recommending full-time inspection of construction activities. The section pertains to construction inspection by regulators not by water systems.

R309-500-8. Change Orders.

Make minor changes to the language for clarification.

R309-500-9. Issuance of Operating Permit.

Revise the title of this section from “Issuance of Operating Permit” to “Operating Permit,” which is more concise.

In the introductory paragraph, replace “used” with “placed into service” concerning new or modified facilities. Because the proposed waiver language no longer requires an Operating Permit for facilities that receive a Plan Submittal Waiver, the language was modified to reflect this fact. “This” was changed to “the” and “Operating Permit” was capitalized for consistency. “Pressure reducing stations” was deleted because they will no longer be excluded from Plan Submittal Waivers.

Paragraph (1): The language was rearranged to bring the subject of the paragraph, “Certification of Rule Conformance,” to the beginning. The term was also capitalized. The Certification of Rule Conformance was expanded to include not only Plan Approval but any changes made during construction.

Paragraph (2): “Or” was added between “as-built” and “record” drawings to indicate that they are not equivalent and that either is acceptable. A phrase was added to indicate that all changes made to the approved plans during construction must be recorded on the as-built or record drawings.

Paragraph (3): “Or” was added between “as-built” and “record” drawings to indicate that they are not equivalent and that either is acceptable.

Paragraph (5): A comma was added to the end of paragraph (5) for formatting consistency.

In the DDW version of the rule, the guidance paragraph was revised. The original guidance recommended sampling for volatile organic chemicals after water storage tanks are painted. The new guidance is broader and alerts water systems that water quality data will be required as evidence of effective performance for new and modified water treatment plants.

Former Paragraph (6): Delete paragraph (6) that requires an engineer to certify that changes made during construction conform to drinking water rules because this provision was added to paragraph (1).

New Paragraph (6): Former paragraph (7) was renumbered because paragraph (6) was deleted.

New Paragraph (7): Former paragraph (8) was renumbered because paragraph (6) was deleted. Also “if applicable” was added to the requirement that an operation and maintenance manual be provided to the owner because one is not always needed.

R309-500-10. Adequacy of Wastewater Disposal.

The title was revised from “Adequacy of Wastewater Disposal” to “Waste and Wastewater Disposal” to reflect the proposed changes for the section.

The current section restricts the Director from approving plans and specifications for new water systems and additions to subdivisions to those projects where wastewater disposal has been approved by the Division of Water Quality or the local health agency. The proposed revisions indicate that Plan Approval for drinking water projects may require evidence that waste and wastewater disposal from drinking water facilities or construction activities has been obtained from other authorities.

R309-500-11. Financial Viability.

This section is deleted because financial viability is addressed in R309-800, *Capacity Development Program*.

R309-500-12. Fee Schedule.

This section is renumbered because Section R309-500-11 was deleted.

The language is altered to indicate that the Division may charge a fee “related to” the review of plans and specifications instead of “for” plans and specifications. This change is proposed in anticipation of approval of a penalty provision for water facilities constructed without Plan Approval. The penalty is more accurately “related” to Plan Approval than “for” Plan Approval.

Also, in the DDW version of the rule the current guidance pertains to fees that the division charges for things not related to plan approval. New guidance language is proposed that directly addresses the possibility of a penalty in State Fiscal Year 2016 for constructing facilities without Plan Approval.

R309-500-13. Other Permits.

The section is renumbered because R309-500-11 was deleted.

The language was expanded to indicate that jurisdictions other than the Division of Drinking Water have authority for drinking water projects and that other approvals may be needed before construction or operation of drinking water facilities may begin.

R309-500-14. Reference Documents.

This section is deleted because of the availability of information on the internet. Therefore a statement that rule references are available at the division’s office is outmoded.

R309-500-15. Violation of These Rules.

This section is deleted because penalties for violation of the rules are established in the Utah Code, and it is unnecessary to repeat that reference in the rule.

In the DDW version of the rule, the guidance paragraph related to compliance with Utah Occupational Safety and Health Administration is deleted because the section itself will be deleted.

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