

ELEMENTS OF AN AGREEMENT BETWEEN THE WATER PURVEYOR AND THE LOCAL ADMINISTRATIVE AUTHORITY

According to a recent study by the state Department of Health (DOH), 22% of the 146 largest water purveyors had negotiated at least one written agreement with the local administrative authority (LAA). 40% of the water purveyors serve in more than one LAA jurisdiction. Of the total 240 situations, only 38 agreements have been completed.

Both Washington Administrative Codes (WAC) 246-290-490 and WAC 51-46 require water purveyors and local administrative authorities to coordinate with each other on cross connection issues. The extent of this coordination can vary from sharing basic information to implementing a joint program. Written agreements are encouraged to document and solidify the agreement.

So, with the requirement to cooperate with each other so clear, why are there so few agreements? Some purveyors respond they don't have the time or the resources to devote to initiating or completing an agreement. Some indicate management doesn't support this much involvement to the program. Many just don't want to "reinvent the wheel" to come up with an agreement from scratch. Many expressed they would rather see what's in a completed agreement and build one from there.

This article is designed to get you started by listing many common elements found in existing agreements between water purveyors and local administrative authorities. With this list you can start planning and preparing to discuss these issues and begin to open discussions that

will lead to negotiations and the agreement with your local administrative authority. This is merely a guideline of topics to start your discussions, and the finished product may or may not include the following list and may very well include other elements.

It is important not to place conditions contrary to, or conflict with elements in the purveyors Cross Connection Control Plan required by WAC 246-290-490(3).

Following are some of the common elements seen in a written agreement between the water purveyor and the local administrative authorities:

Identification of authority and responsibility – who does what, when and how. Timelines need to be established and agreed to, and the process by which to program is to be run and operated need to be in agreement and supported by both parties. If the water purveyor or the local administrative authority (LAA) already has a backflow program, each program needs respect throughout the negotiating process.

Premise Isolation vs. Fixture Protection – It is important for both parties to understand where premise isolation will be used and what fixture protection will be allowed. When a water purveyor relies on a backflow assembly to protect its water system, it is clear in the Uniform Building Code (UBC) that this is where the jurisdiction line divides the two jurisdictions. Most water purveyors prefer premise isolation, but some purveyors whom have run a Cross Connection Control (CCC) Program for some time have substantial fixture protection backflow assemblies installed. These assemblies may stay

under the authority of the purveyor, or be transferred to the LAA. These areas need to be discussed and agreed to.

Identification of hazard – Many areas of the WAC and the Uniform Plumbing Code (UPC) are consistent with the identification of a cross connection hazard, but not consistently. Even nomenclature differs, for example the UPC refers to contaminated (low hazard) and polluted (high hazard). Common resolutions include the local administrative authority taking jurisdiction inside the building and the water purveyor taking jurisdiction outside the building.

Specific Assemblies to abate the hazard – DOH and UPC do not always agree what assemblies are to be used for protection from identified hazards, for instance lawn irrigation – AVB vs. PVBA vs. DCVA? Jurisdictions don't always agree. Will the purveyor accept AVB's as an acceptable device for backflow protection? The UPC identifies an AVB for high hazard application. These types of areas need to be discussed and agreed to.

Plan Reviews – Plan reviews by the water purveyor in the local administrative process is favorable to purveyor, but not necessarily to the LAA. The purveyor becomes aware of up-coming projects, and is allowed to comment and require adequate backflow protection before the permit is issued. The LAA however, is concerned another person involved in the process could bog down the process.

Evaluating Existing plumbing – Identification of potential hazards in existing plumbing and the abatement of the hazard is a key element of any CCC

Program. LAA's are not allowed to inspect existing plumbing after the Certificate of Occupancy has been issued unless invited or responding to an official complaint. Water purveyors may enter the premises for plumbing inspections during reasonable times, only when given that authority in their Cross Connection Control Program or they have permission from the owner or official representative. If not in the plan or permission is not granted, the inspection is denied.

Inspections – Joint field inspections are best. It is best to designate a lead inspector. The lead takes the responsibility of completion. The lead coordinates the correspondence with the owner and other parties. Generally, the local administrative authority leads the inspections inside the building and the water purveyor leads inspections outside the building. When both are concerned, written reports should bear dual letterhead and be copied to the owner and occupant and other affiliates.

Testing Notice and Compliance – Notices to the owner that the annual testing of the backflow assemblies should come from the same jurisdiction whether the assembly is inside or outside. Generally notices are coordinated jointly from one agency. For those who have their own agreements should coordinate the timing and requirements.

Record Keeping and access to the data base – It is best that one party keep records of installation, compliance, and maintenance. However, the other party must have access to the data base. If agreement can not be reached for one to administer the data base, and both parties keep separate records, it will still

be advisable to provide for sharing of the information.

Joint Meetings with supervisors and subordinates related to Cross Connection issues – Joint meetings between the water purveyor and the local administrative authority should be held consistently, often and routinely. Topics of discussion should include workload to insure balance, cooperation to keep communication open; how to improve actions on difficult experiences and other possible improvements to keep the program flexible and dynamic.

Permit Requirements – Some purveyors require separate permits for backflow assembly installations to compensate for the inspectors time of inspection. Most local administrative authorities require plumbing permits for backflow assembly installations. LAA's require plumbing permits to install, modify, or remove plumbing which may require backflow evaluations. The water purveyor can assist the local administrative authority in enforcement of the required permits and the water purveyor can assist the local administrative authority with the evaluation of potential hazards. This process needs discussion and agreement.

Penalties – Some water purveyors issue fines and late fees for customers who do not test an existing assembly within the stated time. Others issue penalties for not obtaining permits. WAC 246-290-490 allows the termination of water service when certain criteria is met. Be sure both parties understand the process and the timing to trigger a penalty, if applicable.

Enforcement – It is important to agree to the conditions, timing and the severity

of enforcement and who will administer enforcement and how it will be handled. It is also important for the other departments to understand, assist and show support. Make sure the methods of enforcement are uniform no matter who handles the enforcement.

Coordination with the Fire Marshal and Local Health Department – In cross connection issues relating to fire service protection or other fire apparatus, the local Fire Marshal needs to be involved and in an active role of review. In applications of the food industry or health care, the local health department also needs to be an integral part of the program. Review the other key departments for direct involvement and impact and facilitate the involvement and cooperation from those departments.

Public Education – WAC 246-290-490 requires the purveyor to inform their customers about their cross connection control operations. It is important to include the local administrative authority in the educational process description. And be present when the general public is being addressed. Reflectively, as the local administrative authority makes public appearances the water purveyor(s) should attend to show support. Details how this will be accomplished need to be discussed

Some of the other issues that are unique within agreements have been:

Water Quality Complaints – Some agreements have identified the process in how water quality complaints are documented and investigated by defining who plays what role and what aide the other party(s) can provide.

Tank Trucks – Some agreements address water tank truck inspections. One party can be responsible for the truck inspection and the other party will accept the approved inspection.

Definitions are common in most of the larger agreements in the preface so that the nomenclature used is uniformly understood

Not all of these elements need to be addressed in an agreement to become a successful program. These elements are from other various agreements to give you an idea of elements from other agreements. There are other elements that may exist that may not be mentioned. If your agreement addresses other issues, or you would like to share an idea for an element, contact me at fruitlandwater@quest.net and I will include them in a follow-up article in the next issue.

Don't wait for the other party to initiate or reconvene the negotiations. If your agreement is not finished and you are not actively concluding the process, then the other party is probably waiting for you to initiate the next meeting.

Local Administrative Authorities don't feel they have the time or the resources to initiate a cross connection program or a joint venture. Their financial resources come from revenues generated from issuance of permits. Those permit fees are regulated and generally don't generate sufficient funds to run other programs.

When negotiating with the LAA, it is important to negotiate on common terms with a common approach. If the LAA has negotiated several agreements previous to you with a common

understanding and approach, be prepared to be treated the same. If you need something different, be aware the LAA may not be agreeable to individual terms in the agreements.

It is important to divide the work evenly, work cooperatively, and yet be able to work independently. Know what each other is responsible for, and be sure to fulfill your obligation. Both parties should not have to always work side by side to run a successful program. It is important to complete the appointed tasks.

For municipalities where the water purveyor and the local administrative authority are under the same jurisdictional roof, the process of negotiating an agreement, barring political difficulties, is easier. For the rest of us outside the municipal arena, there can be multiple water purveyors in one local authority's jurisdiction, and/or multiple administrative authorities served by one purveyor.

Difficult or not, negotiating agreements between the water purveyor and the local administrative authority need to be completed to meet the requirements of WAC 246-290-490 and WAC 51-46.

Roger Nottage is the General Manager for Fruitland Mutual Water Company in Puyallup, WA and is the current Chair of the Western Washington Cross Connection Prevention Professionals Group (WWCCPPGroup)