

R309. Environmental Quality, Drinking Water.

R309-100. Administration: Drinking Water Program. R309-100-

1. Purpose.

The purpose of this rule is to set forth the water quality and drinking water standards for public water systems in the state of Utah.

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R309-100-4 Public Water Systems, General Requirements. R309-100-5 Prospective Public Water Systems; Coordination with Land Use Authorities.

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R309-100-2. 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 Section 63G-3 of the same, known as the Utah Administrative Rulemaking Act.

R309-100-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-100-4. Public Water Systems, General Requirements.

These rules shall apply to all public drinking water systems within the State of Utah.

(1) A Pursuant to the Utah Safe Drinking Water Act, "public drinking water system is" means a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which that:

(a) Has has at least 15 service connections,; or
(i) Delivery of drinking water, such as by a single well, to a portion of a platted subdivision or a portion of a contiguous development, either of which is under the same ownership or control, shall be considered a single public drinking water system; and (ii) A platted subdivision or other contiguous development of 15 or more lots, under the same ownership or control, is considered to have the corresponding number of connections as there are lots; or

(b) Serves serves an average of at least 25 individuals daily for at least 60 days out of the year.

(i) A ratio of 3.13 persons per connection shall be used to calculate the individuals served unless, at the time of operation, more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census.

(ii) Notwithstanding the threshold for the number of service connections set forth in (a), a drinking water system consisting of at least 8 service connections is considered to serve 25 people, based on the ratio in (b) (i), and consequently is classified as a public drinking water system, unless, at the time of operation, more accurate data can be used.

(iii) The ratio in (b) (i) is only be used to determine whether, prior to construction or modification, any particular water system is considered to be a public water system.

(c) Any person or entity may request a review of the designation of a public water system by submitting documentation to the Director showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above.

All decisions made by the Director under this provision may be challenged as provided in Section 19-1-301.5 and R305-7.

(2) Submetered Properties.

(a) Submetered Properties means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system.

(b) A property owner who installs submeters to track usage of water by tenants on his or her property shall not be subject to these rules solely as a result of taking the administrative act of submetering and billing.

(c) Owners of submetered properties shall receive all their water from a regulated public water system to qualify under the terms of R309-105-5 for exemption from monitoring requirements, except as to the selling of water.

(d) This is not intended to exempt systems where the property in question has a large distribution system (piping in excess of 500 feet in length and sized larger than the normal service lateral based on a fixture unit analysis) serves a large population or serves a mixed (commercial/residential) population (e.g. many military installations/facilities or large mobile home parks or P.U.D's) from regulation as a public drinking water system as pertains to notifying the Division of the persons indicated below in (5) or plan review of modifications or changes to their systems (refer to R309-500).

(3) The term public drinking water system includes(2) Pursuant to the Utah Safe Drinking Water Act, "public water system" also includes:

(a) a collection, treatment, storage, or distribution facilitiesfacility under the control of the operator and used primarily in connection with the system. Additionally, the term includes; and

(b) a collection, pretreatment, or storage facilities facility used primarily in connection with the system but not under such the operator's control (see 19-.

(3) Any platted subdivision or other contiguous development developed under the same ownership or control will be considered to be a single system for purposes of calculating the number of connections or population, regardless of the timing of construction or occupancy.

(4-102 of the Utah) For purposes of calculating population, there is a rebuttable presumption that each residential service connection serves 3.16 persons. This presumption is based on the statewide average persons per residence based on U.S. Census Bureau data. Therefore, a drinking water system having 8 or more service connections is presumed to serve 25 people and, as a result, is classified as a public water system. This presumption may be rebutted by valid evidence submitted by the system owner or operator.

(5) For purposes of calculating population, there is a rebuttable presumption that each discrete recreational vehicle camp site that has a drinking water connection serves an average of [X] persons at least 60 days of the year. This presumption is based upon RV campground occupancy data provided by industry sources.

(6) For purposes of calculating population for campgrounds that serve drinking water, the Director may rely on campground occupancy data provided by the U.S. Forest Service, the Utah Department of Parks and Recreation, and other reliable sources. Based on such data, the Director may create guidance establishing a reasonable basis to calculate population for campground recreational uses.

(7) Section 1447a of the federal Safe Drinking Water Act, codified at 42 U.S.C. § 300j-6, provides, in substance, that where a state has achieved enforcement primacy under the federal act, then federal agencies are subject to the jurisdiction of the relevant state agency. In directing federal facilities to be subject to and to comply with all state requirements "in the same manner, and

to the same extent, as any non-governmental entity," the explicit language of the U.S. Code Annotated).provision cited above demonstrates Congressional intent that federal facilities be treated as any other public water system covered by the federal act and, in turn, the Utah Safe Drinking Water Act. As a result, all federally-controlled public water systems in Utah are subject to the jurisdiction of the Board and its rules in the same manner and to the same extent as any other public system in the state.

(4) Categories of Public Drinking Water Systems

Public (8) The owner or operator of each public water system shall designate and maintain at all times a person who is responsible for the system. The name, address, and phone number of the designated, responsible person shall be provided to the Director. A designated, responsible person may not resign unless a replacement is named. Public water systems shall ensure that the designated, responsible person's identity and contact information is current and valid at all times.

(9) Any public water system owner, operator, or user may request a review of the Director's findings and conclusions regarding the legal status of any given system in accordance with section 19-6-301 and R305-7.

R309-100-5. Prospective Public Water Systems; Coordination with Land Use Authorities.

- (1) Whenever any person submits a land use application to any land use authority wherein such proposed development, when fully constructed as planned and approved, is reasonably anticipated to qualify as a public water system, then such person will be deemed to have submitted to the jurisdiction of the Board's rules and such system will be treated as a prospective public water system.
- (2) The Director shall assert jurisdiction over all prospective public water systems to the same extent as any active public water system, except that routine sampling and monitoring

requirements will not be imposed until after a prospective public water system is serving the minimum population or has the minimum number of connections as stated in the definition of public water system. Engineering plan review, drinking water source requirements (including source protection), will apply to all prospective public water systems from the outset of development.

(3) All prospective public water systems shall apply to the Director for, and enter into or otherwise become subject to, an order from the Director that governs how such prospective public water system will be regulated.

(4) The Board requests that land use authorities and local health departments refrain from issuing authorizations, such as building permits, occupancy permits, or business licenses, for projects involving a prospective drinking water system until the Director has entered an order relating to such system as provided in subsection (3). The Board also requests that land use authorities and local health departments keep the Director apprised of new land use applications, permits of occupancy, business licenses, and other material changes to development plans that involve prospective drinking water systems.

(5) Definitions. As used in R309-100-5, the following terms shall have the following definitions:

(a) "Land use application" means any "land use application" submitted to any "land use authority" for any "land use permit" or approval of any subdivision plat, all within the meaning of the Municipal Land Use, Development, and Management Act (Section 10-9a-102 et seq.) or the County Land Use, Development, and Management Act (Section 17-27a-101 et seq.) (the "land use acts").

(b) "Land use authority" shall have the same meaning as in the land use acts.

R309-100-6. Public Water Systems Permitted by Rule.

(1) The permit by rule status for public water systems is intended to cover situations that present low inherent risk for potential adverse public health impacts. Public water systems that are permitted by rule are deemed to be in compliance with the Drinking Water Rules, unless otherwise determined or ordered by the Director.

(2) Unless otherwise determined by the Director, the following public water systems are permitted by rule if they meet the requirements set forth in subsection (3):

(a) Distribution-only public water systems that have less than 500 feet of continuous underground piping; and

(b) Public water systems that are regulated by the Utah Department of Agriculture pursuant to R70-630.

(3) In order to qualify for permit by rule status, the additional requirements set forth in this subpart (3) apply. Any public water system that does not meet all of the following requirements is not entitled to permit by rule status unless otherwise determined in writing by the Director under subpart (4). The supplemental conditions are as follows:

(a) the system must receive all of its culinary water supply from an approved public water system; and

(b) the system must be constructed in conformance with all of the following: (i) the applicable plumbing code, (ii) the applicable construction standards provided in this Rule, and (iii) standards required by the delivering public water system; and

(c) the system must not have storage or complex treatment.

(4) Upon application, the Director may grant permit by rule status to any public water system, or any defined portion thereof, upon a showing that permit by rule status is appropriate and is protective of public health. Such determinations may be subject to conditions and shall be made in writing signed by the Director. Upon application, the Director may also confirm that any given

public water system falls within permit by rule status without further conditions apart from those specified in this Rule.

(5) At any time, if the Director finds that there exists an actual or potential threat to public health with respect to a public water system that is permitted by rule, the Director may take any appropriate action, including imposing specific requirements or otherwise revoking such system's permit by rule status. Factors the Director may consider in revoking or modifying permit by rule status include, for example, sensitive populations served, the age and condition of the infrastructure, the potential for water quality degradation, cross-connection control, water age, water pressure, and other relevant factors. The Director shall provide written notice of such determinations to such public water systems as well as to the public water system providing water to such system.

(6) As used in R309-100-6, the following terms shall have the following meanings:

(a) "Complex treatment" means any process that alters the physical, chemical, or other properties of finished culinary water. Examples of complex treatment include chemical additions (such as corrosion control or disinfection), aeration, and large-scale (non point-of-use) filtration. Complex treatment does not include processes that present low public health risks. Examples of treatment that do not usually present public health risks include most types of water softening, water heaters, and point of use filtration (such as individual tap and appliance filtration).

(b) "Storage" means any storage facility for finished culinary water that may give rise to a public health risk. "Storage" does not include emergency fire suppression storage with backflow-protected separate plumbing.

R309-100-7. New Bulk Meters; Receiving System Requirements. (1)

With respect to any bulk meter connected after [insert effective date], the public water system supplying the finished drinking water shall be deemed to be responsible for the receiving system (and the receiving system shall become part of the delivering system) as of the date that the bulk meter is connected unless one of the following conditions is met: (i) the receiving system is authorized by the Director as an independent public water system under the drinking water rules; or (ii) the receiving system is permitted by rule, as provided in R309-100-6, at the time that the bulk meter is installed; or (iii) the receiving system does not qualify as a public water system or a prospective public water system.

(2) If a receiving system has permit by rule status at the time that the bulk meter is connected and the Director subsequently revokes such receiving system's permit by rule status under R309-100-6(5), the supplying public water system shall not be responsible for such Receiving System as provided in R309-100-7(1). Rather, such receiving system will be solely responsible for compliance with the board's rules and the Utah Safe Drinking Water Act.

(3) As used in R309-100-7, the following terms shall have the following meanings:

(a) "Bulk meter" means a point of delivery where a public water system delivers finished drinking water to any buyer where the buyer's system meets the definition of a public water system.

(b) "Receiving system" means the public water system or prospective public water system (as provided in R309-100-5) that purchases finished drinking water from any public water system through a bulk meter or equivalent point of delivery.

R309-100-8. Existing Bulk Meters and Receiving Systems; Terminus Determinations.

(1) With respect to bulk meters connected prior to [insert effective date], whenever the Director is required to make determinations as to the terminus of a public water system or the legal status of any Receiving System, the following guidelines shall be followed:

(a) The point of delivery will be deemed to be the point of terminus of the public water system supplying finished drinking water. There will be a rebuttable presumption that the established service connection (meter) is the point of delivery if one exists, or if a service connection (meter) does not exist, the legal property boundary.

(b) Public water system terminus determinations are committed to the Director's enforcement discretion. The Director may take into account other factors relating to the terminus determination, including legal arrangements between the parties, metering and billing practices, the parties' course of dealings, and the date that service connections or bulk meters were installed.

(c) The foregoing guidelines are not intended to, and do not, limit the Director's enforcement discretion.

(2) Terminus determinations and enforcement actions as to bulk

meters and associated receiving systems existing before [insert effective date] will be pursued as potential public health issues come to the attention of the Director.

R309-100-9. Categories of Public Water Systems.

Public water systems are divided into three categories, as follows:

(a1) "Community water system" (CWS) means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. However, there is a rebuttable presumption that a water system with eight connections serves at least 25 persons.

(b2) "Non-transient, non-community water system" (NTNCWS) means a public water system that is not a community water system and that regularly serves at least 25 of the same nonresident persons over six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

(c3) "Transient non-community water system" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year.180 days in any 12 month period. Examples of such systems are those, RV park, dinerparks, diners or convenience storestores where the number of permanent, nonresident staff numberis less than 25, but the number of people served exceeds 25 per day.

(d4) The distinctions betweenDivision shall use "Community", "Non-transient, non-community", and "Transient Non-community" water systems are important with respect to system designations for purposes of identifying and enforcing applicable monitoring and water quality requirements.

(5) Responsibility

(In order to qualify as a) All public seasonal system under this Rule, reasonable efforts shall be implemented to limit access to drinking water systems must have a person or organization designated as during the owner of time that the system. The name, address and phone number of this person or organization shall be supplied, in writing, to the Director seasonal system is closed.

(b) The name of the person to be contacted on issues concerning the operation and maintenance of the system shall also be provided, in writing, to the Director.

R309-100-510. Approval of Plans and Specifications for Public Water Supply Projects.

(1) All engineering plans and specifications for public drinking water projects, including prospective public water systems (as defined in R309-100-5), must be approved in writing prior to construction, in accordance with R309-105-6 and R309-500-6.

(2) A public water system shall obtain an Operating Permit prior to placing any public drinking water facility into operation as required in R309-500-9. The timing of the requirement for any prospective public water system to obtain an Operating Permit will be as required by the Director, in accordance with R309-100-5.

R309-100-611. Sanitary Survey, Evaluation, and Corrective Action of Existing Facilities.

(1) The Director, after considering information gathered during sanitary surveys and facility evaluations, may make determinations of regulatory significance including: monitoring reductions or increases, treatment, variances and exemptions.

(2) CONDUCTING SANITARY SURVEYS

(a) The Director shall ensure a sanitary survey is conducted at least every three years on all public water systems. The Director may reduce this frequency to once every five years based on outstanding performance on prior sanitary surveys.

(b) Sanitary surveys conducted by the following individuals under the circumstances as listed, may be used by the Director for the above determinations:

(i) Division of Drinking Water personnel;

(ii) Utah Department of Environmental Quality District Engineers;

(iii) local health officials;

(iv) Forest Service engineers;

(v) Utah Rural Water Association staff;

(vi) consulting engineers; and

(vii) other qualified individuals authorized in writing by the Director.

(3) Public water systems must provide the Director, at the Director's request, any existing information that will enable the State to conduct a sanitary survey.

(4) For the purposes of this subpart, a "sanitary survey", as conducted by the Director, includes but is not limited to, an onsite review of the water source(s) (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public

water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

(5) The sanitary survey must include an evaluation of the applicable components listed in paragraphs (5)(a) through (h) of this section:

- (a) Source,
- (b) Treatment,
- (c) Distribution system,
- (d) Finished water storage,
- (e) Pumps, pump facilities, and controls,
- (f) Monitoring, reporting, and data verification, (g)
System management and operation, and
- (h) Operator compliance with State requirements.

(6) CONDITIONS ON CONDUCT OF SANITARY SURVEYS

In order for the groups of individuals listed in R309-100-7(2)(b) to conduct sanitary surveys acceptable for consideration by the Director, the following criteria must be met:

- (a) Surveys of all systems involving complete treatment plants must be performed by Division of Drinking Water staff or others authorized in writing by the Director;
- (b) Local Health officials may conduct surveys of systems within their respective jurisdictions;
- (c) U.S. Forest Service (USFS) engineers may conduct surveys of water systems if the system is owned and operated by the USFS or USFS concessionaires;
- (d) Utah Rural Water Association staff may conduct surveys of water systems if the system's population is less than 10,000; (e) Consulting Engineers under the direction of a Registered Professional Engineer;

(f) Other qualified individuals who are authorized in writing by the Director may conduct surveys. (7) SANITARY SURVEY REPORT CONTENT

The Director will prescribe the form and content of sanitary survey reports and be empowered to reject all or part of unacceptable reports.

(8) ACCESS TO WATER FACILITIES

Department of Environmental Quality employees after reasonable notice and presentation of credentials, may enter any part of a public water system at reasonable times to inspect the facilities and water quality records, conduct sanitary surveys, take samples and otherwise evaluate compliance with Utah's drinking water rules. All others who have been authorized by the Director to conduct sanitary surveys must have the permission of the water system owner or designated representative before a sanitary survey may be conducted.

(9) CORRECTIVE ACTION

Public water systems must comply with requirements found in R309-215-16(3)(a)(iii), R309-215-16(3)(a)(iv), R309-215-16(3)(a)(v), R309-215-16(3)(a)(vi), and R309-215-16(3)(a)(vii).

(10) Refer to R309-100-8 and R309-105-6 for further

requirements.

R309-100-712. Rating System.

The Director shall assign a rating to each public water supplysystem in order to provide a concise indication of its condition and performance. The criteria to be used for determining a public water system's rating shall be as set forth in R309-400.

R309-100-813. Orders and Emergency Actions.

(1) In situations in which a public water system fails to meet the requirements of these rules, the Director may issue an order to a water supplier to take appropriate protective or corrective measures.

(2) Failure to comply with these rules or with an order issued by the Director may result in the imposition of civil penalties as provided in the Utah Safe Drinking Water Act.

(3) The Director may respond to emergency situations involving public drinking water, including emergency situations as described in R309-105-18, in a manner appropriate to protect the public health. The Director's responseenforcement actions may include the following: (a) Issuing press releases to inform the public of any confirmed or possible hazards in their drinking water.; and

(b) Ordering water suppliers to take appropriate measures to protect public health, including issuance of orders pursuant to 63G-4-502, if warranted.

R309-100-914. Variances.

(1) VariancesThe Board may grant variances to the requirements of to comply with a maximum contaminant level or treatment technique (R309-200 of these rules may be granted by the Board through R309-215) to water systems, which, because of characteristics of their raw water sources, cannot meet the required maximum contaminant levels despite the application of best technology and treatment techniques available (taking costs into consideration).

(2) The variance will be granted only if doing so will not result in an unreasonable risk to public health.

(3) No variance from the maximum contaminant level for total coliforms are permitted.

(4) No variance from the minimum filtration and disinfection (2) A variance is not available for a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

(3) The requirements of R309-525 and R309-530 will be permitted for sources classified by the Director as directly influenced by surface water.

(6) Within one year outlined in 40 CFR Section 142 Subpart E shall be followed in the consideration and issuance of the date any variance is granted, the Board shall prescribe a schedule by which the water system will come into compliance with the maximum contaminant level in question..

(4) The requirements of Section 1415 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference. The Board shall provide notice and opportunity for public hearing prior to granting any variance or determining the compliance schedule. Procedures for giving notice and opportunity for hearing will be as outlined in 40 CFR Section 142.44.

R309-100-15. Small System Variances.

(1) The Board may grant a variance from the requirement to comply with a maximum contaminant level or treatment technique (R309-200 through R309-215) to systems serving fewer than 3,300 persons or fewer than 10,000, subject to U.S. EPA Administrator concurrence.

(2) A small system variance may be based on the affordability of compliance with the maximum contaminant level or treatment technique.

(3) The variance will be granted only if doing so will not result in an unreasonable risk to public health.

(4) A small system variance is not available for a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism), or an indicator or treatment technique for a microbial contaminant.

(5) A small system variance under this section is not available for compliance with a requirement specifying a maximum contaminant level or treatment technique for a contaminant with respect to which; (a) a national primary drinking water regulation was promulgated on or after January 1, 1986; and

(b) The U.S. EPA Administrator has published a small system variance technology pursuant to Section 1412(b)(15) of the Federal Safe Drinking Water Act, PL 104-182.

(6) The procedural requirements of outlined in 40 CFR Section 142, Subpart K shall apply to any small system variance.

R309-100-16. Exemptions.

(1) The Board may grant an exemption from the requirements of R309-200 to comply with a maximum contaminant level or from any

required treatment technique (R309-200 through R309-215) if the following three elements are met:

(a) Due to compelling factors (which may include economic factors, including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1452(d) of the Federal Safe Drinking Water Act), the public water system is unable to comply with contaminant level or treatment technique requirements, requirement or to implement measures to develop an alternative source of water supply; and

(b) The public water system was in operation on the effective date of such contaminant level or treatment technique requirement,; and

(c) The granting of the exemption will not result in an unreasonable risk to public health.

(2) No exemptions from the maximumAn exemption is not available for a national primary drinking water regulation for a microbial contaminant level for total coliforms are permitted.

(3) No exemptions from the minimum disinfection requirements of R309-200-5(7) will be permitted for sources classified by the Director as directly influenced by surface water.

(4) Within one year of the granting of (including a bacterium, virus, or other organism) or an exemption, the Board shall prescribe a schedule by which the water system will come into compliance with contaminant levelindicator or treatment technique requirement.for a microbial contaminant.

(3) The procedural requirements outlined in 40 CFR Section 142, Subpart F shall apply to the consideration of any request for any exemption.

(4) The requirements of Section 1416 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference. (5) The Board shall provide notice and opportunity for an exemption hearing as provided in 40 CFR Section 142.54.

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