

# **Utah Division of Drinking Water Policy for Implementation of a Fee for Construction without Plan Approval**

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This policy is to assure that the Division of Drinking Water (DDW) implements and assesses the fees for construction without Plan Approval consistently while providing clear guidance to Public Water Systems (PWS).

DDW has been authorized to assess a fee of \$1,000 for construction without Plan Approval of each Public Drinking Water Project to recover the cost related to staff time spent for after-the-fact reviews since July 1, 2015. To avoid this fee, a PWS must:

- Submit plans and specifications to DDW, and
- Obtain Plan Approval (per R309-500-6) or obtain Approval of Standard Installation Drawings and Specifications for Water Transmission and Distribution Lines (per R309-500-7) prior to starting construction.

Failure to do so may result in a fee assessment of \$1,000 per project by DDW.

## **I. Background**

R309-500-4 requires a “Public Drinking Water Project” to obtain Plan Approval or Approval of Standard Installation Drawings and Specifications issued by the DDW Director (the Director) prior to the start of construction.

A Public Drinking Water Project is any of the following [R309-500-5(1)]:

- (a) Construction of, addition to, or modification of a public drinking water facility that may affect the quality or quantity of water delivered
- (b) Any activity that may affect the quality or quantity of water delivered by an existing public drinking water system including:
  - (i) the interior re-coating or re-lining of any raw or drinking water storage tank, or water storage chamber within any treatment facility,
  - (ii) the in-situ re-lining of any pipeline,
  - (iii) a change or addition of a water treatment process,
  - (iv) the re-development of any spring or well source,
  - (v) replacement of a well pump with one of different capacity,
  - (vi) deepening a well,
  - (vii) well rehabilitation or cleaning using a chemical other than a disinfectant previously approved for drinking water use, and
  - (viii) replacement of pipeline not due to on-going operation and maintenance.

## **II. Implementation of Fee Assessment for Public Drinking Water Projects Constructed without Plan Approval**

### **1. New Construction after March 15, 2019**

Starting March 15, 2019, DDW will assess a fee of \$1,000 to a PWS for each Public Drinking Water Project that **starts construction without one of the following required approvals:**

- **Plan Approval** (per R309-500-6)
- **Approval of Standard Installation Drawings and Specifications for Water Transmission and Distribution Lines** (per R309-500-7)

### **2. Construction prior to March 15, 2019**

Public Drinking Water Projects that were constructed or completed before March 15, 2019, without the required approval (identified above) will be assessed a fee of \$1,000 for each project. To avoid being assessed this fee, a PWS must:

- **Report such projects to the DDW, and**
- **Submit the information necessary to DDW and obtain after-the-fact Plan Approval and/or Operating Permit by March 15, 2019.**

### **3. IPS Deficiency Points**

- a. A PWS that constructs or has constructed Public Drinking Water Projects without first obtaining the required approval (identified above) will be assessed the following Improvement Priority System (IPS) deficiency points:
  - 50 points — constructing (or using) an unapproved drinking water facility
  - 200 points — constructing (or using) an unapproved drinking water source
- b. The deficiency points will remain in the DDW database until the PWS obtains an Operating Permit for each project.
- c. Assessing IPS deficiency points is done independent of assessing fees.

## **III. Projects with Estimated Cost at \$10,000 or Less**

1. A Public Drinking Water Project with an estimated construction cost of \$10,000 or less that has been constructed without the required approval may be assessed a smaller fee based on cost recovery of staff time spent for after-the-fact plan review.
2. The requirements of submitting plans and specifications to obtain Plan Approval prior to construction still apply. IPS deficiency points will be assessed to the PWS for lacking plan approval for projects costing \$10,000 or less.

#### **IV. Facilities and Sources Constructed Prior to Classification as a Public Water System**

1. DDW may choose not to assess fees for pre-existing facilities and sources constructed by an entity or water provider that did not meet the definition of a PWS at the time of construction but subsequently became a PWS. In other words, the pre-existing facilities were constructed when the water provider served fewer than 25 individuals and fewer than 15 service connections.
2. Once such water system becomes a regulated PWS, the PWS must obtain the required plan approval prior to the start of construction of any new Public Drinking Water Project or the PWS will be assessed a fee of \$1,000 per project.
3. The requirements of submitting plans and specifications for after-the-fact review of the pre-existing facilities still apply. IPS deficiency points for lacking plan approval will be assessed to the PWS accordingly until the issuance of an Operating Permit for the entire PWS.

#### **V. Written Notice of Penalty Assessment**

1. In accordance with II.1 and II.2 of this policy, DDW will send a written notice of fee assessment to each PWS that has constructed or began construction of a Public Drinking Water Project without obtaining the required approval.
2. Each PWS will have 30 days from the date of the DDW notice to pay the fee either online, by check or money order. Checks and money orders should be made payable to the Utah Division of Drinking Water.
3. A PWS that receives written notice of a fee assessment for construction without obtaining prior plan approval has 30 days from the date of the notice to notify DDW of its wish to challenge the fee assessment.

#### **VI. Challenge to Fee Assessment**

1. The challenge must be in writing, be addressed to the DDW Director, set forth the justification why the fee should not be assessed, and be received by DDW within 30 days from the date of the fee assessment notice.
2. The Director will respond to a fee assessment challenge in writing with a final decision. If the fee assessment is upheld, the PWS will have 30 days from the date of the Director's decision to pay the fee to DDW.

## **VII. Operation and Maintenance Projects that Do Not Require Plan Approval**

1. Public Drinking Water Projects do not include on-going operation and maintenance projects. The on-going operation and maintenance projects do not require DDW approval. **DDW does not assess fees for ongoing operation and maintenance procedures.**
2. The following activities are considered on-going operation and maintenance procedures [R309-500-5(2)]:
  - (a) pipeline leak repair,
  - (b) replacement of deteriorated pipeline where the new pipeline segment is the same size as the old pipeline or the new segment is upgraded to meet the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3),
  - (c) tapping existing water mains with corporation stops to make connection to new service laterals to individual structures,
  - (d) distribution pipeline additions where the pipeline size is the same as the main supplying the addition or the pipeline addition meets the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3), the length is less than 500 feet, and contiguous segments of new pipe total less than 1,000 feet in any fiscal year,
  - (e) entry into a drinking water storage facility for the purposes of inspection, cleaning and maintenance,
  - (f) replacement of equipment or pipeline appurtenances with the same type, size and rated capacity (fire hydrants, valves, pressure regulators, meters, service laterals, chemical feeders and booster pumps including deep well pumps), and
  - (g) mechanical well rehabilitation or cleaning using a disinfectant previously approved for drinking water use.

## **VIII. Contact**

DDW contacts for questions or assistance related to this policy:

- Nathan Lunstad — (385) 239-5974, [nlunstad@utah.gov](mailto:nlunstad@utah.gov)
- Bernie Clark — (801) 536-0092, [bernieclark@utah.gov](mailto:bernieclark@utah.gov)
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