

**Municipal Water Law, Planning and Engineering Excerpt
Group A Public Water Supplies, Chapter 246-290 WAC
Effective February 14, 2008**

Disclaimer: This version of the Municipal Water Law, Planning and Engineering rule is reformatted for readability and ease of use and does not reflect the entire requirements of chapter 246-290 WAC, Group A Public Water Supplies. The Department of Health prepared this version of the rule from the Code Reviser's official copy. It is an excerpt of specific sections adopted in chapter 246-290 WAC that reflect the final rule language.

WAC 246-290-010 Definitions. Abbreviations and acronyms:

"Existing service area" means a specific area within which direct service or retail service connections to customers of a public water system are currently available.

"Future service area" means a specific area a public water system plans to provide water service. This is determined by a written agreement between purveyors under WAC 246-293-250 or by the purveyor's elected governing board or governing body if not required under WAC 246-293-250.

"Local plans and regulations" means any comprehensive plan or development regulation adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the applicable service area.

"Retail service area" means the specific area defined by the municipal water supplier where the municipal water supplier has a duty to provide service to all new service connections. This area must include the municipal water supplier's existing service area and may also include areas where future water service is planned if the requirements of RCW 43.20.260 are met.

"Service area" means the specific area or areas a water system currently serves or plans to provide water service. This may be comprised of the existing service area, retail service area, future service area, and include areas where water is provided to other public water systems.

WAC 246-290-100 Water system plan.

- (1) The purpose of this section is to establish a uniform process for purveyors to:
 - (a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with relevant local, state, and federal plans and regulations;
 - (b) Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;
 - (c) Establish eligibility for funding under chapter 246-296 WAC.

- (2) Purveyors of the following categories of community public water systems shall submit a water

system plan for review and approval by the department:

- (a) Systems having one thousand or more services;
 - (b) Systems required to develop water system plans under the Public Water System Coordination Act of 1977 (chapter 70.116 RCW);
 - (c) Any system experiencing problems related to planning, operation, and/or management as determined by the department;
 - (d) All new systems;
 - (e) Any expanding system; and
 - (f) Any system proposing to use the document submittal exception process in WAC 246-290-125.
- (3) The purveyor shall work with the department to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size, complexity, water supply characteristics, forecasted demand characteristics, past performance, and use of the water system. Project reports may be combined with a water system plan.
- (4) In order to demonstrate system capacity, the water system plan shall address the following elements, as a minimum, for a period of at least twenty years into the future:
- (a) Description of the water system, including:
 - (i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;
 - (ii) System history and background;
 - (iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, ground water management plans, and basin plans;
 - (iv) Service area maps, characteristics, agreements, and policies. Water systems must include their existing service area and future service area. Municipal water suppliers must define their retail service area and meet the requirements under WAC 246-290-106. Municipal water suppliers must identify where their water rights place of use will be expanded to their service area if the requirements under WAC 246-290-107 have been met; and
 - (v) Satellite management, if applicable.
 - (b) Basic planning data, including:

- (i) Current population, service connections, water use, and equivalent residential units; and
- (ii) Sufficient water production and consumption data to identify trends including the following elements:
 - (A) Monthly and annual production totals for each source, including water purchased from another public water system;
 - (B) Annual usage totals for each customer class as determined by the purveyor;
 - (C) Annual usage totals for water supplied to other public water systems; and
 - (D) For systems serving one thousand or more total connections, a description of the seasonal variations in consumption patterns of each customer class defined by the purveyor.
- (iii) Designated land use, zoning, future population, and water demand for a consecutive six-year and twenty-year planning period within the water system's service area.
- (c) Demand forecasts, developed under WAC 246-290-221, for a consecutive six-year and twenty-year planning period. These shall show future use with and without savings expected from the system's water use efficiency program.
- (d) For systems serving one thousand or more total connections, a demand forecast projecting demand if the measures deemed cost-effective per WAC 246-290-810 were implemented.
- (e) System analysis, including:
 - (i) System design standards;
 - (ii) Water quality analysis;
 - (iii) System inventory description and analysis; and
 - (iv) Summary of system deficiencies.
- (f) Water resource analysis, including:
 - (i) A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810;
 - (ii) Source of supply analysis, which includes:
 - (A) An evaluation of water supply alternatives if additional water rights will be pursued within twenty years; and

- (B) A narrative description of the system's water supply characteristics and the foreseeable effect from current and future use on the water quantity and quality of any body of water from which its water is diverted or withdrawn based on existing data and studies;
- (iii) A water shortage response plan as a component of the reliability and emergency response requirements under WAC 246-290-420;
- (iv) Water right self-assessment;
- (v) Water supply reliability analysis;
- (vi) Interties; and
- (vii) For systems serving one thousand or more total connections, an evaluation of opportunities for the use of reclaimed water, where they exist, as defined in RCW 90.46.010(4).
- (g) Source water protection under WAC 246-290-135.
- (h) Operation and maintenance program under WAC 246-290-415 and 246-290-654(5), as applicable.
- (i) Improvement program, including a six-year capital improvement schedule.
- (j) Financial program, including demonstration of financial viability by providing:
 - (i) A summary of past income and expenses;
 - (ii) A one-year balanced operational budget for systems serving one thousand or more connections or a six-year balanced operational budget for systems serving less than one thousand connections;
 - (iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and
 - (iv) An evaluation that has considered:
 - (A) The affordability of water rates; and
 - (B) The feasibility of adopting and implementing a rate structure that encourages water demand efficiency.
- (k) Other documents, such as:
 - (i) Documentation of SEPA compliance;

- (ii) Agreements; and
 - (iii) Comments from each local government with jurisdiction and adjacent utilities.
- (5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:
 - (a) Standard construction specifications for distribution mains; and/or
 - (b) Design and construction standards for distribution-related projects, including:
 - (i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;
 - (ii) Construction-related policies and requirements for external parties, including consumers and developers;
 - (iii) Performance and sizing criteria; and
 - (iv) General reference to construction materials and methods.
- (6) The department, at its discretion, may require reports from purveyors identifying the progress in developing their water system plans.
- (7) Purveyors shall transmit water system plans to adjacent utilities and each local government with jurisdiction, to assess consistency with ongoing and adopted planning efforts.
- (8) Prior to department approval of a water system plan or a water system plan update, the purveyor shall:
 - (a) Hold an informational meeting for the water system consumers and notify consumers in a way that is appropriate to the size of the water system; and
 - (b) Obtain the approval of the water system plan from the purveyor's governing body or elected governing board.
- (9) Department approval of a water system plan shall be in effect for six years from the date of written approval unless:
 - (a) Major projects subject to SEPA as defined in WAC 246-03-030 (3)(a) are proposed that are not addressed in the plan;
 - (b) Changes occur in the basic planning data significantly affecting system improvements identified; or

- (c) The department requests an updated plan or plan amendment.
- (10) The purveyor shall update the plan and obtain department approval at least every six years. If the system no longer meets the conditions of subsection (2) of this section, the purveyor shall as directed by the department, either:
- (a) Submit a water system plan amendment for review and approval with the scope to be determined by the department; or
 - (b) Meet the requirements under WAC 246-290-105.

WAC 246-290-105 Small water system management program.

- (1) The purpose of a small water system management program is to:
- (a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations; and
 - (b) Establish eligibility for funding under chapter 246-296 WAC.
- (2) All noncommunity and all community systems not required to complete a water system plan as described under WAC 246-290-100(2) shall develop and implement a small water system management program.
- (3) The purveyor shall submit this program for review and approval to the department when:
- (a) A new NTNC public water system is created;
 - (b) An existing system has operational, technical, managerial, or financial problems, as determined by the department; or
 - (c) A system applies for funding under chapter 246-296 WAC.
- (4) Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:
- (a) System management;
 - (b) Annual operating permit;
 - (c) Water facilities inventory form;

- (d) Service area and facility map. Municipal water suppliers must identify where their water rights place of use will be expanded to their service area if the requirements under WAC 246-290-107 have been met;
- (e) Water right self-assessment;
- (f) Description of the system's source(s) including the name and location of any body of water from which its water is diverted or withdrawn;
- (g) A water use efficiency program. Municipal water suppliers must meet the requirements in WAC 246-290-810;
- (h) Water production and consumption data including each of the following:
 - (i) Monthly and annual production for each source, including water purchased from another public water system;
 - (ii) Annual consumption totals for residential and nonresidential connections;
 - (iii) Total annual volume of water supplied to other public water systems;
- (i) Average daily demand;
- (j) Current population served;
- (k) The forecast of average daily demand based on the system's approved number of connections that considers:
 - (i) Water use trends based on actual water use records; and
 - (ii) Applicable land use plans;
- (l) An evaluation that has considered the feasibility of adopting and implementing a rate structure that encourages water demand efficiency;
- (m) Source protection;
- (n) Component inventory and assessment;
- (o) List of planned system improvements;
- (p) Water quality monitoring program;
- (q) Operation and maintenance program under WAC 246-290-415(2) and 246-290-654(5) as applicable;

- (r) Cross-connection control program;
- (s) Emergency response plan; and
- (t) Budget.

(5) The department may require changes be made to a small water system management program if necessary to effectively accomplish the program's purpose.

WAC 246-290-106 Duty to provide service.

Municipal water suppliers required to submit a water system plan for approval under WAC 246-290-100(2) must also include in the water system plan the provisions of this section as required under RCW 43.20.260. In approving a water system plan, the department shall ensure that water service to be provided by the water system for any new industrial, commercial, or residential use is consistent with local plans and regulations.

- (1) A municipal water supplier has a duty to provide retail water service to all new service connections within its retail service area if:
 - (a) It can be available in a timely and reasonable manner;
 - (b) There is sufficient water rights to provide water service;
 - (c) There is sufficient capacity to serve the water in a safe and reliable manner as determined by the department; and
 - (d) It is consistent with the requirements of local plans and regulations and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town.
- (2) Municipal water suppliers must provide a retail service area map.
- (3) Municipal water suppliers must meet the requirements of WAC 246-290-108 for their retail service area.
- (4) Municipal water suppliers must provide their service policies and conditions of service including how new service will be provided.
- (5) Municipal water suppliers may provide temporary water service to another water system if a written agreement with the water system is in place.
- (6) To resolve a significant public health and safety concern, the department may allow water service to be extended prior to meeting the requirements of this section.

WAC 246-290-107 Place of use expansion.

The place of use of a surface or ground water right may be expanded to include any portion of the approved service area that was not previously within the place of use for the water right when documented in an approved planning or engineering document under chapter 43.20 RCW or in accordance with procedures adopted under chapter 70.116 RCW. This occurs as an effect of the department's approval of a service area identified in a water system plan, water system plan amendment, small water system management program, engineering document, or as an effect of the local legislative authority's approval of a service area as part of a coordinated water system plan.

(1) The following conditions must be met:

- (a) The municipal water supplier is in compliance with the terms of the water system plan or small water system management program, including those regarding water use efficiency.
- (b) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any local plans and regulations.
- (c) The alteration of the place of use is not inconsistent regarding an area added to the place of use with any watershed plan approved under chapter 90.82 RCW or a comprehensive watershed plan approved under RCW 90.54.040(1) after September 3, 2003, if such a watershed plan has been approved for the area.

(2) As part of the planning or engineering document, municipal water suppliers must:

- (a) Identify the portions of the service area where the place of use will be expanded.
- (b) Document that subsection (1)(a) and (c) of this section are met.
- (c) Meet the requirements of WAC 246-290-108 for the portions of the service area where the place of use will be expanded.

WAC 246-290-108 Consistency with local plans and regulations.

Consistency with local plans and regulations applies to planning and engineering documents under WAC 246-290-106, 246-290-107, and 246-290-110.

(1) Municipal water suppliers must include a consistency review and supporting documentation in its planning or engineering document describing how it has considered consistency with local plans and regulations. This review must include elements of local plans and regulations, as they reasonably relate to water service to be provided by a municipal water supplier for any new connection, including:

- (a) Land use and zoning within the applicable service area;

- (b) Six-year growth projections used in the demand forecast;
 - (c) Utility service extension ordinances of a city or town when water service is provided by the water utility of the city or town;
 - (d) Provisions of water service for new service connections; and
 - (e) Other relevant elements related to water supply planning as determined by the department.
- (2) Municipal water suppliers must request each local government with jurisdiction over the applicable service area to provide a consistency review.
- (a) Municipal water suppliers shall provide each local government with jurisdiction sixty days to review the planning or engineering document unless another state statute or state regulation requires a different time frame. The municipal water supplier must provide the local government with jurisdiction an additional thirty days for review if requested.
 - (b) If an inconsistency is documented by the local government with jurisdiction within the time frame outlined in (a) of this subsection, the municipal water supplier must provide the inconsistency information to the department.
 - (c) If the local government with jurisdiction documents in writing an inconsistency exists with local plans and regulations, the municipal water supplier shall address the inconsistency. The local government with jurisdiction shall be provided sixty days to review any revisions or responses that address the inconsistency.
- (3) If the local government with jurisdiction does not provide a consistency review, the municipal water supplier shall complete the consistency review as described in subsection (1) of this section. The municipal water supplier must also document:
- (a) The amount of time provided to each local government with jurisdiction to review the planning and engineering documents as defined in subsection (2) of this section; and
 - (b) The efforts taken to request a consistency review from the local government with jurisdiction.

WAC 246-290-110 Project report.

- (1) The project report is a written document that describes why a project is being proposed and includes engineering design calculations showing how the project will meet its objectives.
- (2) Purveyors shall submit project reports to the department and obtain written approval prior to installation or construction of any new water system, water system extension, or improvement. The department may require the submittal of a project report for the purpose of resolving a system operational problem. Exceptions to this requirement are listed in WAC 246-290-125.

- (3) Project reports submitted for approval by purveyors who are required to have a water system plan will not be considered for approval unless a current, approved water system plan that adequately addresses the project is on file with the department. In the event that a purveyor of an existing system does not have such a water system plan, the department may enter into a compliance agreement with the purveyor that grants a time extension to complete the water system plan.
- (4) Project reports shall be consistent with the standards identified in Part 3 of this chapter. Depending on the complexity and type of project or problem, the report shall include the following elements (information contained in a current water system plan or other engineering document previously approved by the department need not be duplicated, but must be specifically referenced):
- (a) Project description, including:
- (i) Why the project is being proposed, how problem(s) (if any) are to be addressed, and the relationship of the project to other system components;
 - (ii) A statement of SEPA determination of nonsignificance or justification of why SEPA does not apply to project;
 - (iii) Source development information under WAC 246-290-130, 246-290-132, and 246-290-135, if applicable;
 - (iv) Type of treatment under WAC 246-290-250, if applicable; and
 - (v) A summary of consumer and user complaints.
- (b) Planning data. If a purveyor has a water system plan or small water system management program, the project report shall indicate the proposed project's relationship to the plan. If the purveyor is not required by WAC 246-290-100 to have a water system plan, planning related information shall include:
- (i) General project background with population and water demand forecasts;
 - (ii) Service area map. Municipal water suppliers must identify where their water rights place of use will be expanded to their service area if the requirements under WAC 246-290-107 have been met;
 - (iii) How the project will impact neighboring water systems;
 - (iv) Local requirements, such as fire flow;
 - (v) Additional management responsibilities under WAC 246-290-105, 246-290-415, and chapter 246-292 WAC;

- (vi) Implementation strategies or proposed construction schedule;
 - (vii) Estimated capital and annual operating cost, and method of financing, if applicable.
- (c) An analysis of alternatives, including description of options and rationale for selecting the proposed option.
- (d) A review of water quality as it relates to the purpose of the proposed project. If a project involves treatment and/or a filtration facility pilot study, refer to department guidance, reporting requirements for corrosion control under 40 CFR 141.90, and tracer studies under WAC 246-290-636(5).
- (e) When the project involves a new source or an increase in system physical capacity, a review of water quantity, including a water rights assessment, unless the assessment has previously been submitted in a water system plan or small water system management program that has been approved by the department. The purveyor shall take any follow-up action as directed by the department, to determine conformance with applicable state water rights laws.
- (f) Engineering calculations including sizing justification, hydraulic analysis, physical capacity analysis, and other relevant technical considerations necessary to support the project.
- (g) Design and construction standards, including performance standards, construction materials and methods, and sizing criteria, if applicable.
- (h) Project reports for the design of treatment facilities shall include the following:
- (i) Detailed design criteria and calculations to support the proposed treatment processes, process control, and process utilities; and
 - (ii) Proposed methods and schedules for start up, testing, and operation of the completed treatment facility.
- (i) Legal considerations, such as ownership, right of way, sanitary control area (SCA), restrictive covenants, restrictions related to water use that are recorded on titles or deeds to properties, and relationship with the boundary review board and UTC.
- (j) Other necessary department-determined considerations.