

Chapter 246-295 WAC
SATELLITE SYSTEM MANAGEMENT AGENCIES

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WAC

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WAC 246-295-001 Purpose. (1) The purpose of these rules is to:

(a) Establish criteria for approving satellite system management agencies hereafter referred to as satellite management agencies (SMAs) pursuant to RCW 70.116.134;

(b) Delineate the process organizations and/or individuals must follow to be considered an approved SMA; and

(c) Outline procedures for coordination between water users, purveyors, SMAs, local government and the department.

(2) This chapter is specifically designed to ensure:

(a) The enhancement of public health through the use of SMAs;

(b) SMAs are capable of providing high quality drinking water in a reliable manner and in a quantity suitable for intended use;

(c) SMAs are capable of meeting the requirements of the federal Safe Drinking Water Act, P.L. 93-523 and P.L. 99-339; and

(d) Uniformity in the SMAs determination and compliance processes.

(3) Other statutes relating to this chapter are:

(a) Chapter 43.20 RCW, State board of health;

(b) RCW 43.20B.020 Fees for services—Department of health and department of social and health services;

(c) Chapter 43.70 RCW, Department of health;

(d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977;

(e) Chapter 70.119 RCW, Public water supply systems—Certification and regulation of operators; and

(f) Chapter 70.119A, Public water systems—Penalties and compliance.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-001, filed 9/6/94, effective 10/7/94.]

WAC 246-295-010 Definitions. Abbreviations:

"IOU" - Investor owned utility;

"SMA" - Satellite management agency;

"UTC" - Utilities and transportation commission; and

"WSP" - Water system plan.

"Certified operator" means a person certified in accordance with chapter 246-292 WAC.

"Contract" means a written agreement between a SMA and a public water system identifying the responsibilities of system operation and management.

"Department" means the Washington state department of health.

"Investor owned utility" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any public water system for hire.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any:

Collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with such system; and

Collection or pretreatment storage facilities not under control of the purveyor primarily used in connection with such system.

"Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

"Satellite management agency (SMA)" means an individual, purveyor, or entity that is approved by the secretary to own or operate more than one public water system on a regional or county-wide basis, without the necessity for a physical connection between such systems.

"Satellite management and operation services" means all day-to-day responsibilities of a water system. Management responsibilities shall include planning and policy decision making. Operational responsibilities shall include normal day-to-day operations, preventative maintenance, water quality monitoring, troubleshooting, emergency response, response to complaints, public/press contact, and recordkeeping.

"Secretary" means the secretary of the department of health or their designee.

"Service area" means a specific area for which satellite management and operation services may be provided by a SMA.

"Service area policies" means pertinent policies that impact the provision of water and water system growth.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-010, filed 9/6/94, effective 10/7/94.]

WAC 246-295-020 Applicability. The rules of this chapter shall apply to SMAs and all counties, and to public water system purveyors, individuals, or other entities requesting SMA approval.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-020, filed 9/6/94, effective 10/7/94.]

WAC 246-295-030 Potential satellite management agencies (SMAs).

(1) Pursuant to RCW 70.116.134(2), each county shall identify and submit a list of potential SMAs to the department by January 1, 1995, for areas within the county:

(a) Which are not within a designated future service area of any utility pursuant to the Water System Coordination Act; or

(b) Where an existing purveyor has agreed or where a legal determination has been made that an existing purveyor is unable or unwilling to provide service.

(2) After January 1, 1995, counties may submit names of additional potential SMAs to the department on an ongoing basis.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-030, filed 9/6/94, effective 10/7/94.]

WAC 246-295-040 SMA submittal and approval process. (1) An individual, purveyor or other entity seeking approval as a SMA, shall:

(a) Submit a notice of intent to become an approved SMA to the department on a form provided by the department;

(b) Participate in a "presubmittal conference" to discuss the SMA plan content, and, if applicable, the water system plan;

(c) Submit a SMA application and plan which shall include all information required under WAC 246-295-050 or 246-295-060 at the level of detail agreed upon at the presubmittal conference.

(2) The department shall forward the SMA plan to affected counties for review and comment. To ensure consideration, the county must submit its comments to the department within sixty days.

(3) When all conditions listed in subsection (1) of this section have been completed, the secretary shall either approve or deny the proposed SMA based on the secretary's review and evaluation of information presented and comments received from the county.

(4) The secretary shall maintain a list of approved SMAs and make it available to counties, purveyors, individuals or other entities on request. A listing shall be distributed to each county at least annually and on approval of new SMAs by the secretary. The approved listing shall include a service area for each SMA and designate which SMAs are approved for:

(a) Ownership; and

(b) Management and operation only.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-040, filed 9/6/94, effective 10/7/94.]

WAC 246-295-050 SMA plan content for ownership. The SMA plan shall address the following elements at a minimum in a manner acceptable to the department. A department guideline titled *Satellite Management Planning Handbook* is available to assist the potential SMA in adequately addressing these elements:

(1) SMA ownership, including at a minimum:

(a) A statement of intent to own public water systems;

(b) Current organizational structure of the SMA, legal authority, mailing address, responsible party, and contact person;

(c) Identification of existing public water systems the applicant currently owns, and/or manages and operates. The identification shall include the number of connections in each system, the department identification number and the system location.

(d) Documentation showing that at least one staff person has, at a minimum, three years of water utility ownership and/or management experience.

- (2) SMA service area information, including at a minimum:
 - (a) A map of the SMA service area;
 - (b) A general written description of the SMA service area; and
 - (c) Future service area agreement(s) of systems owned by SMA if applicable.
- (3) Service area policies/conditions of service where applicable, including at a minimum:
 - (a) Annexation policies consistent with local comprehensive plans;
 - (b) Ownership versus management and operation decision criteria;
 - (c) Policies related to new and existing public water systems, including the method of determining financial feasibility of adding new or existing systems to the SMA;
 - (d) Ordinances, resolutions and agreements related to the provision of drinking water;
 - (e) Service request process overview flowchart, including time frames; and
 - (f) A list of available services.
- (4) System design standards for new and existing systems;
- (5) Financial viability, including at a minimum:
 - (a) A written description of available revenue sources;
 - (b) A budget; and
 - (c) General financial policies.
- (6) Operation and maintenance program, including at a minimum:
 - (a) Documentation that at least one staff person will, at a minimum, be certified at a water distribution manager 2 level or above and meet any additional department required certified operator requirements;
 - (b) Overall SMA routine and preventive maintenance program, including an emergency response plan;
 - (c) A copy of model contract for operation and maintenance services, if applicable; and
 - (d) Two copies of all applicable operations contracts in effect.
- (7) Documentation from affected counties that the SMA plan is consistent with their plans and policies;
- (8) Documentation that all Group A systems owned by the potential SMA on the date of request have obtained their operating permit and are not classified in the red operating permit category pursuant to chapter 246-294 WAC. If Group B systems are also owned by the potential SMA, provide documentation that such systems are in compliance with chapter 246-291 WAC. A special provision pursuant to WAC 246-295-110 may be utilized in the determination of compliance.
- (9) Current water system plan(s) or department approved plan development schedule, if applicable.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-050, filed 9/6/94, effective 10/7/94.]

WAC 246-295-060 SMA plan content for management and operation only. The SMA plan shall address the following elements at a minimum in a manner acceptable to the department. A department guideline titled *Satellite Management Planning Handbook* is available to assist purveyors, individuals or other entities in adequately addressing these elements:

- (1) SMA ownership, including at a minimum:

- (a) A statement of intent to manage and operate public water systems;
 - (b) Current organizational structure of SMA, legal authority, mailing address, responsible party, and contact person;
 - (c) Documentation showing that at least one staff person has, at a minimum, three years of water utility ownership and/or management experience; and
 - (d) Identification of existing public water systems the applicant currently operates. The identification must include the number of connections in each system, the department identification number and the system location.
- (2) SMA service area information, including at a minimum:
 - (a) A map of the SMA service area; and
 - (b) A general written description of the SMA service area.
 - (3) Conditions of service, including at a minimum:
 - (a) Operation decision criteria;
 - (b) Service request process overview flowchart including time frames; and
 - (c) A list of available services.
 - (4) Operation and maintenance program, including at a minimum:
 - (a) Documentation that at least one staff person will, at a minimum, be certified at a water distribution manager 2 level or above and meet any additional department required certified operator requirements;
 - (b) Overall SMA routine and preventive maintenance program, including an emergency response plan;
 - (c) A copy of the model contract for operation and maintenance services; and
 - (d) Two copies of all applicable operations contracts in effect.
 - (5) Documentation that all Group A systems managed and operated by the potential SMA on the date of request have obtained their operating permit and are not classified in the red operating permit category pursuant to chapter 246-294 WAC. If Group B systems are also managed and operated by the potential SMA, provide documentation that such systems are in compliance with chapter 246-291 WAC. A special provision pursuant to WAC 246-295-110 may be utilized in the determination of compliance.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-060, filed 9/6/94, effective 10/7/94.]

WAC 246-295-070 Requests for water service. The county or city agency responsible for determining water availability shall direct an individual or other entity proposing a new system or requesting water service to contact one or more approved SMAs designated for the service area where the new system is proposed. Such contact shall take place prior to construction of a new public water system and shall be documented in writing to the appropriate county or city.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-070, filed 9/6/94, effective 10/7/94.]

WAC 246-295-080 Management and operations agreements. (1) An SMA providing satellite management and operation services only shall have a written agreement with each public water system being served,

which shall, at a minimum, address the necessary requirements to comply with applicable regulations regarding management and operation of a public water system; and

(2) The SMA shall submit two copies of all new and renewed agreements to the department within thirty days of the effective date of the contract.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-080, filed 9/6/94, effective 10/7/94.]

WAC 246-295-090 Periodic review. The SMA shall ensure that a SMA plan is submitted to the department for review and approval every five years or more frequently as required by the secretary. The secretary shall review each approved SMA for compliance with the elements identified in WAC 246-295-050 and 246-295-060. The secretary may request that additional information be submitted to assist in the evaluation of the SMA.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-090, filed 9/6/94, effective 10/7/94.]

WAC 246-295-100 SMA compliance. (1) A SMA:

(a) Shall comply with all statutes and regulations governing public water systems including but not limited to chapters 70.116, 70.119 and 70.119A RCW and chapters 246-290, 246-291, 246-292, 246-293 and 246-294 WAC and the requirements of this chapter; and

(b) Shall adhere to its SMA plan.

(2) The department may revoke, suspend, modify or deny the certification or application of any SMA or applicant which:

(a) Fails to timely submit required information;

(b) Has been subject to departmental enforcement action for violation of statutes or regulations governing public water systems;

(c) Violates or has violated statutes or regulations governing public water systems;

(d) Fails to comply with its SMA plan;

(e) Fails to have or maintain required staff;

(f) Fails to comply with all applicable local ordinances, regulations, plans and policies;

(g) Fails to demonstrate financial viability whether at the time of application or subsequently;

(h) Fails to bring a noncomplying system into regulatory compliance within the time frame established under WAC 246-295-110; or

(i) Operates in a manner that threatens public health.

(3) Any SMA or applicant aggrieved by the department's decision to revoke, suspend, modify or deny their approval or application may appeal such decision in accordance with chapter 246-10 WAC and chapter 34.05 RCW.

(4) An approved SMA that files a timely appeal of a decision to revoke, suspend or modify its approval under chapter 246-10 WAC and/or chapter 34.05 RCW may continue to operate until a final departmental decision is issued, unless protection of the public health, safety and welfare requires summary action.

(5) If a SMA is removed from the approved list and desires reinstatement, the SMA must submit a new notice of intent to become an approved SMA and follow the process outlined in WAC 246-295-040, provi-

ded that the reapplication shall be subject to any limitations imposed by final departmental order or if applicable, order on judicial review.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-100, filed 9/6/94, effective 10/7/94.]

WAC 246-295-110 Special provisions. (1) SMAs willing to take ownership of systems which have not obtained their operating permit or are classified in the red operating permit category pursuant to chapter 246-294 WAC, may be allowed a "special provision" whereby they are given time to bring the system into regulatory compliance. This "special provision" is subject to an agreement among the SMA, the department and, if applicable, the public water system that documents how and within what time frame the SMA will bring the noncomplying system into compliance.

(2) Extensions to the time frame may be granted if agreed upon between the SMA and the secretary. If the agreed upon time frame passes and no extension has been granted, the system at issue shall remain out of compliance and the SMA shall be removed from the approved SMA list.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-110, filed 9/6/94, effective 10/7/94.]

WAC 246-295-120 Fees. The secretary is authorized to assess reasonable fees to process applications for initial approval and for periodic review of SMAs.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-120, filed 9/6/94, effective 10/7/94.]

WAC 246-295-130 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 70.116.134. WSR 94-18-108, § 246-295-130, filed 9/6/94, effective 10/7/94.]