

Chapter 70A.125 RCW
PUBLIC WATER SYSTEMS—PENALTIES AND COMPLIANCE

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Drinking water quality consumer complaints: RCW 80.04.110.

RCW 70A.125.010 Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

(1) "Area-wide waivers" means a waiver granted by the department as a result of a geographically based testing program meeting required provisions of the federal safe drinking water act.

(2) "Department" means the department of health.

(3) "Federal safe drinking water act" means the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or hereafter amended.

(4) "Group A public water system" means a public water system with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections; or a system serving one thousand or more people for two or more consecutive days.

(5) "Group B public water system" means a public water system that does not meet the definition of a group A public water system.

(6) "Local board of health" means the city, town, county, or district board of health.

(7) "Local health jurisdiction" means an entity created under chapter 70.05, 70.08, or 70.46 RCW which provides public health services to persons within the area.

(8) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county, or district public health department.

(9) "Order" means a written direction to comply with a provision of the regulations adopted under RCW 43.20.050(2) (a) and (b) or 70A.120.050 or to take an action or a series of actions to comply with the regulations.

(10) "Person" includes, but is not limited to, natural persons, municipal corporations, governmental agencies, firms, companies, mutual or cooperative associations, institutions, and partnerships. It also means the authorized agents of any such entities.

(11) "Public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.

(12) "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 water for human consumption through pipes or other constructed conveyances, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system, including:

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(13) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates a public water system. It also means the authorized agents of any such entities.

(14) "Regulations" means rules adopted to carry out the purposes of this chapter.

(15) "Secretary" means the secretary of the department of health.

(16) "State board of health" is the board created by RCW 43.20.030. [2020 c 20 s 1353. Prior: 2009 c 495 s 3; 1999 c 118 s 2; 1994 c 252 s 2; 1991 c 304 s 2; 1991 c 3 s 370; 1989 c 422 s 2; 1986 c 271 s 2. Formerly RCW 70.119A.020.]

Effective date—2009 c 495: See note following RCW 43.20.050.

Finding—Intent—1999 c 118: "The legislature finds and declares that the provision of safe and reliable water supplies is essential to public health and the continued economic vitality of the state of Washington. Maintaining the authority necessary to ensure safe and reliable water supplies requires that state laws conform with the provisions of the federal safe drinking water act. It is the intent of the legislature that the definition of public water system be amended to reflect recent amendments to the federal safe drinking water act." [1999 c 118 s 1.]

Finding—1994 c 252: "The legislature finds that:

(1) The federal safe drinking water act has imposed significant new costs on public water systems and that the state should seek maximum regulatory flexibility allowed under federal law;

(2) There is a need to comprehensively assess and characterize the groundwaters of the state to evaluate public health risks from organic and inorganic chemicals regulated under federal law;

(3) That federal law provides a mechanism to significantly reduce testing and monitoring costs to public water systems through the use of area-wide waivers.

The legislature therefore directs the department of health to conduct a voluntary program to selectively test the groundwaters of the state for organic and inorganic chemicals regulated under federal law for the purpose of granting area-wide waivers." [1994 c 252 s 1.]

Effective date—1994 c 252: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 252 s 6.]

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

RCW 70A.125.020 Environmental excellence program agreements—Effect on chapter. Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW. [1997 c 381 s 24. Formerly RCW 70.119A.025.]

Purpose—1997 c 381: See RCW 43.21K.005.

RCW 70A.125.030 Public health emergencies—Violations—Penalty.

(1) The secretary or his or her designee or the local health officer may declare a public health emergency. As limited by RCW 70A.125.040, the department may impose penalties for violations of laws or regulations that are determined to be a public health emergency.

(2) As limited by RCW 70A.125.040, the department may impose penalties for violation of laws or rules regulating public water systems and administered by the department of health. [2020 c 20 s 1354; 1993 c 305 s 1; 1991 c 304 s 3; 1989 c 422 s 6; 1986 c 271 s 3. Formerly RCW 70.119A.030.]

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

RCW 70A.125.040 Additional or alternative penalty—Informal resolution unless a public health emergency. (1) (a) In addition to or as an alternative to any other penalty or action allowed by law, a person who violates a law or rule regulating public water systems and administered by the department of health is subject to a penalty of not more than five thousand dollars per day for every such violation, or, in the case of a violation that has been determined to be a public health emergency, a penalty of not more than ten thousand dollars per day for every such violation. Every such violation shall be a separate and distinct offense. The amount of fine shall reflect the health significance of the violation and the previous record of compliance on the part of the public water supplier. In case of continuing violation, every day's continuance shall be a separate and distinct violation.

(b) In addition, a person who constructs, modifies, or expands a public water system or who commences the construction, modification, or expansion of a public water system without first obtaining the required departmental approval is subject to penalties of not more than five thousand dollars per service connection, or, in the case of a system serving a transient population, a penalty of not more than four hundred dollars per person based on the highest average daily population the system serves or is anticipated to serve may be imposed. The total penalty that may be imposed pursuant to this subsection (1) (b) is five hundred thousand dollars. For the purpose of computing the penalty under this subsection, a service connection shall include any new service connection actually constructed, any anticipated service connection the system has been designed to serve, and, in the case of a system modification not involving expansions, each existing service connection that benefits or would benefit from the modification.

(c) Every person who, through an act of commission or omission, procures, aids, or abets a violation is considered to have violated the provisions of this section and is subject to the penalty provided in this section.

(2) The penalty provided for in this section shall be imposed by a notice in writing to the person against whom the civil penalty is assessed and shall describe the violation. The notice shall be personally served in the manner of service of a summons in a civil action or in a manner that shows proof of receipt. A penalty imposed by this section is due twenty-eight days after receipt of notice unless application for an adjudicative proceeding is filed as provided in subsection (3) of this section.

(3) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the department or board of health.

(4) A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within thirty days of service of the final administrative order shall pay, in addition to the amount of the penalty, interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a

month that the penalty remains unpaid, commencing with the month in which the notice of penalty was served and such reasonable attorney's fees as are incurred in securing the final administrative order.

(5) A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate, enter a judgment on behalf of the department and order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court or shall enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing. The judgment may award reasonable attorney's fees for the cost of the attorney general's office in representing the department.

(6) If no appeal is taken from a final administrative order assessing a civil penalty under this chapter, the department may file a certified copy of the final administrative order with the clerk of the superior court in which the public water system is located or in Thurston county, and the clerk shall enter judgment in the name of the department and in the amount of the penalty assessed in the final administrative order.

(7) A judgment entered under subsection (5) or (6) of this section shall have the same force and effect as, and is subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(8) All penalties imposed under this section shall be payable to the state treasury and credited to the safe drinking water account, and shall be used by the department to provide training and technical assistance to system owners and operators.

(9) Except in cases of public health emergencies, the department may not impose monetary penalties under this section unless a prior effort has been made to resolve the violation informally. [1995 c 376 s 8; 1993 c 305 s 2; 1990 c 133 s 8; 1989 c 175 s 135; 1986 c 271 s 4. Formerly RCW 70.119A.040.]

Findings—1995 c 376: See note following RCW 70A.100.060.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Effective date—1989 c 175: See note following RCW 34.05.010.

RCW 70A.125.050 Enforcement of regulations by local boards of health—Civil penalties. Each local board of health that is enforcing the regulations regarding public water systems is authorized to impose and collect civil penalties for violations within the area of its responsibility under the same limitations and requirements imposed upon the department by RCW 70A.125.030 and 70A.125.040, except that judgment shall be entered in the name of the local board and penalties shall be placed into the general fund of the county, city, or town operating the local board of health. [2020 c 20 s 1355; 2009 c 495 s 4; 1993 c 305 s 3; 1989 c 422 s 8; 1986 c 271 s 5. Formerly RCW 70.119A.050.]

Effective date—2009 c 495: See note following RCW 43.20.050.

RCW 70A.125.060 Public water systems—Mandate—Conditions for approval or creation of new public water system—Department and local health jurisdiction duties. (1) To assure safe and reliable public drinking water and to protect the public health:

(a) Public water systems shall comply with all applicable federal, state, and local rules; and

(b) Group A public water systems shall:

(i) Protect the water sources used for drinking water;

(ii) Provide treatment adequate to assure that the public health is protected;

(iii) Provide and effectively operate and maintain public water system facilities;

(iv) Plan for future growth and assure the availability of safe and reliable drinking water;

(v) Provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information, and provide to users the name and twenty-four hour telephone number of an emergency contact person; and

(vi) Take whatever investigative or corrective action is necessary to assure that a safe and reliable drinking water supply is continuously available to users.

(2) No new public water system may be approved or created unless:

(a) It is owned or operated by a satellite system management agency established under RCW 70A.100.130 and the satellite system management system complies with financial viability requirements of the department; or (b) a satellite management system is not available and it is determined that the new system has sufficient management and financial resources to provide safe and reliable service. The approval of any new system that is not owned by a satellite system management agency shall be conditioned upon future management or ownership by a satellite system management agency, if such management or ownership can be made with reasonable economy and efficiency, or upon periodic review of the system's operational history to determine its ability to meet the department's financial viability and other operating requirements. The department and local health jurisdictions shall enforce this requirement under authority provided under this chapter, chapter 70A.100, or 70.05 RCW, or other authority governing the approval of new water systems by the department or a local jurisdiction.

(3) The department and local health jurisdictions shall carry out the rules and regulations of the state board of health adopted pursuant to RCW 43.20.050(2) (a) and (b) and other rules adopted by the department relating to public water systems. [2020 c 20 s 1356; 2009 c 495 s 5; 1995 c 376 s 3; 1991 c 304 s 4; 1990 c 132 s 4; 1989 c 422 s 3. Formerly RCW 70.119A.060.]

Effective date—2009 c 495: See note following RCW 43.20.050.

Findings—1995 c 376: See note following RCW 70A.100.060.

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

Legislative findings—Severability—1990 c 132: See notes following RCW 43.20.240.

RCW 70A.125.070 Department contracting authority. The department may enter into contracts to carry out the purposes of this chapter. [1989 c 422 s 4. Formerly RCW 70.119A.070.]

RCW 70A.125.080 Drinking water program. (1) The department shall administer a drinking water program which includes, but is not limited to, those program elements necessary to assume primary enforcement responsibility for part B, and section 1428 of part C of the federal safe drinking water act. No rule promulgated or implemented by the department of health or the state board of health for the purpose of compliance with the requirements of the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., shall be applicable to public water systems to which that federal law is not applicable, unless the department or the state board determines that such rule is necessary for the protection of public health.

(2) The department shall enter into an agreement of administration with the department of ecology and any other appropriate agencies, to administer the federal safe drinking water act.

(3) The department is authorized to accept federal grants for the administration of a primary program. [1991 c 3 s 371; 1989 c 422 s 5. Formerly RCW 70.119A.080.]

RCW 70A.125.090 Operating permits—Findings. The legislature finds that:

(1) The responsibility for ensuring that the citizens of this state have a safe and reliable drinking water supply is shared between local government and state government, and is the obligation of every public water system;

(2) A rapid increase in the number of public water systems supplying drinking water to the citizens of this state has significantly increased the burden on both local and state government to monitor and enforce compliance by these systems with state laws that govern planning, design, construction, operation, maintenance, financing, management, and emergency response;

(3) The federal safe drinking water act imposes on state and local governments and the public water systems of this state significant new responsibilities for monitoring, testing, and treating drinking water supplies; and

(4) Existing drinking water programs at both the state and local government level need additional authorities to enable them to more comprehensively and systematically address the needs of the public water systems of this state and assure that the public health and safety of its citizens are protected.

Therefore, annual operating permit requirements shall be established in accordance with this chapter. The operating permit requirements shall be administered by the department and shall be used as a means to assure that public water systems provide safe and reliable drinking water to the public. The department and local government shall conduct comprehensive and systematic evaluations to

assess the adequacy and financial viability of public water systems. The department may impose permit conditions, requirements for system improvements, and compliance schedules in order to carry out the purpose of chapter 304, Laws of 1991. [1991 c 304 s 1. Formerly RCW 70.119A.100.]

Requirements effective upon adoption of rules—1991 c 304: "The department shall adopt rules necessary to implement sections 5 through 7 of this act. The requirements of this act shall take effect upon adoption of rules pursuant to this act." [1991 c 304 s 8.]

RCW 70A.125.100 Operating permits—Application process—Annual fee—Adoption of rules—Phase-in of implementation—Satellite systems.

(1) No person may operate a group A public water system unless the person first submits an application to the department and receives an operating permit as provided in this section. A new application must be submitted upon any change in ownership of the system.

(2) The department may require that each application include the information that is reasonable and necessary to determine that the system complies with applicable standards and requirements of the federal safe drinking water act, state law, and rules adopted by the department or by the state board of health.

(3) Following its review of the application, its supporting material, and any information received by the department in its investigation of the application, the department shall issue or deny the operating permit. The department shall act on initial permit applications as expeditiously as possible, and shall in all cases either grant or deny the application within one hundred twenty days of receipt of the application or of any supplemental information required to complete the application. The applicant for a permit shall be entitled to file an appeal in accordance with chapter 34.05 RCW if the department denies the initial or subsequent applications or imposes conditions or requirements upon the operator. Any operator of a public water system that requests a hearing may continue to operate the system until a decision is issued after the hearing.

(4) At the time of initial permit application or at the time of permit renewal the department may impose such permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will provide a safe and reliable water supply to its users.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each application shall be accompanied by an annual fee.

(7) The department shall adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this section.

(8) The department shall establish by rule categories of annual operating permit fees based on system size, complexity, and number of service connections. Fees charged must be sufficient to cover, but may not exceed, the costs to the department of administering a program for safe and reliable drinking water. The department shall use operating permit fees to monitor and enforce compliance by group A public water systems with state and federal laws that govern planning, water use

efficiency, design, construction, operation, maintenance, financing, management, and emergency response.

(9) The annual per-connection fee may not exceed one dollar and fifty cents. The department shall phase-in implementation of any annual fee increase greater than ten percent, and shall establish the schedule for implementation by rule. Rules established by the department prior to 2020 must limit the annual operating permit fee for any public water system to no greater than one hundred thousand dollars.

(10) The department shall notify existing public water systems of the requirements of RCW 70A.125.030, 70A.125.060, and this section at least one hundred twenty days prior to the date that an application for a permit is required pursuant to RCW 70A.125.030, 70A.125.060, and this section.

(11) The department shall issue one operating permit to any approved satellite system management agency. Operating permit fees for approved satellite system management agencies must be established by the department by rule. Rules established by the department must set a single fee based on the total number of connections for all group A public water systems owned by a satellite management agency.

(12) For purposes of this section, "group A public water system" and "system" mean those water systems with fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections. [2020 c 20 s 1357; 2011 c 102 s 1; 2003 1st sp.s. c 5 s 18; 1991 c 304 s 5. Formerly RCW 70.119A.110.]

Severability—2003 1st sp.s. c 5: See note following RCW 90.03.015.

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

RCW 70A.125.110 Organic and inorganic chemicals—Area-wide waiver program. The department shall develop and implement a voluntary consolidated source monitoring program sufficient to accurately characterize the source water quality of the state's drinking water supplies and to maximize the flexibility allowed in the federal safe drinking water act to allow public water systems to be waived from full testing requirements for organic and inorganic chemicals under the federal safe drinking water act. The department shall arrange for the initial sampling and provide for testing and programmatic costs to the extent that the legislature provides funding for this purpose in water system operating permit fees or through specific appropriation of funds from other sources. The department shall assess a fee using its authority under RCW 43.20B.020, sufficient to cover all testing and directly related costs to public water systems that otherwise are not funded. The department shall adjust the amount of the fee based on the size of the public drinking water system. Fees charged by the department for this purpose may not vary by more than a factor of ten. The department shall, to the extent feasible and cost-effective, use the services of local governments, local health departments, and private laboratories to implement the testing program. The department shall consult with the departments of

agriculture and ecology for the purpose of exchanging water quality and other information. [1997 c 218 s 3; 1994 c 252 s 3. Formerly RCW 70.119A.115.]

Findings—Effective date—1997 c 218: See notes following RCW 70A.120.030.

Finding—Effective date—1994 c 252: See notes following RCW 70A.125.010.

RCW 70A.125.120 Safe drinking water account. The safe drinking water account is created in the general fund of the state treasury. All receipts from the operating permit fees required to be paid under RCW 70A.125.100 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of health to carry out the purposes of chapter 304, Laws of 1991 and to carry out contracts with local governments in accordance with this chapter. [2020 c 20 s 1358; 1991 c 304 s 6. Formerly RCW 70.119A.120.]

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

RCW 70A.125.130 Local government authority. (1) Local governments may establish separate operating permit requirements for public water systems provided the operating permit requirements have been approved by the department. The department shall not approve local operating permit requirements unless the local system will result in an increased level of service to the public water system. There shall not be duplicate operating permit requirements imposed by local governments and the department.

(2) Local governments may establish requirements for group B public water systems in addition to those established by rule by the state board of health pursuant to RCW 43.20.050(2) or other rules adopted by the department, provided that the requirements are at least as stringent as the state requirements. [2009 c 495 s 6; 1995 c 376 s 9; 1991 c 304 s 7. Formerly RCW 70.119A.130.]

Effective date—2009 c 495: See note following RCW 43.20.050.

Effective date—1995 c 376 s 9: "Section 9 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 376 s 17.]

Findings—1995 c 376: See note following RCW 70A.100.060.

Requirements effective upon adoption of rules—1991 c 304: See note following RCW 70A.125.090.

RCW 70A.125.140 Report by bottled water plant operator or water dealer of contaminant in water source. In such cases where a bottled water plant operator or water dealer knows or has reason to believe

that a contaminant is present in the source water because of spill, release of a hazardous substance, or otherwise, and the contaminant's presence would create a potential health hazard to consumers, the plant operator or water dealer must report such an occurrence to the state's department of health. [1992 c 34 s 5. Formerly RCW 70.119A.140.]

Severability—1992 c 34: See note following RCW 69.07.170.

RCW 70A.125.150 Authority to enter premises—Search warrants—Investigations. (1) (a) Except as otherwise provided in (b) of this subsection, the secretary or his or her designee shall have the right to enter a premises under the control of a public water system at reasonable times with prior notification in order to determine compliance with laws and rules administered by the department of health to test, inspect, or sample features of a public water system and inspect, copy, or photograph monitoring equipment or other features of a public water system, or records required to be kept under laws or rules regulating public water systems. For the purposes of this section, "premises under the control of a public water system" does not include the premises or private property of a customer of a public water system past the point on the system where the service connection is made.

(b) The secretary or his or her designee need not give prior notification to enter a premises under (a) of this subsection if the purpose of the entry is to ensure compliance by the public water system with a prior order of the department or if the secretary or the secretary's designee has reasonable cause to believe the public water system is violating the law and poses a serious threat to public health and safety.

(2) The secretary or his or her designee may apply for an administrative search warrant to a court official authorized to issue a criminal search warrant. An administrative search warrant may be issued for the purposes of inspecting or examining property, buildings, premises, place, books, records, or other physical evidence, or conducting tests or taking samples. The warrant shall be issued upon probable cause. It is sufficient probable cause to show any of the following:

(a) The inspection, examination, test, or sampling is pursuant to a general administrative plan to determine compliance with laws or rules administered by the department; or

(b) The secretary or his or her designee has reason to believe that a violation of a law or rule administered by the department has occurred, is occurring, or may occur.

(3) The local health officer or the designee of a local health officer of a local board of health that is enforcing rules regulating public water systems under an agreement with the department allocating state and local responsibility is authorized to conduct investigations and to apply for, obtain, and execute administrative search warrants necessary to perform the local board's agreed-to responsibilities under the same limitations and requirements imposed on the department under this section. [1993 c 305 s 4. Formerly RCW 70.119A.150.]

RCW 70A.125.160 Drinking water assistance account—

Administrative subaccount—Program to provide financial assistance to public water systems—Responsibilities.

(1) A drinking water assistance account and an administrative subaccount are created in the state treasury. The purpose of the account is to allow the state to use any federal funds that become available to states from congress to fund a state revolving fund loan program as part of the reauthorization of the federal safe drinking water act. Moneys in the account may be spent only after appropriation. Until June 30, 2018, expenditures from the account may only be made by the secretary of health, the public works board, or the department of commerce. Beginning July 1, 2018, expenditures from the account may only be made by the secretary. Moneys in the account may only be used, consistent with federal law, to assist local governments and public water systems to provide safe and reliable drinking water through a program administered through the department and for other activities authorized under federal law. Money may be placed in the account from the proceeds of bonds when authorized by the legislature, transfers from other state funds or accounts, federal capitalization grants or other financial assistance, all repayments of moneys borrowed from the account, all interest payments made by borrowers from the account or otherwise earned on the account, or any other lawful source. All interest earned on moneys deposited in the account, including repayments, shall remain in the account and may be used for any eligible purpose.

(2) The department shall maintain a program to use the moneys in the drinking water assistance account as provided by the federal government under the safe drinking water act. The department shall make every reasonable effort to provide cost-effective, timely services and disburse federal funds to eligible public water systems as quickly as possible after the federal government has made them available.

(3) The department shall have the authority to establish assistance priorities and carry out oversight and related activities with respect to assistance provided with federal funds. By December 31, 2016, the department, the public works board, and the department of commerce shall develop a memorandum of understanding to transfer financial administration of the program as authorized under subsection (1) of this section.

(4) The department shall:

(a) Develop guidelines for providing assistance to public water systems and related oversight prioritization and oversight responsibilities including requirements for prioritization of loans or other financial assistance to public water systems;

(b) Establish a prioritized list of projects. Priority considerations must include, but are not limited to:

(i) Financial capability of the applicant to repay the loan;

(ii) The applicant's readiness to proceed and the ability of the applicant to promptly commence and complete the project;

(iii) Consistency with existing water resource planning and management, including coordinated water supply plans, regional water resource plans, and comprehensive plans under the growth management act, chapter 36.70A RCW;

(iv) Least-cost solutions, including restructuring of public water systems, where appropriate;

(v) The provision of regional benefits that affect more than one public water system;

(vi) Projects and activities that facilitate compliance with the federal safe drinking water act;

(vii) Projects and activities that are intended to achieve the public health objectives of federal and state drinking water laws[,] regulations, and rules; and

(viii) Implementation of water use efficiency and other demand management measures consistent with state laws and rules for water utilities;

(c) Provide assistance for the necessary planning and engineering to ensure that consistency, coordination, and proper professional review are incorporated into projects or activities proposed for funding;

(d) Establish minimum standards for water system capacity, including operational, technical, managerial, and financial capability, and as part of water system planning requirements;

(e) Oversee the testing and evaluation of the water quality of public water systems to ensure that priority for financial assistance is provided to systems and areas with threats to public health from contaminated supplies and reduce in appropriate cases the substantial increases in costs and rates that customers of small systems would otherwise incur under the monitoring and testing requirements of the federal safe drinking water act;

(f) Coordinate, to the maximum extent possible, with other state programs that provide financial assistance to public water systems and state programs that address existing or potential water quality or drinking water contamination problems;

(g) Submit a prioritized list of projects to the public works board for coordination with other state and federal infrastructure assistance programs, and to the appropriate committees of the legislature by February 1st of each year; and

(h) Fulfill the audit, accounting, and reporting requirements under federal law for the administration of the program.

(5) The department shall adopt such rules as are necessary under chapter 34.05 RCW to administer the program. [2016 c 111 s 1; 2001 c 141 s 4; 1997 c 218 s 4; 1995 c 376 s 10. Formerly RCW 70.119A.170.]

Purpose—2001 c 141: See note following RCW 43.84.092.

Findings—Effective date—1997 c 218: See notes following RCW 70A.120.030.

Findings—1995 c 376: See note following RCW 70A.100.060.

RCW 70A.125.170 Water use efficiency requirements—Rules. (1)

It is the intent of the legislature that the department establish water use efficiency requirements designed to ensure efficient use of water while maintaining water system financial viability, improving affordability of supplies, and enhancing system reliability.

(2) The requirements of this section shall apply to all municipal water suppliers and shall be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics.

(3) For the purposes of this section:

(a) Water use efficiency includes conservation planning requirements, water distribution system leakage standards, and water conservation performance reporting requirements; and

(b) "Municipal water supplier" and "municipal water supply purposes" have the meanings provided by RCW 90.03.015.

(4) To accomplish the purposes of this section, the department shall adopt rules necessary to implement this section by December 31, 2005. The department shall:

(a) Develop conservation planning requirements that ensure municipal water suppliers are: (i) Implementing programs to integrate conservation with water system operation and management; and (ii) identifying how to appropriately fund and implement conservation activities. Requirements shall apply to the conservation element of water system plans and small water system management programs developed pursuant to chapter 43.20 RCW. In establishing the conservation planning requirements the department shall review the current department conservation planning guidelines and include those elements that are appropriate for rule. Conservation planning requirements shall include but not be limited to:

(A) Selection of cost-effective measures to achieve a system's water conservation objectives. Requirements shall allow the municipal water supplier to select and schedule implementation of the best methods for achieving its conservation objectives;

(B) Evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation;

(C) Evaluation of each system's water distribution system leakage and, if necessary, identification of steps necessary for achieving water distribution system leakage standards developed under (b) of this subsection;

(D) Collection and reporting of water consumption and source production and/or water purchase data. Data collection and reporting requirements shall be sufficient to identify water use patterns among utility customer classes, where applicable, and evaluate the effectiveness of each system's conservation program. Requirements, including reporting frequency, shall be appropriate to system size and complexity. Reports shall be available to the public; and

(E) Establishment of minimum requirements for water demand forecast methodologies such that demand forecasts prepared by municipal water suppliers are sufficient for use in determining reasonably anticipated future water needs;

(b) Develop water distribution system leakage standards to ensure that municipal water suppliers are taking appropriate steps to reduce water system leakage rates or are maintaining their water distribution systems in a condition that results in leakage rates in compliance with the standards. Limits shall be developed in terms of percentage of total water produced and/or purchased and shall not be lower than ten percent. The department may consider alternatives to the percentage of total water supplied where alternatives provide a better evaluation of the water system's leakage performance. The department shall institute a graduated system of requirements based on levels of water system leakage. A municipal water supplier shall select one or more control methods appropriate for addressing leakage in its water system;

(c) Establish minimum requirements for water conservation performance reporting to assure that municipal water suppliers are regularly evaluating and reporting their water conservation performance. The objective of setting conservation goals is to enhance

the efficient use of water by the water system customers. Performance reporting shall include:

(i) Requirements that municipal water suppliers adopt and achieve water conservation goals. The elected governing board or governing body of the water system shall set water conservation goals for the system. In setting water conservation goals the water supplier may consider historic conservation performance and conservation investment, customer base demographics, regional climate variations, forecasted demand and system supply characteristics, system financial viability, system reliability, and affordability of water rates. Conservation goals shall be established by the municipal water supplier in an open public forum;

(ii) Requirements that the municipal water supplier adopt schedules for implementing conservation program elements and achieving conservation goals to ensure that progress is being made toward adopted conservation goals;

(iii) A reporting system for regular reviews of conservation performance against adopted goals. Performance reports shall be available to customers and the public. Requirements, including reporting frequency, shall be appropriate to system size and complexity;

(iv) Requirements that any system not meeting its water conservation goals shall develop a plan for modifying its conservation program to achieve its goals along with procedures for reporting performance to the department;

(v) If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it shall identify how current consumption levels will be maintained;

(d) Adopt rules that, to the maximum extent practical, utilize existing mechanisms and simplified procedures in order to minimize the cost and complexity of implementation and to avoid placing unreasonable financial burden on smaller municipal systems.

(5) The department shall provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, conservation landscape ordinances, conservation rate structures for public water systems, and general public education programs on water conservation.

(6) To ensure compliance with this section, the department shall establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms available to the department.

(7) Prior to completion of rule making required in subsection (4) of this section, municipal water suppliers shall continue to meet the existing conservation requirements of the department and shall continue to implement their current water conservation programs.

[2010 1st sp.s. c 7 s 121; 2003 1st sp.s. c 5 s 7. Formerly RCW 70.119A.180.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Severability—2003 1st sp.s. c 5: See note following RCW 90.03.015.

RCW 70A.125.180 Water system acquisition and rehabilitation program—Created. Subject to the availability of amounts appropriated for this specific purpose, the department shall provide financial assistance through a water system acquisition and rehabilitation program, hereby created. The department shall adopt guidelines for the program using as a model the procedures and criteria of the drinking water revolving loan program authorized under RCW 70A.125.160. All financing provided through the program must be in the form of grants or loans that partially cover project costs, including projects and planning required under RCW 43.20.310. The maximum grant or loan to any eligible entity may not exceed 25 percent of the funds allocated to the appropriation in any fiscal year. [2023 c 228 s 18; 2020 c 20 s 1359; 2008 c 214 s 2. Formerly RCW 70.119A.190.]

Finding—Purpose—2008 c 214: "The legislature finds that it is the state's policy to maintain the highest quality and reliability of drinking water supplies to all citizens of the state. Small water systems may face greater challenges in this regard because of declining quality in water sources, catastrophic events such as flooding that impair water sources, the age of the system's infrastructure, saltwater intrusion into water sources, inadequate rate base for conducting necessary improvements, and other challenges. In response to these needs, the water system acquisition and rehabilitation program was created through biennial budget law, and through the current biennium has a total of nine million seven-hundred fifty thousand dollars toward assisting dozens of water systems to improve the quality of water supply service to thousands of customers.

It is the purpose of this act to establish an ongoing water system acquisition and rehabilitation program, to direct a review of the program to date, and to provide for recommendations for strengthening the program and increasing the financial assistance available under the program." [2008 c 214 s 1.]

RCW 70A.125.190 Measuring chlorine residuals. A group A water system serving fewer than one hundred connections that purchases water from a water system approved by the department shall measure chlorine residuals at the same time and location of collection for a routine and repeat coliform sample. [2009 c 367 s 8. Formerly RCW 70.119A.200.]

RCW 70A.125.200 Fire sprinkler systems—Shutting off—Liability.
(1) A person or purveyor that owns, operates, or maintains a public water system shall not be liable for damages resulting from shutting off water to a residential home with an installed fire sprinkler system if the shut off is due to: (a) Routine maintenance or construction; (b) nonpayment by the customer; or (c) a water system emergency.

(2) Any governmental or municipal corporation, including but not limited to special districts, shall be deemed to be exercising a governmental function when it acts or undertakes to supply water, within or without its corporate limits, to a residential home with an installed fire sprinkler system. [2011 c 331 s 4. Formerly RCW 70.119A.210.]

Intent—2011 c 331: See note following RCW 82.02.100.

RCW 70A.125.210 Fluoridation of water supply—Commencing or discontinuing—Notice. A public water system that considers commencing or discontinuing fluoridation of its water supply on a continuing basis shall notify its customers and the department of its intentions at least 90 days prior to a vote or decision on the matter. The water system shall notify its customers via radio, television, newspaper, regular mail, electronic means, or any notification methods which effectively notify customers at least 90 days prior to any meeting at which the vote or decision will occur. Any public water system that violates the notification requirements of this subsection [section] shall return the fluoridation of its water supply to its previous level until proper notification is provided under the provisions of this section. [2023 c 140 s 1.]

RCW 70A.125.900 Short title—1989 c 422. This act shall be known and cited as the "Washington state safe drinking water act." [1989 c 422 s 1. Formerly RCW 70.119A.900.]