

R309-800. Capacity Development Program.

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R309-800. Capacity Development Program.

R309-800-1. Authority.

(1) Under authority granted in Utah Code Subsection 19-4-104(1)(a)(v), the Drinking Water Board adopts this rule implementing the capacity development program and governing the allotment of federal funds to public water systems to assist them to comply with the Federal 1996 Reauthorized Safe Drinking Water Act (SDWA).

R309-800-2. Purpose.

(1) The SDWA makes certain federal funds available to states, through the Drinking Water State Revolving Loan Program as defined in section 1452(k)(2)(C) to provide assistance to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(c) to ensure all new public water systems will be able to comply with the SDWA, to enhance existing public water systems' capability to comply with the SDWA, and determine which public water systems applying for financial assistance are eligible to use the State Revolving Funds.

(2) The purpose of the Capacity Development Program is to enhance and ensure the technical, managerial, and financial capacity of water systems. The Program's goals are:

(a) to promote long-term compliance with drinking water regulations, and

(b) to promote the public health protection objectives of the SDWA.

(c) to promote compliance with the requirements of the State of Utah's Groundwater Rule, R309-215-16, in identifying and correcting significant deficiencies in technical, managerial, and/or financial capacity.

R309-800-3. Definitions.

(1) Definitions for terms used in this rule are given in R309-110, except as modified below.

(2) "Capacity Development" means the technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards.

(3) "Drinking Water Region Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system

will either collectively or individually comply with source protection, operator certification, monitoring including consumer confidence reports, capacity development including technical, financial and managerial aspects, environmental issues, available funding and related studies.

- (4) "Small Water System" means a water system with less than 3,300 people being served.
- (5) "Public Water System" means a system providing water for human consumption and other domestic uses through pipes or other constructed conveyances, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year.
- (6) "Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.
- (7) Non-Transient Non-Community Water System (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than 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.
- (8) "New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.
- (9) "Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

R309-800-4. General.

- (1) Capacity development criteria are to be used as a guideline for all water systems. These criteria constitute a standard applied when reviewing new systems applications, reviewing applications for financial assistance and assessing capacity of water systems rated unapproved or in significant non-compliance with SDWA requirements or State drinking water rules by the State or the EPA.
- (2) Water systems shall meet the following criteria:
 - (a) Technical Capacity Criteria:
 - (i) Finished water shall meet all drinking water standards as required by Utah State Rules;
 - (ii) Personnel shall operate the system in accordance with the operations and maintenance manual;
 - (iii) A valid water right shall be obtained;

(iv) Water system shall meet source, storage, and distribution requirements as per Utah State Rules;

(v) Water system shall not be rated unapproved or in significant noncompliance by the State or the EPA.

(b) Managerial Capacity Criteria:

(i) The system owner(s) shall be clearly identified to the Executive Secretary;

(ii) The system shall meet all of the operator certification requirements as per R309-300 and backflow technician certification requirements as per R309-305.

(iii) A system or method shall be in-place to effectively maintain all requisite records, distribution system histories/maps, and compliance information; and

(iv) An operating plan shall include names and certification level of the system operator(s), facility operation and maintenance manuals, routine maintenance procedures, water quality violations response procedures, water quality monitoring plan, training plan, and emergency response plan;

(v) The Executive Secretary of the Drinking Water Board shall be informed of management changes.

(c) Financial Capacity Criteria:

(i) Revenues shall be greater than expenses;

(ii) A financial statement compilation by a Certified Public Accountant, or an audit if otherwise required of the water system, shall be completed every three years;

(iii) The water system shall devise and implement a managerial budget and accounting process in accordance with generally accepted principals;

(iv) The operating ratio (operating revenue divided by operating expenses excluding depreciation and required reserves) shall be greater than 1.0;

(v) The coverage ratio (total revenues minus operating expenses excluding depreciation and required reserves divided by annual debt service) shall be greater than 1.0;

(vi) Customers shall be metered; and

(vii) An emergency/replacement reserve shall be created and funded.

(3) Public Water Systems that use ground water, except those that combine all of their ground water with surface water or with ground water under the direct influence of surface water prior to treatment, but including consecutive systems receiving finished ground water shall be subject to the sanitary survey requirements of R309-100-7 and the significant deficiency requirements of R309-215-16(3) in order to be in compliance with the Capacity Development Program requirements.

R309-800-5. Requirements for New Community and New Non-transient, Non-community Water Systems.

(1) Feasibility Review, (See R309-100-6).

(2) Each proposed, new water system must demonstrate that it has adequate technical, managerial, and financial capacity before it may provide water for human consumption. Proposed water systems shall submit the following for Capacity Assessment Review:

(3) Project Notification form, available on the Internet at www.drinkingwater.utah.gov/blank_forms.htm.

(4) A business plan, which includes a facilities plan, management plan, and financial plan.

(a) Facilities plan. The facilities plan shall describe the scope of the water services to be provided and shall include the following:

(i) A description of the nature and extent of the area to be served, and provisions for extending the water supply system to include additional area. The description shall include population and land use projections and forecasts of water usage;

(ii) An assessment of current and expected drinking water compliance based on monitoring data from the proposed water source;

(iii) A description of the alternatives considered, including interconnections with other existing water systems, and the reasons for selecting the method of providing water service. This description shall include the technical, managerial, financial and operational reasons for the selected method, and

(iv) An engineering description of the facilities to be constructed, including the construction phases and future phases and future plans for expansion. This description shall include an estimate of the full cost of any required construction, operation, and maintenance;

(b) Management plan. The management plan shall describe what is needed to provide for effective management and operation of the system and shall include the following:

(i) Documentation that the applicant has the legal right and authority to take the measures necessary for the construction, operation, and maintenance of the system. The documentation shall include evidence of ownership if the applicant is the owner of the system or, if the applicant is not the owner, legally enforceable management contracts or agreements;

(ii) An operating plan that describes the tasks to be performed in managing and operating the system. The operating plan shall consist of administrative and management organization charts, plans for staffing the system with certified operators, and provisions for an operations and maintenance manual; and

(iii) Documentation of credentials of management and operations personnel, cooperative agreements or service contracts including demonstration of compliance with R309-300 water system operator certification rule; and

(c) Financial plan. The financial plan shall describe the system's expected revenues, cash flow, income and issuance and repayment of debt for meeting the costs of construction, and the costs of operation and maintenance for at least five years from the date the applicant expects to begin system operation.

(5) After the information submitted by the applicant is complete, the Division of Drinking Water shall conduct a Capacity Assessment Review. The applicant shall be notified in writing whether or not the new system has demonstrated adequate capacity. No new community or non-transient, non-community system will be approved if it lacks adequate capacity.

(6) Those systems constructed without approval shall be subject to: points as specified in R309-400, and/or administrative and/or civil penalties and fines.

R309-800-6. Minimum Capacity Required for Financial Assistance Under Provisions of R309-700 and R309-705.

(1) Applicants for financial assistance shall complete an application form, available on the Internet at www.drinkingwater.utah.gov/blank_forms.htm. The application shall include project information and water system financial information and will be used to determine eligibility, establish project priority ranking, and provide a basis for determining financial assistance parameters.

(2) (a) As described in (3) below, applicants for financial assistance from the Federal Drinking Water State Revolving Loan Program are required to complete and submit Capacity Development worksheets to the Executive Secretary.

(b) As described in (4) below, the Executive Secretary may require an applicant for a loan from the State's Revolving Loan Program to complete and submit Capacity Development worksheets for review.

(3) Financial assistance under the provisions of R309-705, Financial Assistance: Federal Drinking Water State Revolving Fund Loan Program. Financial assistance shall not be available to a water system that lacks the technical, managerial, or financial capability to maintain SDWA compliance, or is in significant non-compliance with any provisions of R309-200 through 225 or 500 through 550, unless:

(a) The use of the financial assistance will ensure compliance with SDWA and Utah rules; or

(b) The owner of the system agrees to undertake feasible and appropriate changes in operation to ensure technical, managerial, and financial capacity to maintain long-term compliance with SDWA.

(4) Financial assistance under the provisions of R309-700 Financial Assistance: State Drinking Water State Revolving Fund Loan Program. A Capacity Development Assessment may be necessary before the Executive Secretary considers whether a project is eligible for financial assistance under the State's Revolving Loan Program. The decision will be based on available water system information obtained through sanitary surveys, site visits, monitoring and reporting data, or other valid means. If, after review of available information, the Executive Secretary determines that a Capacity Development Assessment is necessary, he will require that the applicant complete and submit the Capacity Development worksheets to the Division. Otherwise, a Capacity Development Assessment is not required.

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