



February 4, 2014

Tracy Taylor, Secretary
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Professional Engineers and Land Surveyors Licensing Board
Division of Occupational & Professional Licensing
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I request that the below-described item be added to the Board's March 19, 2014, meeting agenda. I make this request as a Utah citizen and Utah licensed professional engineer only, and not in any capacity of my employment, or on behalf of my employer.

Division of Drinking Water managers improperly administer a requirement of Utah Code *Title 58, Occupations and Professions, Chapter 22*, which is known as the "Professional Engineers and Professional Land Surveyors Licensing Act," namely:

http://le.utah.gov/code/TITLE58/htm/58_22_060200.htm

58-22-602. Plans, specifications, reports, maps, sketches, surveys, drawings, documents, and plats to be sealed.

...

(2) Any final plan, specification, and report prepared by, or under the supervision of, the professional engineer or professional structural engineer shall bear the seal of the professional engineer or professional structural engineer when submitted to a client, when filed with public authorities, or when submitted to a building official for the purpose of obtaining a building permit, even if the practice is exempt from licensure under Section 58-22-305.

...

[Bold typeface added for emphasis.]

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Any reasonable person would infer that the above Code implies three distinct, "or's," even though "or" is used only once, not twice, among three hypothetical instances, to wit:

(2) Any final plan, specification, and report prepared by, or under the supervision of, the professional engineer or professional structural engineer shall bear the seal of the professional engineer or professional structural engineer

[i] when submitted to a client,

[or] [ii] when filed with public authorities,

or *[iii]* when submitted to a building official for the purpose of obtaining a building permit, even if the practice is exempt from licensure under Section 58-22-305.

[Note: "or," and Romanettes (i)-(iii), added above for emphasis.]

State Rule R309-500-9, *Issuance of Operating Permit*, subsection R309-500-9(2),

<http://www.rules.utah.gov/publicat/code/r309/r309-500.htm#T9>

is being improperly administered by Division of Drinking Water managers:

R309-500-9. Issuance of Operating Permit.

The Division shall be informed when a public drinking water project, or a well-defined phase thereof, is at or near completion. **The new or modified facility shall not be used until an "Operating Permit" is issued, in writing, by the Director. This permit shall not be issued until all of the following items are submitted ...**

(2) as-built "record" drawings; unless no changes are made from previously submitted and approved plans during construction,

[Bold typeface added for emphasis.]

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Division of Drinking Water is remiss in not holding as-built "record" drawings of constructed Utah public water system facilities to the *Title 58-22-602(2)* "final plan" requirement of sealing said "final plan" by the responsible Utah professional engineer **when filed with public authorities.**

I ask that the Board deliberate whether or not:

1. As referenced in State Rule *R309-500-9, Issuance of Operating Permit, subsection R309-500-9(2)*:

<http://www.rules.utah.gov/publicat/code/r309/r309-500.htm#T9>

involving the Division of Drinking Water, as-built "record" drawings of constructed Utah public water system facilities are "a final plan" as defined in Utah Code *Title 58-22-602(2)*:

http://le.utah.gov/code/TITLE58/htm/58_22_060200.htm

2. Only a Utah registered professional engineer in responsible charge of the construction of a Utah public works project may stamp the subsequent purported as-built "record" drawings of said project as such, whether the purported as-built "record" drawings are exactly the same as the approved pre-construction drawings, or they are drawings different from the approved pre-construction drawings.

3. No Utah public water system representative may represent to the Division of Drinking Water, as being "as-built record drawings," any State-approved pre-construction drawings that (i) retain the stamp of a Utah registered engineer who was **not** in direct responsible charge of the project construction, or (ii) display the stamp of any other Utah registered engineer who was **not** in direct responsible charge of the project construction.

Respectfully,

Steven J. Onysko, P.E.

cc: Stephen Duncombe, sduncombe@utah.gov

Supplemental Links and References

Utah Division of Occupational and Professional Licensing

http://www.dopl.utah.gov/licensing/engineer_land_surveying.html

Statutes and Rules

IN PDF FORMAT 

- Professional Engineers and Professional Land Surveyors Licensing Act, 58-22 (Jul 01 2011)

<http://www.dopl.utah.gov/laws/58-22.pdf>

Part 6 - Practice Standards

58-22-601. Seal - Design and implementation.

Every professional engineer, professional land surveyor, or professional structural engineer shall have a seal, the design and implementation of which shall be established by rule by the division in collaboration with the board.

58-22-602. Plans, specifications, reports, maps, sketches, surveys, drawings, documents, and plats to be sealed.

(1) Any final plan, specification, and report of a building or structure erected in this state shall bear the seal of a professional engineer or professional structural engineer licensed under this chapter, except as provided in Section 58-22-305, in Title 58, Chapter 3a, Architect Licensing Act, and by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(2) Any final plan, specification, and report prepared by, or under the supervision of, the professional engineer or professional structural engineer shall bear the seal of the professional engineer or professional structural engineer when submitted to a client, when filed with public authorities, or when submitted to a building official for the purpose of obtaining a building permit, even if the practice is exempt from licensure under Section 58-22-305.

(3) Any final plan, map, sketch, survey, drawing, document, plat, and report shall bear the seal of the professional land surveyor licensed under this chapter when submitted to a client or when filed with public authorities.

Utah Division of Occupational and Professional Licensing

http://www.dopl.utah.gov/licensing/engineer_land_surveying.html

Statutes and Rules

IN PDF FORMAT 

- [Professional Engineers and Professional Land Surveyors Licensing Act Rule, R156-22 \(Jan 24 2013\)](#)

<http://www.dopl.utah.gov/laws/R156-22.pdf>

R156. Commerce, Occupational and Professional Licensing.

R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule.

R156-22-101. Title.

This rule is known as the "Professional Engineers and Professional Land Surveyors Licensing Act Rule".

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R156-22-601. Seal Requirements.

(1) In accordance with Section 58-22-601, all final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats prepared by the licensee or prepared under the supervision of the licensee, shall be sealed in accordance with the following:

- (a) Each seal shall be a circular seal, 1-1/2 inches minimum diameter.
- (b) Each seal shall include the licensee's name, license number, "State of Utah", and "Professional Engineer", "Professional Structural Engineer", or "Professional Land Surveyor" as appropriate.
- (c) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.
- (d) Each original set of final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (see Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since November 1, 2013, please see the [codification segue](#) page.

TABLE OF CONTENTS FOR TITLE R309

TITLE R309. ENVIRONMENTAL QUALITY, DRINKING WATER.

As in effect on November 1, 2013

<http://www.rules.utah.gov/publicat/code/r309/r309-500.htm>

R309. Environmental Quality, Drinking Water.

Rule R309-500. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.

As in effect on November 1, 2013

R309-500-4. General.

(1) Construction and Operation of New Facilities.

As authorized in 19-4-106(3) of the Utah Code, the Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction.

Plans and specifications and a business plan as required by R309-800-5, along with a completed project notification form, shall be submitted to the Director for any new water systems or previously un-reviewed water systems unless acceptable data can be presented that the proposed or existing water system will not become a "public water system" as defined in 19-4-102 of the Utah Code or in R309-110.

Construction of new facilities for public water systems or existing facilities of previously un-reviewed public drinking water systems shall conform to rules R309-500 through R309-550; the "Facility Design and Operation" rules. There may be times in which the requirements of the Facility Design and Operation rules are not appropriate. Thus, the Director may grant an "exception" to the Facility Design and Operation rules if it can be shown that the granting of such an exception will not jeopardize the public health.

Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Director unless waivers have been issued as allowed by R309-500-6(3). This approval shall be referred to as the Plan Approval.

Furthermore, no new public drinking water facility shall be put into operation until written approval to do so has been given by the Director or this requirement waived. This approval is referred to as the Operating Permit.

...

R309-500-6. Plan Approval Procedure.

(1) Project Notification.

The Division shall be notified prior to the construction of any "public drinking water project" as defined in R309-500-5(1) above. The notification may be prior to or simultaneous with submission of construction plans and specifications as required by R309-500-6(2) below. Notification shall be made by the management of the regulated public water system on a form provided by the Division. Information required by this form shall be determined by the Division and may include:

- (a) whether the project is for a new or existing public drinking water system,
- (b) the professional engineer, registered in the State of Utah, designing the project and his/her experience designing public drinking water projects within the state,
- (c) the individual(s) who will be inspecting the project during construction and whether such inspection will be full-time or part time,
- (d) whether required approvals or permits from other governmental agencies (e.g. local planning commissions, building inspectors, Utah Division of Water Rights) are awaiting approval by the Director, the agency's name and contact person,
- (e) the fire marshal, fire district or other entity having legal authority to specify requirements for fire suppression in the project area,
- (f) for community and non-transient non-community public water systems or any public water system treating surface water, the name of the certified operator who is, or will be, in direct responsible charge of the water system,
- (g) whether the water system has a registered professional engineer employed, appointed or designated as being directly responsible for the entire system design and his or her name and whether the system is requesting waiving of plan submittal under conditions of R309-500-6 (3),
- (h) the anticipated construction schedule, and
- (i) a description of the type of legal entity responsible for the water system (i.e. corporation, political subdivision, mutual ownership, individual ownership, etc.) and the status of the entity with respect to the rules of the Utah Public Service Commission.

(2) Pre-Construction Requirements.

All of the following shall be accomplished before construction of any public drinking water project commences:

(a) Contract documents, plans and specifications for a public drinking water project shall be submitted to the Division at least 30 days prior to the date on which action is desired unless the system is eligible for and has requested waiving of plan submittal. Any submittal shall include engineering reports, pipe network hydraulic analyses, water consumption data, supporting information, evidence of rights-of-way and reference to any previously submitted master plans pertinent to the project, along with a description of a program for keeping existing water works facilities in operation during construction so as to minimize interruption of service.

(b) Plans and specifications shall be prepared for every anticipated public water system project. The design utilized shall conform to the requirements of R309-500 through R309-550. Furthermore, the plans and specification shall be sufficiently detailed to assure that the project shall be properly constructed. Drawings shall be compatible with Division's document storage and microfilming practice. Drawings which are illegible or of unusual size shall not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(c) The plans and specifications shall be stamped and signed by a licensed professional engineer in accordance with Section 58-22-602(2) of the Utah Code.

(d) Plans and specifications shall be reviewed for conformance with R309-500 through R309-550. No work shall commence on a public water system project until a plan approval has been issued by the Director unless conditions outlined in R309-500-6(3) are met and waiving of plan submittal has been requested. If construction or the ordering of substantial equipment has not commenced within one year, a renewal of the Plan Approval shall be obtained prior to proceeding with construction.

(e) If, in the judgment of the Director, alternate designs or specific solutions can protect the public health to the same or greater extent as achieved in R309-500 through R309-550, the Director may grant an exception thereto (see the third paragraph of R309-500-4(1)).

(f) Novel equipment or treatment techniques may be developed which are not specifically addressed by these rules. These may be accepted by the Director if it can be shown that:

(i) the technique will produce water meeting the requirements of R309-200 of these rules,

(ii) the Director has determined that it will protect public health to the same extent provided by comparable treatment processes outlined in these rules, and

(iii) the Director has determined the technique is as reliable as any comparable treatment process outlined in these rules.

...

R309-500-9. Issuance of Operating Permit.

The Division shall be informed when a public drinking water project, or a well-defined phase thereof, is at or near completion. The new or modified facility shall not be used until an "Operating Permit" is issued, in writing, by the Director. This permit shall not be issued until all of the following items are submitted and found to be acceptable for all projects with the exception of distribution lines (including in-line booster pump stations or pressure reducing stations), which may be placed into service prior to submittal of all items if the professional engineer responsible for the entire system, as identified to the Director, has received items (1) and (4):

- (1) a statement from a registered professional engineer that all conditions of Plan Approval were accomplished ("certification of rule conformance"),
- (2) as-built "record" drawings; unless no changes are made from previously submitted and approved plans during construction,
- (3) confirmation that a copy of the as-built "record" drawings has been received by the water system owner,
- (4) evidence of proper flushing and disinfection in accordance with the appropriate ANSI/AWWA Standard,
- (5) where appropriate, water quality data
- (6) a statement from the Engineer indicating what changes to the project were necessary during construction, and certification that all of these changes were in conformance with these rules ("certification of rule conformance"),
- (7) all other documentation which may have been required during the plan review process, and
- (8) confirmation that the water system owner has been provided with an Operation and Maintenance manual for the new facility.