

Municipal Water Law Agency Responsibilities Outline June 23, 2006

This document describes the roles of the Department of Ecology (Ecology) and the Department of Health (DOH) in implementing the Municipal Water Supply – Efficiency Requirements Act of 2003 (the Municipal Water Law). Also included is how each agency will incorporate their role into a legal mechanism, if applicable, and a schedule for completion. This does not address the additional guidance the agencies will develop to assist municipal water suppliers with implementation.

Section 1 – RCW 90.03.015 – Definitions of municipal water supplier and municipal water supply purpose

Ecology is the lead agency for determining who is a Municipal Water Supplier. Ecology will incorporate into an Interpretive and Policy Statement, scheduled to be completed by July 2006. DOH will use the definition developed by Ecology for implementing their responsibilities under the Municipal Water Law.

Section 2 – RCW 90.03.550 – Municipal water supply purposes – beneficial use

Ecology is the lead agency for determining whether a use of water qualifies as a type of use that can be exercised under a water right for municipal supply purposes under RCW 90.03.550. Ecology will incorporate into an Interpretive and Policy Statement, scheduled to be completed by July 2006. DOH has no role in implementation.

Section 3 – RCW 90.03.560 – Municipal water supply purposes – identification

Ecology is the lead agency for processing requests to conform water rights as being for municipal water supply purposes. Ecology will incorporate into an Interpretive and Policy Statement, scheduled to be completed by July 2006. DOH has no role in implementation.

Section 4 – RCW 90.03.260 – Applications - Population and connections limits on water rights

Ecology is the lead agency for processing water right applications and issuing water rights. Ecology determines whether population or connections are limiting attributes on a new water right application. Ecology will incorporate into an Interpretive and Policy Statement, scheduled to be completed by July 2006. Ecology has access to DOH's connection information for public water systems through DOH's Sentry Internet. Upon request, DOH will provide water system plan approval information to Ecology.

Section 5(1) – RCW 90.03.386(1) – Coordination of approval procedures for compliance and consistency with approved water system plan

DOH and Ecology will coordinate approval procedures for water system plans, small water system management programs, coordinated water system plans, and applicable engineering documents. The agencies will also coordinate on designating a failing public water system and expediting water right changes where there are public health concerns. DOH and Ecology will incorporate these procedures into their Memorandum of Understanding (MOU), scheduled to be completed by December 2006.

Section 5(2) – RCW 90.03.386(2) – Coordination for changes in place of use

Place of use expansions may now occur via the approval of water system plans, small water system management programs, coordinated water system plans, and engineering documents. Such expansions occur by operation of law when a service area that ranges beyond the place of use specified in a water right document is approved. Conditions of this expansion include not inconsistent determinations with approved local comprehensive and/or land use plans, development regulations, and watershed plans and compliance with terms of a water system plan or small water system management program.

DOH will make the determination if the municipal water supplier is in compliance with the terms of the water system plan or small water system management program when the plan is approved and upon request by Ecology. Determinations of compliance shall include water conservation and consistency with approved local comprehensive plans and development regulations. Ecology will determine whether the place of use expansion is consistent with approved watershed plans.

DOH will develop policies and/or proposed revisions to Chapter 246-290 WAC to incorporate requirements to ensure consistency with approved local comprehensive plans and development regulations, scheduled to be completed by December 2006. DOH and Ecology will incorporate joint procedures into their MOU, scheduled to be completed in December 2006. Concerns that the conditions surrounding overall place of use have been violated shall be directed to the agency (Ecology or DOH) responsible for addressing the specific conditions being violated. Ecology will request DOH make a determination of compliance with planning documents and local government consistency when necessary. Ecology and Health will develop a compliance strategy for reverting place of use to be included in the MOU, scheduled to be completed by December 2006.

Section 5(3) – RCW 90.03.386(3) – Coordination on water use efficiency and inchoate water rights

DOH is the lead agency for ensuring that subsections (a) and (b) of this section are included in water system plans submitted for review and approval. DOH will also ensure municipal water suppliers complete a cost-effectiveness evaluation of measures and quantify water savings if all cost-effective measures are implemented. These elements are currently in the proposed revisions to WAC 246-290 scheduled to be completed by fall of 2006. Ecology is lead for considering

conserved water when establishing or expanding water right construction schedules. Ecology will incorporate into an Interpretive and Policy Statement scheduled to be completed by July 2006.

Section 6 – RCW 90.03.330 – Appropriation procedure – water rights certificate – “pumps and pipes” Certificates are in good standing

Ecology is the lead agency responsible for tentatively assessing the extent and validity of water rights. Ecology is also the lead agency for ensuring specified water right certificates held by municipal water suppliers are considered rights in good standing. Ecology will incorporate into an Interpretive and Policy Statement scheduled to be completed by July 2006. DOH has no role in implementation.

Section 7 – RCW 70.119A.180 – Water use efficiency requirements

DOH is the lead agency. DOH is currently revising WAC 246-290 scheduled to be completed by fall of 2006 which will incorporate new water use efficiency regulations. Upon request by the municipal water supplier, Ecology will also assist the municipal water supplier in determining their water supply characteristics.

Section 8 – RCW 43.20.260 – Review of water system plan, requirements – municipal water suppliers, retail service area

DOH is the lead agency for determining duty to serve requirements for municipal water suppliers within their retail service area. The four factors which must be met in order for a municipal water supplier to have a duty to serve include: service is timely and reasonable, use is consistent with approved local comprehensive plans and development regulations, service can be provided in a safe and reliable manner and sufficient water right are available to serve intended use.

DOH is the lead agency for determining consistency and if water can be served in a safe and reliable manner. DOH will develop policies and/or proposed revisions to WAC 246-290, scheduled to be completed by December 2006 which will incorporate a process for determining if water can be served in a safe and reliable manner and for ensuring consistency. DOH will also develop guidance on timely and reasonable by December 2006. Ecology is the lead agency for determining municipal water supplier's water right capacity. In their MOU, DOH and Ecology will incorporate interagency procedures for including water right capacity in planning and applicable engineering documents. The MOU is scheduled to be completed in December 2006. DOH has already developed a Directive Memorandum (B02) which incorporates water right considerations into capacity determinations.

Section 9 – RCW 90.82.048 – Implementation plan – timelines and milestones

Local watershed planning units are the lead entities responsible for incorporating the planned future use of existing water rights for municipal water supply purposes into their watershed planning efforts. Local watershed planning units are also responsible for inviting municipal

water right holders with inchoate quantities to be included in setting timelines and milestones in watershed plan implementation.

DOH is lead agency for compiling a list of upcoming water system plans and sharing with Ecology and other agencies. The agencies will identify watersheds where additional coordination is needed and develop a coordinated work plan. DOH completed this coordination for 2005 and will continue to do so annually.

Section 10 – RCW 90.54 – Stream flow restoration a priority

Ecology is the lead agency for prioritizing stream flow restoration funding. DOH has no role in implementation.

Section 11 – RCW 90.48.495 – Water conservation measures to be considered in sewer plans

Ecology is the lead agency in reviewing sewer plans. DOH has no role in implementation.

Section 12 – RCW 90.48.112 – Plan evaluation – consideration of reclaimed water

Ecology is the lead agency in reviewing wastewater plans and ensuring coordination of reclamation and reuse are incorporated. DOH has no role in implementation.

Section 13 – RCW 90.46.120 – Reclamation evaluation in water system plans and coordinated water system plans

DOH is the lead agency for ensuring reclamation is evaluated in water system plans and coordinated water system plans. This evaluation is currently in the proposed revisions to Chapter 246-290 WAC scheduled to be completed by fall of 2006. Ecology has no role in implementation.

Section 14 – RCW 90.03.570 – Change or transfer of an unperfected surface water right for municipal water supply purposes

Ecology is the lead agency for changing and transferring unperfected surface water rights for municipal water supply purposes. A condition of transfer is compliance with the terms of the municipal water supplier's water system plan or small water system management program. Ecology and DOH will develop a list of terms that must be considered when determining if a municipal water supplier is in compliance with their water system plan or small water system management program. The terms shall include water conservation. DOH will determine if the water system is in compliance upon request by Ecology. DOH and Ecology will incorporate procedures on determining compliance of planning documents into their MOU, scheduled to be completed in December 2006.

Section 15 – RCW 90.03.580 – Failing public water system – conditions

DOH is the lead agency for determining who is a failing public water system, which includes consultation with Ecology and the local health jurisdiction. DOH and Ecology will incorporate procedures on determination of failing public water systems from this statute and existing rules into their MOU, scheduled to be completed in December 2006.

Section 16 – RCW 90.03.590 – Municipal water suppliers – watershed agreement- pilot project

Ecology is the lead agency for establishing agreements with municipal water suppliers in WRIA one to achieve the objectives in an approved or developing water resource management program. A condition of any pilot watershed agreement is ensuring consistency of watershed plans with water system plans, small water system management programs, and coordinated water system plans. Another condition is ensuring water use efficiency requirements are as stringent as or more stringent than DOH rules. Ecology is the lead agency for ensuring conditions are met. DOH has no role in implementation.

Section 17 – RCW 90.03.591 – New watershed agreements prohibited after July 1, 2008

Ecology has been directed by the Legislature to not enter into any additional watershed agreements after July 1, 2008 established under RCW 90.03.590. DOH has no role in implementation.

Section 18 – RCW 70.119A.110 – Municipal Water Law implementation funding

DOH is the lead agency for collecting funds for implementation of the Municipal Water Law. DOH has begun collecting funds. Ecology has no role in implementation.