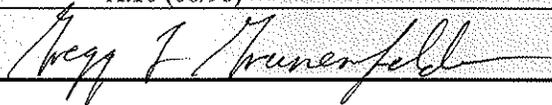


Division of Drinking Water Policy/Procedure

| | | |
|-----------------|---|---------------------|
| Title: | Group A Water System Transfer of Ownership | Number: A.10 (Rev.) |
| References: | WAC 246-290-035, 246-290-990, and WAC 246-294-060 | |
| Contact: | John Aden | |
| Effective Date: | July 28, 2000 | |
| Supersedes: | A.10 (06/96) | |
| Approved: |  Director, Division of Drinking Water | |

Drinking water policies are written descriptions of the approach taken by the Program to implement a statute, regulation, court order, or other agency order, and may include the Program's current practice, procedure, or method of action based on that approach. Any generally applicable directives or criteria that provide the basis for imposing penalties or sanctions, or for granting or denying Program approvals, must either be in statute or established in a rule.

POLICY:

When DOH is notified of a proposed water system sale, DOH shall encourage the utility transferring the system and the prospective new owner to meet to discuss system status and transfer requirements.

DOH shall consider a water system transfer effective upon issuance of a new operating permit after acceptance of either 1) a bill of sale or 2) other change of ownership documentation such as a quitclaim deed or deed of trust. Once the transfer is accepted, the new owner shall be accountable for meeting all applicable regulations.

A fee for transfer of ownership will be charged for all Group A Water Systems. Transfer of ownership fees may be waived under the following circumstances:

1. When transfer is a result of receivership action;
2. When an approved satellite management agency (SMA) takes over ownership; and
3. Under special circumstances with written documentation by the Regional Office Manager.

After the transfer of ownership is accepted by DOH, the new owner will be sent a packet of information including a water facilities inventory form (WFI) to review for accuracy.

PURPOSE STATEMENT/BACKGROUND:

The purpose of this policy is to 1.) To help provide new owners with the proper tools to satisfactorily operate their water system and 2.) Ensure a standardized process for water system transfer of ownership under drinking water regulations, which emphasizes the protection of health and other interests of consumers during the transfer process.

Note: For purposes of this policy, transfer shall mean to convey a water system from one person or entity to another. Some actions, such as changes within a corporation or election of new councils or boards do not constitute a transfer.

This policy is being established in response to concerns expressed by water system consumers regarding the transfer of ownership of their water systems. Consumers have been anxious about new ownership -- and particularly interested in the protection of their health and other water needs in the process.

WAC 246-290-035 states that the utility transferring ownership of a water system is accountable for meeting all applicable regulations until the system is officially transferred, and for training the new owner about operation of the system. It also requires the person transferring ownership to provide written notice to consumers and DOH one year prior to transfer, unless the person transferring ownership and the prospective new owner agree to an earlier date.

PROCEDURE:

ENFORCEMENT

Following are several water system transfer compliance scenarios.

Compliance with the notice of transfer requirement (WAC 246-290-035):

The entity transferring ownership must provide notice at least one year prior to the transfer unless the new owner agrees to an earlier date. If parties agree to an earlier date, the person transferring ownership shall provide notice at the time the agreement is made or as soon thereafter as is practical.

Sample scenarios follow:

1. DOH becomes aware that a transfer is in the process but has not been completed. DOH shall require the person transferring ownership to provide notice of change of ownership. DOH shall continue to hold said person owner of record until documentation is received. DOH will update contact person/manager name.
2. New owner has voluntarily agreed to transfer and has taken possession of the system. When it appears that consumers may be unaware that a transfer has taken place, DOH shall require the new owner to provide notice to system consumers, and provide a copy of said notice to the Department of Health. DOH will NOT pursue the former owner for violations existing at the time of transfer. However, the former owner will be held responsible for paying any outstanding penalties that were issued while he/she owned the system.
3. Abandoned system or other involuntary transfer. The person transferring ownership will be considered a purveyor subject to DOH enforcement action until the transfer notice requirements of WAC 246-290-035 and DOH policy are met. They shall also remain a responsible party in connection with any regulatory action initiated against them prior to the effective date of the transfer. Enforcement action may include one or more of the following:
 - a. Notice of violation, or notice of correction;
 - b. Departmental order requiring that notice be provided to the customers and to DOH;
 - c. Notice of Imposition of Penalties upon failure to comply after Step a. has been taken, or, if Step b. has been taken, upon failure to comply with the order.

NOTE: If system ownership is transferred, whether voluntarily or involuntarily, any existing actions that remain outstanding against the old owner should be closed out except for penalties still owing. The new owner shall become responsible for any regulatory violations from the time of transfer. DOH shall take new enforcement action as appropriate, based on future violations accrued by the system under the new ownership.

TRANSFER OF OWNERSHIP CHECKLIST – Potential Buyer

(Potential Buyer contacts DOH before owner change occurs: Date: _____)

PWS Name _____ ID# _____ County _____
Group A: Community TNC NTNC

Potential Buyer Information:

| | | |
|----------------|------------------|----------------------|
| Name: _____ | City: _____ | State: _____ |
| Address: _____ | Day Phone: _____ | Evening Phone: _____ |
| Zip: _____ | | |

CHECKLIST:

- Obtain address (above) by which to mail "Owning and Operating a Drinking Water System" Brochure.
- Advise buyer that a new owner will be invoiced Transfer of Ownership Fee once ownership change occurs.
- Recommend that buyer review DOH files through established Public Disclosure process.
- Recommend that the buyer meet with current owner to obtain PWS records and operation and maintenance training, and conduct possible site inspection.
- If the potential buyer requests DWAIN printout information, then fill out Public Disclosure form.
- Check DWAIN screens: (ENFR, PWSR #2, CSUM, OPRI, POPG)
 - Red flags could be: Red operating permit
 - Lack of approved # of connections / exceeding # of approved connections
 - Active enforcement actions
 - Boil Water Order
- If there are technical issues or questions, refer potential buyer to Regional Engineer.
- If there are growth issues, refer potential buyer to RO Planner. (over-connected, expanding, etc)
- If there are active enforcement issues, refer potential buyer to RO Compliance person.

CHECKLIST: (POST CONVERSATION)

- Send "Owning and Operating a Drinking Water System" Brochure along with any requested public disclosure information to the buyer. **Date sent:** _____
- If PWS is a non-community system, send pamphlet for leasing/ownership of a public water system (not yet developed).*
- Document this conversation by sending either a copy of this form or a memo of conversation to the correspondence file.

Checklist Completed by: _____ Date: _____

TRANSFER OF OWNERSHIP CHECKLIST – Seller

(Seller contacts DOH before change occurs: Date: _____)

PWS Name _____ ID# _____ County _____
Group A: Community TNC NTNC

Seller Information:

| | | | |
|----------|------------|----------------|--------|
| Name: | | City: | State: |
| Address: | | Evening Phone: | |
| Zip: | Day Phone: | | |

Potential Buyer Information:

| | | | |
|----------|------------|----------------|--------|
| Name: | | City: | State: |
| Address: | | Evening Phone: | |
| Zip: | Day Phone: | | |

CHECKLIST:

- Obtain buyer and seller information (above).
- Advise seller that they will remain responsible until DOH receives written documentation that ownership has changed. The Water Facilities Inventory Form will not be changed until written documentation is received and accepted.
Advise seller that acceptable transfer of ownership documentation must have (at a minimum) the buyer and seller signatures. Acceptable types of documentation include: Bill of sale, Quitclaim Deed, Deed of Trust, Settlement Statement, etc.
- Advise seller to notify customers that ownership is changing per WAC 246-290-035(2)(a).
- Advise seller that a Transfer of Ownership fee will be invoiced to the new owner.
- Check DWAIN screens for outstanding issues that the seller should educate buyer on: (ENFR, PWSR#2, CSUM, POPG, OPRI)
Issues could include: Red operating permit
Lack of approved # of connections/exceeding # approved
Active enforcement actions
Boil Water Order/Water quality problems

CHECKLIST: (POST CONVERSATION)

- Send "Owning and Operating a Drinking Water System" brochure to potential buyer. **Date:** _____
- If PWS is a non-community system, also send pamphlet for leasing/ownership to potential buyer (to be developed).
- Document this conversation by sending either a copy of this form or a memo of conversation to the correspondence file.

Checklist Completed by: _____ Date: _____

TRANSFER OF OWNERSHIP CHECKLIST – Documentation Submitted or Change has Occurred

PWS Name _____ ID# _____ County _____
Group A: Community TNC NTNC

Buyer Information:

| | | |
|----------|----------------|--------|
| Name: | City: | State: |
| Address: | Evening Phone: | |
| Zip: | Day Phone: | |

Seller Information:

| | | |
|----------|----------------|--------|
| Name: | City: | State: |
| Address: | Evening Phone: | |
| Zip: | Day Phone: | |

Information Source: WFI change AFS change Other: _____

NO DOCUMENTATION SUBMITTED, BUT OWNERSHIP HAS CHANGED:

- If PWS name change, alert WFI staff to edit PWS name using "DBA" acronym until official documents are in hand.
- Alert WFI staff to update PWSR-contact-screen with potential new owner information & to make note on 3rd screen of PWSR regarding pending change of ownership.
Mail WFI to new contact person with note: "Waiting for legal documentation to officially change DOH records." **Date:** _____
- Send documentation request letter to seller with cc: to potential new owner. **Date:** _____
- Wait 30 days and if no documentation is received, attempt phone call to new owner. **Date:** _____
- Wait 2 weeks and if still no documentation received, send NOV or Second Request for Transfer of Ownership Documentation letter. **Date:** _____

DOCUMENTATION IS RECEIVED AND ACCEPTED: **Date: _____**

Type of Documentation: Bill of Sale Deed of Trust
 Quitclaim Deed Settlement Statement
 Probate Other: _____

- Check if new owner is an approved SMA. If yes, alert WFI staff to update PWS status with "S" code.
- Alert WFI staff to update the owner screen and the new PWS name (if applicable).
- Request new WFI.
- Alert RO Planner by email regarding PWS ownership change.
- Process new operating permit, making appropriate copies to correspondence file and Headquarters.
- Prepare "Welcome New Public Water System" letter with copies to: RO Engineer, Coliform, Planning, Source Monitoring, Lead & Copper, Assurance, & Local Health Department.
- Request PWS Water Quality Monitoring Report.
- Request invoice.
- Mail customized "Welcome New Public Water System" Letter, invoice, operating permit, and Water Quality Monitoring Report along with standard information folder to new owner. **Date:** _____
- Send a copy of this checklist to the correspondence file.

Checklist Completed by: _____ **Date:** _____

(Date)

Water System Name
Mailing Address

Subject: _____ Water System, ID # _____, _____ County

Dear Current water system owner:

Our records indicate that you are the current owner of the referenced water system. We have recently received notification that a change in ownership has occurred with the system. Please be advised that WAC 246-290-035(2)(a) states: An owner of a public water system who is proposing to *transfer or has transferred ownership shall: (a) Provide written notice to the Department and all consumers at least one year prior to the transfer, unless the new owner agrees to an earlier date. Notification shall include a time schedule for transferring responsibilities, identification of the new owner, and under what authority the new ownership will operate. If the system is a corporation, identification of the registered agent shall also be provided.*

The person(s) who is/are listed as the owner on the Water Facilities Inventory form shall be held responsible and liable for the water system until this office receives and accepts a copy of the bill of sale or other documentation (such as a quitclaim deed or deed of trust) that the transfer has taken place.

To make an official change to our records, we require a **copy of the bill of sale or other documentation (such as a quitclaim deed or deed of trust).**

The new owner will be charged and invoiced for transferring ownership. The fee has been calculated to be ___ per WAC 246-290-990(3)(c). If you have any questions regarding these requirements, please contact me at (____) ____-____.

Sincerely,

Compliance Program
_____ Drinking Water Operations

cc: Local Health Jurisdiction
Washington Utilities and Transportation Commission
(Prospective new owner)

(Date)

Water System Name
Mailing Address

RE: Transfer of Ownership Monitoring Requirements for Group A Community Water Systems
_____ Water System - _____ County - I.D. # _____

Dear _____ :

Thank you for submitting the _____ to the Department of Health (DOH) . The DOH process for the transfer of ownership is complete for the _____ water system. Your system has been classified as a Group A public water system based on information provided to the DOH.

Enclosed please find a packet of information that will be of use to you as the owner of a public water system. The information on the left side of the packet contains information specific to your system [Water Facilities Inventory (WFI) and Operating Permit] and general information including our publication list and key contact people in our regional office. On the right side of the packet you will find coliform monitoring information.

The coliform monitoring program is one of DOH's top priorities since the presence of coliform bacteria can be a signal that your water system may be contaminated and may result in the illness of your consumers.

Also included in the packet is a water quality monitoring report for the year 2000 which outlines the distribution and source water quality sampling requirements for your system.

The various DOH and state board of health regulations regarding public water systems may be found in WAC chapters 246-290, 292, 293, 294, and 295. Copies of these regulations may be provided upon your request or may be found by using our website at <http://www.doh.wa.gov>. Additional information regarding the Drinking Water Program may also be found on the website.

Sincerely,

Compliance Program
() - _____

Enclosures

cc: Local Health Jurisdiction
Coliform Contact
Source Monitoring Contact
Regional Engineer

(Date)

Water System Name
Mailing Address

RE: Transfer of Ownership Monitoring Requirements for Group A TNC Water Systems
_____ Water System - _____ County - I.D. #

Dear _____ :

Thank you for submitting the _____ to the Department of Health (DOH). The DOH process for the transfer of ownership is complete for the _____ water system. Your system has been classified as a Group A public water system based on information provided to the DOH.

Enclosed please find a packet of information that will be of use to you as the owner of a public water system. The information on the left side of the packet contains information specific to your system (Water Facilities Inventory (WFI) and Operating Permit) and general information including our publication list and key contact people in our regional office. On the right side of the packet you will find coliform monitoring information.

The coliform monitoring program is one of DOH's top priorities since the presence of coliform bacteria can be a signal that your water system may be contaminated and may result in the illness of your consumers. You are required to sample for coliform during the months of _____.

A nitrate sample is required once every year. At a minimum, one historical Inorganic Chemical (IOC) sample is required from each permanent source.

The various DOH and state board of health regulations regarding public water systems may be found in WAC 246-290-(292), (293), (294), and (295). Copies of these regulations may be provided upon your request or may be found on our website at <http://www.doh.wa.gov>. Additional information regarding the Drinking Water Program may also be found on the website.

Sincerely,

Compliance Program
() - _____

Enclosures

cc: Local Health Jurisdiction
Coliform Contact
Source Monitoring Contact
Regional Engineer

CERTIFIED AND REGULAR MAIL

(Date)

Water System Name
Mailing Address

RE: Second Request for Transfer of Ownership Documentation
_____ Water System – ID # _____ - _____ County

Dear _____:

On _____ the department requested legal proof of transfer of ownership documentation. As of this date, the department has not received a copy of the bill of sale, quitclaim deed, or deed of trust. Please send the required information within seven days of receipt of this letter.

You, the owner of record, are responsible for the daily maintenance and operation of the system until the Department of Health (DOH) receives and accepts the required documentation.

If we do not receive the required documentation, DOH may initiate further enforcement, which could include a Notice of Violation, Departmental Order, and civil penalties.

Please feel free to contact me if you need further information.

Sincerely,

Compliance Program
() _____

cc: Local Health Jurisdiction
Regional Engineer
WFI Contact
Hdqts Enforcement Contact

GROUP A WATER SYSTEM SUGGESTED TRANSFER OF OWNERSHIP INFORMATION PACKET

The Group A Water System Transfer of Ownership packet will consist of a “Welcome, you’re a water system letter (Attachment E or F, whichever is appropriate),” coliform sampling information, lab lists, an invoice for the appropriate fee, a new operating permit, and a copy of chapter 246-290 WAC. The packet may also include the following Washington State Drinking Water Fact Sheets:

Check if Included

- Drinking Water Program Overview
- Safe Drinking Water Act
- Drinking Water Standards and Surveillance
- Drinking Water Enforcement Program
- Drinking Water Operating Permits
- Project Review and Approval Fees
- Cross-Connection Control Program
- State and Local Relationships in Drinking Water Program
- Drinking Water Local Health Technical Assistance
- Small Public Drinking Water Systems
- Satellite Management Program
- Wellhead Protection Program
- Small Water System Financial Viability Program
- Water Conservation Program
- Water Allocation and Water Resources Policy Development
- Water Works Operator Certification Program

response provided to you within ten (10) days of DOH's receipt of your request. Technical assistance services available from DOH may be obtained by contacting:

(Transfer of ownership contact)
DOH _____ Drinking Water Operations
_____, Washington 9_____
(____) ____ - _____

Continued failure to comply with the transfer of ownership requirements may result in enforcement action by DOH. The Department may also pursue legal remedies, which include civil penalties of up to five thousand dollars (\$5,000) per day per violation or up to ten thousand dollars (\$10,000) per day per violation in the case of a public health emergency.

DATED this _____ day of _____, _____ at _____, Washington.

Regional Compliance Manager

Enclosures

- c: Local Health Jurisdiction
- Regional Engineer
- RO Transfer of Ownership Contact