



Rainwater Collection on Properties with Residential Wells February, 2019

Pursuant to House Bill 16-1005, many Colorado residents are able to collect rainwater in up to two rain barrels with a combined storage capacity up to 110 gallons for outdoor uses. See the Rainwater Collection Information Table for details regarding HB 16-1005. The Table can be found on the Division of Water Resources' (DWR) Rainwater Collection webpage: <http://water.state.co.us/SurfaceWater/RainwaterCollection>

In addition to the 110 gallons of precipitation that can be collected in accordance with HB 16-1005, residential properties with certain types of water wells may be able to collect precipitation in additional rain barrels for the uses on their residential well permit in accordance with Senate Bill 09-080. This document focuses on rainwater collection with residential wells pursuant to Senate Bill 09-080.

Why does it matter if rainwater is collected? All moisture in the atmosphere that falls within Colorado is declared to be the property of the people of this state, dedicated to their use, pursuant to the Colorado Constitution (see Section 36-20-103, C.R.S.). According to the Colorado Constitution, the ability to divert water is based on the seniority of a water right. This priority system of water allocation plays an important role in protecting the owners of senior water rights that are entitled to appropriate the full amount of their decreed water right, particularly when there is not enough water to satisfy them and parties whose water right is junior to them.

As a result, in much of the state, unless you have a very old water right or during occasional periods when there is a surplus of water in the river system, precipitation may only be collected and stored under the limited circumstances described by House Bill 16-1005 and Senate Bill 09-080. The remainder of this document will focus on rainwater collection allowed pursuant to SB09-080. Additional information and related links regarding precipitation collection and HB16-1005 can be found on the Division of Water Resources' (DWR) Rainwater Collection webpage: <http://water.state.co.us/SurfaceWater/RainwaterCollection>

[Rainwater Collection under SB09-080](#)

Senate Bill 09-080 allows collection and use of precipitation by residential property owners who rely on exempt/small capacity wells for their water supply provided all the following conditions are met:

1. The property on which the collection takes place is residential property; and
2. The landowner uses a well, or is legally entitled to a well, for the water supply; and
3. The well is permitted for domestic uses according to Section 37-92-602, C.R.S., or Section 37-90-105, C.R.S. (generally, this means the permit number will be five or six digits with no "-F" suffix at the end); and
4. There is no water supply available in the area from a municipality or water district; and
5. The rainwater is collected only from the roof of a building that is used primarily as a residence; and
6. The collected rainwater is used only for those purposes allowed by the well permit.
7. The well owner has applied for, and obtained a Precipitation Collection Permit from DWR.

If you do not meet ALL of the above criteria, then you will not be eligible to collect rainwater under SB09-080. However, you may still be able to collect rainwater under HB16-1005. See the [DWR Rainwater Collection webpage](#) for more information.

[Instructions for Complying with SB-09-080, Rooftop Precipitation Capture](#)

1. If you have an existing permitted well or unexpired well permit issued pursuant to Section 37-92-602, C.R.S., or Section 37-90-105, C.R.S. (in most cases, the statute number will be identified in the conditions of approval on your well permit); and you intend to use a system of rooftop precipitation capture, complete form [GWS-78](#), available on DWR's website at: <http://water.state.co.us/DWRDocs/Forms> Instructions are included on the back of the form. There is no filing fee for form GWS-78 in this situation. If you don't know whether your existing well is permitted, you can search for well permits on DWR's website at: <https://dnrweb.state.co.us/cdss/WellPermits> If the well was in use prior to May 8, 1972, it is possible the well has not been issued a permit.
2. If you have an existing unpermitted well that was in use prior to May 8, 1972, for those uses described in Sections 37-92-602(1)(g) or 37-90-105(1)(f), C.R.S. and you intend to include a system of rooftop precipitation capture, complete forms [GWS-78](#) and [GWS-12](#), Registration of Existing Well. The filing fee for form GWS-12 is \$100. There is no filing fee for form GWS-78 in this situation. You must review the instructions for completing form GWS-12 prior to submitting it to determine if you will also need to complete and submit form [GWS-12-A](#), Statement of Historical Uses, or contact the Division office in which your well is located to request a field inspection for verification of the well's existence and uses.
3. If you are applying for a permit to construct a well to be used for domestic uses, and you intend to use a system of rooftop precipitation capture, complete forms [GWS-78](#) and [GWS-44](#), Residential Water Well Permit Application. The filing fee for form GWS-44 is \$100. There is no filing fee for form GWS-78 in this situation.
4. If you do not intend to construct a well, but want to install a rooftop precipitation capture system, complete forms [GWS-78](#) and [GWS-44](#), Residential Water Well Permit Application, so DWR can determine whether your property is entitled to the issuance of a well permit. In this situation, the filing fee for form GWS-78 is \$60, and there is no filing fee for form GWS-44 since a permit to construct a well will not be issued.

[Frequently Asked Questions Regarding Precipitation Collection Under SB09-080.](#)

Question: I have checked my valid well permit and it states that the use of my well is limited to household use inside a single family dwelling. Can I collect rainwater and snowmelt from my roof and use it to water a very small vegetable garden or for use in a greenhouse? Can I use it to fill an outdoor water feature or hot tub?

Answer: Not under SB09-80. Watering a vegetable garden outside the home or in a greenhouse, or use in a water feature or hot tub is not an inside household use and it consumes the water in a way that is inconsistent with the permitting statutes. The use of the precipitation in this case is limited to drinking and sanitary uses inside the home. This same answer applies to using the water for a water feature or hot tub - it is not allowed in this permitting situation.

Question: Since I'm trying to conserve and cut back on the amount of water I use from my water supplier, am I allowed to collect precipitation for watering my landscaping or for filling a decorative pond?

Answer: Not under SB09-80. Because you receive your water supply through a tap from a water supplier, you may not collect precipitation under SB09-080. The ability to collect precipitation under SB09-080 applies only to

residential properties that are supplied by certain residential wells (or could qualify for a well permit). In some situations, you may still qualify to collect rainwater pursuant to HB16-1005. See the [Rainwater Collection Information Table](#) for details.

Question: What if I meet the seven criteria above and, although legally entitled to a well permit, I have not drilled a well on my property. Can I still collect precipitation?

Answer: Yes. If you are legally entitled to a well permit, you may submit an application for a Rooftop Precipitation Collection Permit and if a permit is issued, you will be able to collect precipitation from the roof of a building that is used primarily as a residence without constructing a well.

Question: I have checked my valid well permit and it identifies the allowed uses for my well. I would like to collect precipitation from my roof for those uses only. Do I need to take any other action?

Answer: Yes, you must obtain a precipitation collection permit by completing and submitting form GWS-78 to modify your existing well permit.

Question: I will be applying for a permit for a new well for a home I'm building. I have researched and found that with my anticipated permit type, I will be able to collect precipitation from my rooftop. What do I need to do?

Answer: The well permit application form for new residential wells (form GWS-44) includes a checkbox that allows you to indicate that you plan to collect precipitation. In addition to completing form [GWS-44](#), you also need to complete form [GWS-78](#) and submit it to DWR with form GWS-44.

Question: I am a developer and would like to develop a subdivision with large scale collection of precipitation from impervious surfaces even though the subdivision will have a central water supply system. Does SB09-080 apply to my situation?

Answer: The law under SB09-080 does not apply to your situation at all. However, your situation may benefit from HB 09-1129, a law that allows developers to apply for approval to be one of ten statewide pilot projects that harvest rainwater and put it to beneficial, but non-essential, use in the subdivision. These projects require engineered plans to measure the amount of rainwater consumed at the site prior to development and compare that to the amount of water captured and used after the development is built. Due to the engineering requirements, collecting rainwater under a Pilot Project is not likely to occur on a small-scale basis by homeowners in existing developments. For additional information, see the [Criteria and Guidelines](#) the Colorado Water Conservation Board has developed for Pilot Project applications. The Colorado Water Conservation Board's homepage can be found at: <http://cwcb.state.co.us>