

Chapter 3a Water Exports

73-3a-101 Policy statement.

- (1) To ensure the welfare of its citizens, the state of Utah is dedicated to:
 - (a) the conservation of its scarce water resources;
 - (b) providing adequate water supplies;
 - (c) ensuring that the waters of the state's streams are available to meet the state's water requirements; and
 - (d) controlling its water resources in a manner that is in the best interest of the public.
- (2) To fulfill the policy stated in Subsection (1), the state of Utah has entered into interstate compacts on several of the state's streams that flow outside the state.
- (3) The state of Utah recognizes that under certain conditions the transportation of water for use outside the state may not be contrary to:
 - (a) the conservation of Utah's waters; or
 - (b) the public welfare.

Enacted by Chapter 234, 1991 General Session

73-3a-102 Water mixed with substances.

For the purposes of this chapter, water mixed with substances to form a solution or slurry, for the transportation of dissolved substances or suspended solids, is not considered to have lost its character as water.

Enacted by Chapter 234, 1991 General Session

73-3a-103 Water exports governed by this chapter.

- This chapter governs application procedures and criteria for the approval of applications for:
- (1) the appropriation of water from sources within the state of Utah for use outside the state; and
 - (2) permanent or temporary changes of point of diversion, place of use, or purpose of use of water that is:
 - (a) appropriated from sources within the state of Utah; and
 - (b) used, or proposed to be used, outside the state.

Enacted by Chapter 234, 1991 General Session

73-3a-104 Rulemaking power of state engineer.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer may make rules necessary to administer this chapter.

Amended by Chapter 382, 2008 General Session

73-3a-105 Procedures -- Adjudicative proceedings.

- (1) Except where inconsistent with the provisions of this chapter, the procedures to be followed by the state engineer in processing and considering applications filed under this chapter, and the rights and duties of the applicants, are the same as the procedures, rights, and duties specified

in Title 73, Chapter 3, Appropriation, relating to appropriations of water or changes in the point of diversion, place of use, or purpose of use of water.

- (2) Adjudicative proceedings relating to applications made under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

73-3a-106 Application form.

Applications for appropriations or changes referred to in Section 73-3a-103 must:

- (1) be made upon forms furnished by the state engineer; and
- (2) set forth:
- (a) the name of the applicant;
 - (b) the description of the water right, if applicable;
 - (c) the quantity of water;
 - (d) the stream or source;
 - (e) the point on the stream or source where the water is diverted;
 - (f) the point to which it is proposed to change the diversion of the water, if applicable;
 - (g) the place, purpose, and extent of the present use, if applicable;
 - (h) the place, purpose, and extent of the proposed use;
 - (i) an agent in the state of Utah designated for reception of service of process and other legal notices; and
 - (j) any other information that the state engineer requires.

Enacted by Chapter 234, 1991 General Session

73-3a-107 Publication of notice of application -- Corrections or amendments of applications.

- (1)
- (a) When an application is filed in accordance with Section 73-3a-106 and relevant provisions of Chapter 3, Appropriation, the state engineer shall publish a notice of the application:
 - (i) once a week for a period of two successive weeks in a newspaper of general circulation in the county in which the water source is located and where the water is to be used; and
 - (ii) in accordance with Section 45-1-101 for two weeks.
 - (b) The notice shall:
 - (i) state that an application has been made; and
 - (ii) specify where the interested party may obtain additional information relating to the application.
 - (c) The notice described in Subsection (1)(a)(i) may be published in more than one newspaper.
- (2) Clerical errors, ambiguities, and mistakes in the application that do not prejudice the rights of others may be corrected by order of the state engineer either before or after the publication of notice.
- (3) If amendments or corrections to the application are made that involve a change of point of diversion, place of use, or purpose of use of water, the notice must be republished.

Amended by Chapter 388, 2009 General Session

73-3a-108 Approval of applications -- Criteria.

- (1) The state engineer shall:
- (a) undertake an investigation of any application made under this chapter; and

- (b) approve the application, if he finds that:
 - (i) the proposed appropriation or change:
 - (A) satisfies Section 73-3-3, 73-3-5.5, or 73-3-8, whichever is applicable;
 - (B) is consistent with Utah's reasonable water conservation policies or objectives;
 - (C) is not contrary to the public welfare; and
 - (D) does not impair the ability of the state of Utah to comply with its obligation under any interstate compact or judicial decree which apportions water among Utah and other states; and
 - (ii) the water can be transported, measured, delivered, and beneficially used in the recipient state.
- (2) In reviewing the criteria of Subsections (1)(b)(i)(B) and (1)(b)(i)(C), the state engineer shall consider the following factors:
 - (a) the supply and quality of water available to the state of Utah;
 - (b) the current and reasonably anticipated water demands of the state of Utah;
 - (c) whether there are current or reasonably anticipated water shortages within Utah;
 - (d) whether the water that is the subject of the application could feasibly be used to alleviate current or reasonably anticipated water shortages within Utah;
 - (e) the alternative supply and sources of water available to the applicant in the state where the applicant intends to use the water; and
 - (f) the demands placed on the applicant's alternate water supply in the state where the applicant intends to use the water.
- (3) If any application fails to meet any criteria of Subsection (1), it shall be rejected.
- (4) The state engineer may condition any approval to ensure that the use of the water in another state:
 - (a) is subject to the same laws, rules, and controls that may be imposed upon water use within the state of Utah; or
 - (b) is consistent with the terms and conditions of any applicable interstate compact to which the state of Utah is a party.

Enacted by Chapter 234, 1991 General Session

73-3a-109 Certification of appropriation or change.

- (1) Any person holding an application approved under this chapter shall comply with the substantive and procedural requirements of Sections 73-3-16 and 73-3-17 to obtain a certificate of appropriation or change.
- (2) Verification that the appropriation or change has been perfected and put to beneficial use may be accepted from the recipient state's equivalent to the Utah state engineer.

Enacted by Chapter 234, 1991 General Session