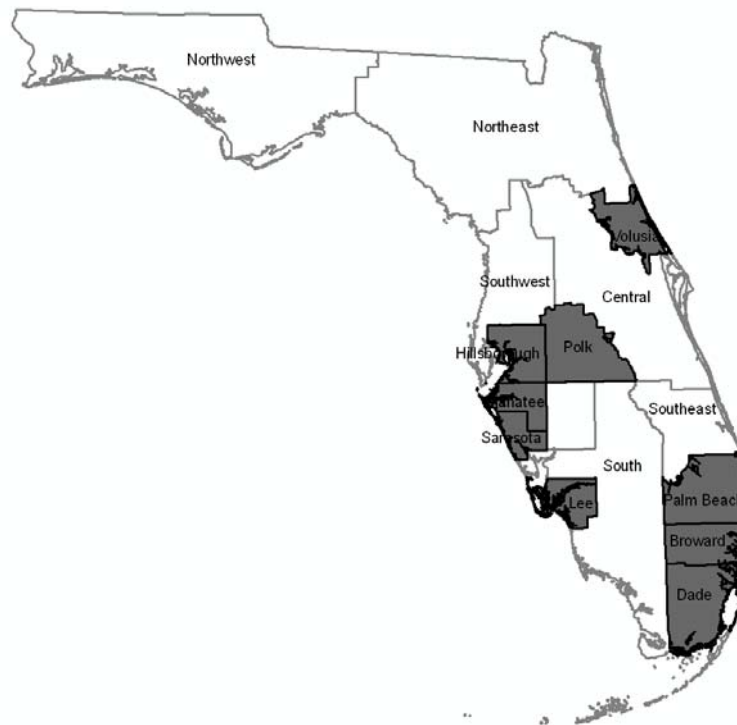


**INTERAGENCY AGREEMENT
for the Implementation of the
FLORIDA SAFE DRINKING WATER ACT
PROGRAM**



**Florida Department of Environmental Protection
Florida Department of Health**

January 1, 2010



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All appendices outlined above can be found at web link:
<http://www.dep.state.fl.us/water/drinkingwater/>

DEP - DOH INTERAGENCY AGREEMENT

For the Implementation of the Federal and Florida Safe Drinking Water Acts

January 2010

Introduction

This Interagency Agreement (I/A) between the Department of Environmental Protection (hereinafter referred to as DEP) and the Department of Health (hereinafter referred to as DOH) describes the responsibility of the two agencies to implement the Federal Safe Drinking Water Act and its corresponding Florida Safe Drinking Water Act. It replaces the 1994 I/A, and the draft May 2001 Program Operating Procedures (POP) Guidance. Documents referenced in this Agreement can be found at the DEP internet homepage. Use of the web links will also allow modification of the I/A without having to formally revise it with each minor change to our operating guidance, developed through the Permitting, Compliance, and Enforcement (PCE) Workgroup process.

Part 1 Scope of the Interagency Agreement

The Department of Environmental Protection and the Department of Health enter into this DEP-DOH Interagency Agreement as set forth below. The Agreement clarifies the intent and purpose of Sections 403.851 and 403.862, Florida Statutes (F.S.), by defining procedures and responsibilities that maximize the cooperation between DEP and its District Offices and DOH and its County Health Department offices. The Agreement also integrates the joint operation of the water system program established by the Florida Safe Drinking Water Act (SDWA), Sections 403.850 through 403.864, F.S., with other water supply related programs solely operated by DOH pursuant to statutory authority other than the SDWA.

The rule and statute references above may be updated as federal and state law, or administrative requirements change upon written notification between agencies. All copies of DOH Approved County Health Departments (s) files, related to SDWA program, shall be made available to DEP upon request.

This Agreement shall govern the interaction between DEP and its District Offices and DOH and its County Health Department offices as they administer the Public Water System Supervision (PWSS) Program. By this Agreement, all offices agree to follow the PWSS Program administrative procedures outlined in this document. For DOH ACHDs, DEP accepts the support role for permitting, compliance and enforcement by providing legal, technical and training assistance. For non-delegated County Health Departments, DEP retains the lead role for permitting, compliance, and enforcement activities and welcomes County Health Departments to serve a support role by providing technical assistance as appropriate. The attached Appendices provide guidance for implementing these procedures.

This Agreement supersedes and makes obsolete all previous versions of the DEP-DOH I/A and the 2001 Program Operating Procedures Guidance (POP), and may be amended as outlined in Part 6, Administrative Issues of this Agreement.

Part 2 Operational Definitions

The following clarifications are provided for selected definitions in Chapter 62-550, Florida Administrative Code (F.A.C.), and terms used in this Agreement:

- 2.1 DEP-APPROVED DOH COUNTY HEALTH DEPARTMENT (ACHD) - In accordance with Sections 403.861(6) and 403.862(1)(c), F.S., DEP may delegate authority for administering the PWSS Program to a DOH county health department (CHD) that meets the criteria outlined in Part 5, Designation of Approved County Health Department.
- 2.2 CLASS I INSPECTION - means a scheduled routine sanitary survey or a routine reconnaissance (compliance) inspection. At a minimum, compliance with monitoring requirements should be determined, and appropriate enforcement actions should be pursued.
- 2.3 CLASS II INSPECTION - means an investigation conducted in response to a complaint, violation of a standard, or some other cause that represents a potential public health risk.
- 2.4 CLASS III INSPECTION - means a follow-up inspection to determine if the public water system (PWS) is complying with the terms of an enforcement action or is taking corrective actions cited in a previous inspection.
- 2.5 COMMUNITY WATER SYSTEM (CWS) - In addition to the definition in Rule 62-550.200, F.A.C., PWSS program personnel in both Departments shall use the guidance in Appendix A, 1.1 SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS, to assist in determining if a PWS is a Community Water System (CWS).
- 2.6 LIMITED USE PUBLIC WATER SYSTEM (LUPWS) - is a water system not covered by the Florida SDWA and further defined in s. 381.0062, F.S., as having at least five nonrental residences, but not more than 14 service connections, or two or more rental residences or, serving any number of persons for less than 60 days per year, or less than 25 persons for any number of days per year. Other LUPWSs are further discussed in Chapter 381, F.S., and Chapter 64E-8, F.A.C.
 - 2.6.1 LIMITED USE COMMUNITY PUBLIC WATER SYSTEM - is a public water system not covered or included in the Florida SDWA, which serves five or more residences, or two or more rental residences, and provides piped water.

2.6.2 LIMITED USE COMMERCIAL PUBLIC WATER SYSTEM - is a public water system not covered or included in the Florida SDWA, which serves one or more nonresidential establishments, and provides piped water.

2.6.3 MULTIFAMILY WATER SYSTEM - is a water system that provides piped water to three or four residences, one of which may be a rental residence.

2.6.4 PRIVATE WATER SYSTEM - is a water system that provides piped water for one or two residences, one of which may be a rental residence.

2.7 MONITORING - means the collection, analyses by a certified lab and submittal of data from water samples taken from PWSs for compliance purposes.

2.8 MONITORING RECORDS - means the results of microbiological, chemical, physical, and radiological analyses of samples taken for the purpose of compliance.

2.9 NON-COMMUNITY WATER SYSTEM (NC) - In addition to the definition in Rule 62-550.200, F.A.C., PWSS Program personnel in both Departments shall use the criteria described in Appendix A, 1.1, SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS, to assist in determining if a PWS is a NC.

2.9.1 NON-TRANSIENT NON-COMMUNITY WATER SYSTEM (NTNC) - In addition to the definition in Rule 62-550.200, F.A.C., PWSS Program personnel in both Departments shall use the criteria described in Appendix A, 1.1, SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS, to assist in determining if a PWS is a NTNC.

2.9.2 TRANSIENT NON-COMMUNITY WATER SYSTEM (TWS) – In addition to the definition in Rule 62-550.200, F.A.C., PWSS Program personnel in both Departments shall use the criteria described in Appendix A, 1.1, SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS, to assist in determining if a PWS is a TWS.

2.10 OPERATIONAL RECORDS - means the monthly operation reports prepared by certified operators or by other persons pursuant to Chapter 62-550, F.A.C.

2.11 PUBLIC WATER SYSTEM (PWS) - means a water system determined to be regulated by the Florida and Federal SDWAs. To assist in making that determination, use the guidance in Appendix A, 1.1, SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS.

2.12 SANITARY SURVEY - means an inspection of PWSs as defined in Rule 62-550.200, F.A.C.

2.13 SURVEILLANCE - means the inspection, sampling (if needed to address a particular public health risk situation), or review of operational and monitoring records of a PWS.

Part 3 Public Water System Program Elements

The following is a description of each task in the PWSS Program along with the division of duties among DEP, DOH, the DOH ACHDs, and the CHDs. It is the responsibility of DEP, through its District Offices, to ensure that DOH ACHDs are performing the duties outlined in this Agreement.

3.1 PERMITTING

All permitting of PWSs performed by DEP and DOH shall be in accordance with Chapter 120, F.S., and Chapters 62-4 and 62-555, F.A.C., including provisions for allowing the electronic submittal of permit applications and the electronic issuance of permits. To assist in making permitting decisions, refer to program guidance issued by the Permitting, Compliance, and Enforcement Workgroup (PCE). Any fee established by rule or statute shall be paid to, collected by, and accounted for by the agency taking final permit action. Such fees collected by a DOH ACHD shall be deposited in the DOH County Health Department Trust Fund, using the required DOH accounting codes, and used exclusively for SDWA program activities (as per reference FS citation). Local or ancillary Health Department fees charged for permitting or processing are not governed by this Agreement.

3.1.1 DEP Responsibilities - The DEP shall receive, evaluate, and take final action on PWS permit applications for those systems that are not within the geographical boundaries of a DOH ACHD. However, water systems that have the plant, raw source transmission or distribution systems within several DOH approved county offices or a combination of DOH and DEP District jurisdictional areas will require a memo of understanding (MOU) among the affected offices outlining which office will take the lead in oversight regulation of the entire system. In lieu of such an MOU, the location of the treatment plant within the system determines which office shall have jurisdiction.

The DEP shall conduct training adequate to assure that permit actions by DOH ACHDs are consistent with Chapter 120, F.S., and Chapters 62-4 and 62-555, F.A.C., and Department policy. When any DEP District Office finds that a system believed to be a PWS meets Limited Use Public Water System (LUPWS) criteria, it shall notify the applicable CHD of this condition and request that a joint inspection be conducted between both agencies to evaluate the water system in accordance with Appendix B, 1.1.

3.1.2 DOH ACHD Responsibilities - In accordance with Sections 403.861(6) and 403.862(1)(c), F.S., each DOH ACHD shall receive, review, evaluate, and take final action on all PWS permits allowed by Chapter 62-555, F.A.C., (including general permit requests and electronic permit applications) for those systems within its geographical boundaries. Water systems that have the plant, raw source transmission or distribution systems within several DOH ACHDs or a combination of DOH and DEP District jurisdictional areas will require a memo of understanding (MOU) among the affected offices outlining which office will take the lead in oversight regulation of the entire system. In lieu of such an MOU, the location of the treatment

plant within the system determines which office shall have jurisdiction. The DOH ACHDs shall use forms specified in Part IX of Chapter 62-555, F.A.C., and receive fees stated in the DEP fee schedule contained in Rule 62-4.050, F.A.C. Additional fees collected by DOH ACHDs shall be accounted for independently and shall be represented by a separate permit or other document issued by DOH ACHDs.

If the DOH ACHD has a lapse in having a professional engineer (PE) registered in the State of Florida supervising the drinking water program, the DOH ACHD shall immediately notify the local DEP District office and permitting responsibility shall immediately revert to the local DEP District Office. The DEP may then approve in writing an arrangement with an adjacent DOH ACHD or the Division of Environmental Health. This arrangement shall be reviewed during each DOH ACHD annual program evaluation. The PEs in DOH ACHDs shall sign and seal a certification statement attesting to the review of applications and associated plans and specifications prior to issuance or denial of the permits in accordance with DEP guidelines and Chapter 471, F.S. The DOH ACHDs shall electronically record all SDWA permits they issue or deny in the DEP drinking water and permit data management systems (PWS Oracle and Permit Application or PA tracking data bases) and reconcile all fees in accordance with state law and as contained in Chapter 62-4, F.A.C. Each DOH ACHD shall make permit actions available to DEP for review as discussed in Section 3.1.1, DEP Responsibilities.

3.1.3 DOH CHD Responsibilities – DOH CHDs are responsible for regulating Limited Use Public Water Systems (LUPWSs). If any DOH CHD finds that a system believed to be a LUPWS meets PWS criteria, it shall notify the local DEP District Office of this condition, and request that a joint inspection be conducted by the agencies to evaluate the water system in accordance with the guidance in Appendix B, 1.1.1, Transfer of Public Water Systems.

3.1.4 Construction Without a Permit - Water systems originally constructed as private or LUPWSs shall not be used as PWSs unless PWS acceptance is obtained. Many PWSs have been constructed without a permit because either they were originally a private water system or LUPWS that subsequently "grew" into PWS status or they simply did not apply for a permit although one was required. If an existing water system is believed to be an unpermitted PWS, the discovering DOH CHD shall notify the appropriate DEP District Office. The notifying DOH CHD shall follow the guidance presented in Appendix B, 1.1., Transfer of Public Water Systems, and apply rules governing capacity development requirements as contained in Chapters 62-550 and 62-555, F.A.C., as applicable.

3.1.5 Reclassification of a Water System - A change in the status of water system classification (i.e., CWS, TWS, NTNC, or LUPWS) will be evaluated as described in Appendix A, 1.1, SYSTEM REGULATION AND CLASSIFICATION DETERMINATIONS. Transfer of water systems from one agency to the other will be allowed only once in a 12 month period.

3.1.6 Annual Operating Licenses – All offices, including all DOH ACHDs, shall issue annual operating licenses to PWSs as required in 403.861(b), F.S. based upon those requirements outlined within Chapter 62-4.053, F.A.C. All fees collected by the DOH ACHDs in accordance with the requirements in Chapter 62-4.053, F.A.C. shall be retained by each respective DOH ACHD and handled according to section 3.1 above.

3.2 COMPLIANCE AND SURVEILLANCE

Surveillance performed by DEP and each DOH ACHD consists of sanitary surveys or other inspections, review of drinking water sample analysis results, written plans, or operating reports to determine compliance with all applicable drinking water rules.

Nothing in this Agreement shall preclude any office, including DOH ACHDs, from conducting quality assurance sampling. However, such sampling services shall not relieve an owner of a PWS of the responsibility of ensuring compliance with all monitoring specified in Chapter 62-550, F.A.C. The DOH ACHDs and DEP District offices will assist SDWA water systems by annually notifying them of their monitoring responsibilities. The DEP will provide the DOH ACHDs with a template(s) of written notification to its PWSs. All offices are encouraged to send follow-up letters in the fall of the year to water systems that still have not completed and submitted their required annual monitoring to the appropriate DEP or DOH ACHD office.

3.2.1 Schedules of Inspections

3.2.1.1 A Class I inspection (sanitary survey) shall be conducted on each CWS and NTNC once every three years and on each TWS system once every five years using worksheets contained in Appendix I,1. More frequent Class I inspections may be conducted if personnel are available.

3.2.1.2 A Class I routine reconnaissance (compliance) inspection may be conducted on an annual basis (recommended), or as needed, or as resources allow, using checklists/forms developed independently by each field office (a sample one is also found in Appendix I1 or a field office may utilize an in-house modified Sanitary Survey (SS) form).

3.2.1.3 A Class II inspection that is conducted upon receipt of a complaint or evidence of a maximum contaminant level violation in any PWS is a "for cause" investigation and is scheduled as needed.

3.2.1.4 A Class III inspection that is a follow-up inspection shall be conducted to determine compliance with enforcement actions or correction of deficiencies cited in a Class I or Class II inspection. These inspections are scheduled as needed.

3.2.2 DEP Responsibilities - The DEP has the following surveillance and compliance responsibilities:

3.2.2.1 The DEP District and their Branch Offices are responsible for conducting Class I, Class II, and Class III inspections, and for overseeing all monitoring requirements for those PWSs not under DOH ACHD jurisdiction. The local DEP District Office shall also oversee the operational records of those PWSs.

3.2.2.2 The DEP shall provide informal technical assistance and training to aid the DOH ACHDs in performing inspections and taking water samples, if requested. In addition, informal technical assistance training shall be provided by DEP to aid DOH CHDs in performing complaint investigations.

3.2.2.3 The DEP shall, at least quarterly, update the electronic record with the data from each PWS inspected by the DEP District Office and with all sample analyses data and operational record data according to the program requirements. The DEP shall make data equipment at District Offices available for use by DOH ACHDs when needed.

3.2.2.4 The DEP shall assist the DOH ACHDs in investigating and resolving complaints as described in Section 3.2.3, DOH ACHD Responsibilities, and consult with DOH in the event of contamination incidents affecting PWSs.

3.2.2.5 The DEP, through its District Offices, shall oversee the DOH ACHDs to ensure adequate completion of their surveillance and compliance activities, and conduct quarterly meetings with DOH ACHD staff to share information and offer assistance if required.

3.2.2.6 The DEP shall ensure that the DOH is adequately informed, and is further given an opportunity to review and provide comments prior to the adoption of any rules or the issuance of any policies affecting the implementation of the Florida SDWA Program.

3.2.2.7 The DEP shall make a reasonable effort to immediately notify the DOH in the event of a drinking water related emergency or consult with them about public health effects in the event of contamination incidents affecting PWSs, such as in the issuance of boil water notices (See Appendix C, 1.1, Boil Water Notice Guidelines), and during the establishment of drinking water standards.

3.2.2.8 The DEP Drinking Water Section in Tallahassee will conduct program evaluations of the DEP District Offices. DEP and their district offices are subject to an extensive EPA Data Verification Audit every three years. Hence the DEP headquarters (HQ) will evaluate its six district offices at a minimum on a triennial basis. Annual program evaluations should be the goal to ensure consistency and compliance with

statutory requirements and all program guidance documents just as DOH ACHD programs are evaluated annually. The program evaluations will be conducted as a means of maintaining quality assurance and consistency in the overall implementation of the Florida SDWA Program. DEP shall develop consensus with DOH about the program evaluation tools used for this activity. Requests for an additional evaluation may be made by DEP in Tallahassee, any DEP District Office, or by DOH. The evaluation team will include a representative from the DOH Division of Environmental Health (DEH), the DEP Division of Water Resource Management and the DEP District Office. The DEP District Office shall take the lead for the DOH ACHDs within their district boundaries.

3.2.2.9 Whenever DEP is the lead agency for a complaint investigation, DEP will investigate within 48 hours for those situations that require immediate attention. DEP will notify DOH of such situation as soon as possible. DOH will assist as requested and as appropriate.

3.2.3 DOH ACHD Responsibilities - All DOH ACHDs have the following surveillance and compliance responsibilities.

3.2.3.1 The DOH ACHDs are responsible for conducting Class I, Class II, and Class III inspections, and for overseeing all monitoring and operational requirements for all PWSs within their geographical boundaries.

3.2.3.2 The DOH ACHDs shall, at least quarterly, update the DEP's electronic record with the data from each PWS inspected and with all sample analyses data and operational record data according to the program requirements of DEP.

3.2.3.3 Each DOH ACHD shall take the lead in investigating all complaints within its geographical boundaries. Complaints requiring immediate attention shall be investigated within 48 hours of receipt. If DEP assistance is needed to resolve a complaint, the local DEP District Office shall be notified by telephone as soon as possible. If requested, the DOH ACHDs shall assist DEP in resolving all complaint referrals by providing requested information and making on-site investigations. If a DOH ACHD resolves a complaint that is controversial or involves the District, it shall inform the local DEP District Office of the nature of the complaint and its resolution, in a timely manner; either by phone, fax, e-mail, or in writing.

3.2.3.4 Bacteriological or chemical sampling of the water may be required by the nature of the complaint. Sampling will be conducted by the utility or the DOH ACHD until the incident is resolved (e.g., clean samples or maximum contaminant level exceedance confirmed) and PWS resumes sampling activities.

3.2.4 DOH CHD Responsibilities – DOH CHDs will be responsible for conducting investigation of complaints related to public health or illness concerning PWSs. The timeliness of complaint investigations will depend upon the nature and severity of the complaints. However, initial DOH CHD contact with the complainant should occur within at least two working days of the receipt of the complaint. If investigation verifies that the complaint affects, or will likely affect, public health, the DOH CHD will forward an opinion about the origin of the problem to the local DEP District Office and DOH DEH within 24 hours by telephone, fax or email. Copies of any laboratory sampling results will be forwarded to the local DEP District Office upon receipt by the DOH CHD. Any complaint activity involvement by the DOH CHD beyond the scope of this paragraph will be available as time and staffing resources allow as determined by the DOH CHD. The DEP District shall notify the DOH CHD of any action which it may take as a result of the complaint.

3.2.5 Special DOH CHD and DEP Responsibilities – In some cases a food facility, recreational vehicle park, mobile home park, migrant labor or recreational camp facility is regulated by DOH with respect to aspects of its operations other than drinking water. In such cases DEP shall provide notice to the DOH CHD in writing when DEP becomes aware that the PWS serving such a facility is not in compliance with Chapters 62-4, 62-550, 62-555, 62-560, or 62-699, F.A.C. The DOH CHD shall determine if a health hazard exists and if so consult with their legal counsel and as resources allow, take appropriate concurrent enforcement action against the facility owner in accordance with its applicable statutes/rules. The DOH CHD shall timely notify the referring DEP District of its determination and shall provide copies of enforcement documents to same. The DEP shall take enforcement action in accordance with DEP enforcement policies and shall timely provide copies of enforcement documents to the DOH CHD.

3.2.6 Emergency DOH CHD Responsibilities - In the event of an emergency threat to public health resulting from the potential or the actual contamination of a PWS, the DOH CHDs shall assist DEP in the notification of potentially affected consumers.

3.2.7 DOH Responsibilities - DOH DEH shall oversee DOH CHD and DOH ACHD-activities defined in the Florida SDWA. The DOH shall provide DEP information concerning public health effects in the event of contamination incidents affecting PWSs, and during the establishment of standards. In addition, DOH shall assist DEP in the resolution of PWS complaint processing problems and in making jurisdictional determinations. The DOH shall furthermore provide laboratory services as necessary to assess the water quality of PWSs and during the response to public health emergencies that could potentially affect the quality of the public's drinking water. The DOH's Bureau of Laboratories will also assist DEP in addressing laboratory issues and in the evaluation of laboratory analysis data through its Environmental Laboratory Certification Program.

3.2.8 Chapter 120 F.S. Variance or Waiver Requests - All petitions by water systems seeking a Chapter 120 variance or waiver from DEP rules shall be forwarded to DEP's clerk in the Office of General Counsel (OGC). OGC will assist the District or Tallahassee Drinking Water staff in review and preparation of all notices, requests for additional information, and final orders.

If a variance petition is filed with DOH on a DEP rule, DOH shall send the petition to the DEP district as soon as possible. The DEP District will forward the petition to DEP PWS HQ and DEP OGC Office. The District will typically be chosen to lead in its processing. Processing must include obtaining an OGC case number and assignment of an attorney. Team members would include a DOH ACHD representative and a staff member of DEP's Drinking Water Section in Tallahassee. If the DEP District takes the lead, the Director of DEP District Management will sign the final order, whereas if the DOH ACHD takes the lead, the DOH Director of Environmental Health will sign the final order.

3.2.9 Reduced Operator Coverage Requests - The approval or denial of water system requests for reduced operator coverage as allowed under Chapter 62-699, F.A.C., shall remain the responsibility of the DOH ACHD or DEP District having jurisdiction over the county in which the water system is located. All actions, approvals or denials, by a DOH ACHD shall be communicated to the appropriate DEP District Office.

3.3 ENFORCEMENT

The DEP, pursuant to Sections 403.861(1), (16) and (17) F.S., and DOH ACHDs, pursuant to Sections 403.862(1) through (c)5, F.S., are to review reports of water sample analyses, written plans, and operational records and detect violations in the records. Once a violation is detected, the DEP or the DOH ACHD shall initiate an enforcement action. The following actions are described in more detail in Chapter Five of the DEP's Enforcement Manual (Appendix E,1), which shall be made available to all program offices. The routine procedure for bringing a PWS back into compliance is the use of informal and formal enforcement actions. Additionally, all offices are to separately code enforcement actions into the PWS Oracle database utilizing the program enforcement codes listed as 'informal', 'formal', or 'other' as found within the enforcement screens in the PWS Oracle system and as found in this Agreement in Appendix E,2.

3.3.1 Informal Enforcement

- Noncompliance Letter
- Communications (e.g. phone calls, emails, and meetings)

The noncompliance letter and verbal communications or meetings are informal enforcement actions that normally function as the initial step to begin the enforcement process.

3.3.2 Formal Enforcement

- Warning Letter
- Notice of Violation
- Consent Order
- Administrative or Final Order

The notice of violation, consent order, and administrative/final order are all formal enforcement actions that are generally used when informal enforcement actions have not been effective. Within the PWSS Program we consider warning letters as formal; however, please note that EPA does not consider them as such.

The lists above may be updated as federal and state law, or administrative requirements change upon written notification between agencies without written modification of this Agreement. All copies of SDWA DOH ACHD files shall be made available to DEP upon request.

Once a violation has been discovered, any of the above options may be used as the agency's initial response to the violation. Additionally, a DOH ACHD or DEP District Office should notify other professional or business licensing agencies of the system's violation status to assist in bringing the system back into compliance with the SDWA when the system holds multiple licenses. In extreme cases, a public water system may be referred to the USEPA, Region IV, through the appropriate DEP District office and the DEP Drinking Water Section in Tallahassee. The responsibilities of each agency in supplying enforcement information and taking enforcement action are defined below.

3.3.3 DEP Responsibilities

In accordance with Sections 403.855 and 403.860, F.S., DEP will initiate and prosecute enforcement actions for those systems that are not within the geographical boundaries of DOH ACHDs.

Variance, waiver and exemption proceedings, for the purpose of this Agreement, are a form of enforcement action and may be granted or denied only by the Secretary of DEP, except that Chapter 120, F.S., variances or waivers may be granted or denied by the DEP Director of the Division of Water Resource Management, or by a DEP Director of District Management. The DEP Division of Water Resource Management shall specify Department procedures for acting on variance, waiver and exemption petitions, including Chapter 120, F.S., variance petitions submitted by SDWA water systems. The DOH ACHD recommendations regarding the petition shall be considered by the DEP prior to final DEP action.

Enforcement against a licensed water treatment plant or distribution system operator to suspend or revoke the operator's license or place the operator on probation for any violation

listed in Rule 62-602.800 or 62-602.850, F.A.C., will be undertaken by the DEP District, with assistance from the DOH ACHD when the violations allegedly occurred at a PWS regulated by the DOH ACHD.

Enforcement referrals to the USEPA will be made by DEP's Division of Water Resource Management. DOH ACHDs and DEP District offices will forward all appropriate file information to the DEP Drinking Water Section in Tallahassee for their final recommendation prior to Division action on the referral.

3.3.4 DOH ACHD Responsibilities

In accordance with Sections 403.860 and 403.862, F.S., a DOH ACHD will initiate and prosecute enforcement actions for those systems that are within its geographical boundaries. The DOH ACHDs shall follow the specific procedures in Section 4.3 of the DEP Enforcement Manual concerning inspections and entry upon land. Class II and III inspections should be unannounced and conducted at reasonable times. Penalties shall be pursued consistent with the most current versions of "Guidelines for Civil Penalties" which is included in the DEP Enforcement Manual as Appendix E,1.

Once a violation of any type is detected, a DOH ACHD is responsible for attempting to bring a PWS within its jurisdiction back into compliance by notifying the PWS by phone, by completing an inspection or sending the violator a noncompliance letter, completing a follow-up inspection, and sending a warning letter, if needed. The DOH ACHDs shall use the DEP format for these letters and shall electronically record all enforcement actions immediately after they are initiated. When a system returns to compliance after issuance of a noncompliance or warning letter, this fact shall also be recorded electronically (see Enforcement 3.3 above). A DOH ACHD shall pursue enforcement activities within the specified time period outlined in the DEP Enforcement Manual. For laboratory violations or related enforcement issues see section 3.4 below. All enforcement referrals to EPA shall include all applicable documentation pertaining to the case. Enforcement actions against plant operators must be referred to the appropriate DEP District Office and cannot be pursued by either EPA or the DOH ACHDs. Personnel of a DOH ACHD shall be available to testify at enforcement proceedings about actions they have taken. The DOH ACHD personnel shall transmit any request for variance, waiver or exemption with comments to the DEP Division of Water Resource Management for action as described in Section 3.3.3 DEP Responsibilities.

The DOH ACHD may refer for enforcement against a licensed water treatment plant or distribution system operator to the DEP District Office. In such an instance, the DOH ACHD staff will assist in case preparation and hearing testimony if necessary.

In addition, DEP recognizes that DOH ACHDs may have local ordinances with which a PWS shall comply. In such cases, DOH ACHDs may pursue these or other enforcement capabilities to bring a PWS into compliance. The DOH ACHDs shall electronically record all

enforcement actions for violations of state and federal drinking water requirements on the DEP PWS data system on at least a quarterly basis.

3.3.5 DOH CHD Responsibilities

The DEP recognizes that DOH CHDs may have local ordinances with which a PWS shall comply. In such cases, DOH CHDs may pursue these or other enforcement capabilities to bring a PWS into compliance.

3.4 LABORATORY RESPONSIBILITIES

In accordance with ss. 403.862, F.S., the DOH has established laboratories for the purpose of conducting radiological, microbiological, and chemical analyses of water samples from public water systems, and in accordance with ss. 403.863, and 403.8635 F.S., is furthermore responsible for administering a certification program for laboratories conducting such analyses.

3.4.1 Certification, Inspection, and Assessments

The DOH, pursuant to Sections 403.863 and 403.8635, F.S., certifies laboratories that perform analyses of drinking water samples, thus assuring the acceptable quality, reliability and validity of all drinking water testing results. Inspections of laboratories are conducted at least once every two calendar years to ensure that the respective laboratories are maintaining analytical performance according to Chapter 5 of the National Environmental Laboratory Accreditation Conference (NELAC), and complying with the laboratory reporting requirements required pursuant to Chapter 64E-1, F.A.C. If a DEP District Office or DOH ACHD suspects that a certified laboratory is not complying with their respective laboratory certification criteria, a referral will be made to the DOH Environmental Laboratory Certification Program (ELCP) for appropriate action. A report of the outcome of the ELCP's response (e.g., referral to other regulatory or legal authorities, correspondence, assessment report, administrative disciplinary action) will be provided to the complainant and other interested parties (e.g., DEP Drinking Water Program, DEP Standards and Assessment Section, DOH DEH Water Programs).

3.4.2 Acceptance / Rejection of Laboratory Analysis Data

All public water system laboratory analysis data will be reviewed by the respective DEP District Office or DOH ACHD. Laboratory analysis data that is believed to be in non-compliance with the reporting requirements outlined within Rule 62-550.730(1)(b), F.A.C., will be considered invalid and rejected by the respective DOH or DEP field office. The supplier of water will be promptly notified of these findings.

Public water system, laboratory analysis data from certified laboratories that is believed to be reported in a manner that is in non-compliance with Rule 62-550.730(2), (3), or (4), F.A.C.,

will also be invalidated or rejected. The supplier of water will be promptly notified and requested to resubmit the analysis reports. Certified laboratories that refuse to comply with these reporting requirements will be referred to the DOH Environmental Laboratory Certification Program for appropriate action as described in section 3.4.1 above.

Part 4 Recordkeeping Requirements

4.1 TIME REQUIREMENTS

All hard copies of inventory records (i.e., plans, specifications, etc.), permits, sanitary surveys, and monitoring records of PWSs shall be maintained for the length of time mandated by federal and state law by the DEP District Office or the DOH ACHD office in whose geographical area the systems are located. Microfilm or computer disk copies may be maintained as an alternative to retaining hard copies of data.

The minimum length of time records must be kept is outlined in Appendix H,1 and may be updated as federal and state law, or administrative requirements, change without the re-negotiation of this Agreement provided the DOH DEH and the DOH ACHDs are notified of the changes. All hard copies of DOH ACHD files shall be made available to DEP upon request.

4.2 ELECTRONIC RECORDING OF DATA

Information from hard copy records shall be entered into DEP's drinking water (PWS Oracle) and permit application (PA) databases within 30 days of receipt of that information. The protocol of data entry and use of the data management shall be specified by DEP. To assist the DOH ACHDs in electronically recording these data, DEP agrees to provide training in data management activities and any necessary software and hardware as resources allow. Upon designation as a DOH ACHD, the DOH ACHD shall commence data management activities and retention of hard copy or electronic files. Purchase of equipment for data management activities will be negotiated during the program delegation process. The DOH ACHDs shall have the responsibility for proper maintenance, repair, or replacement of equipment. DEP shall purchase upgrade equipment needed to run new software as resources allow.

During periods when a DOH ACHD is without equipment for data entry because of equipment failure, DEP shall make equipment available at a DEP District Office for DOH ACHD staff to use.

4.3 UPON RESCISSION OF DOH ACHD STATUS

If approval for a DOH ACHD's status is rescinded, DEP will work with the DOH ACHD to effect the retrieval of the DEP-purchased computer and related electronic equipment (e.g. scanners, copiers, etc). The rescinded DOH ACHD shall also submit hard copies, computer disk copies, or microfilm copies of all PWS inventory records, permits, sanitary surveys, and monitoring records to the appropriate DEP District Office.

Part 5 Designation of an Approved County Health Department

In accordance with Sections 403.861(6) and 403.862(1)(c) F.S., DEP may delegate authority for administering the PWSS Program to a DOH CHD that has a qualified engineering staff and meets the criteria specified in Section 5.3, APPROVAL CRITERIA, as determined by DEP. County Health Departments shall be designated as provided in Section 403.862(1)(c) only if the DOH ACHD is able to and intends to carry out all functions of the Drinking Water Program. The following paragraphs outline the process for becoming a DEP-DOH ACHD and keeping this status. A procedure for DEP to rescind approval is also included.

5.1 NOMINATION PROCESS

The DOH shall nominate a DOH CHD for approval by providing written notice from the DOH State Surgeon General to the Secretary of DEP. The written notice shall be accompanied by a statement of the qualifications of all the DOH CHD staff that will participate in program activities and shall include, at a minimum, a detailed analysis of the DOH CHD's ability to meet the approval criteria. The DOH shall not nominate a DOH CHD in a county in which a DEP District or Branch office with an active Drinking Water Program is located. However, the status of existing DOH ACHDs will not be subject to this criterion. After reviewing the statement of qualifications, and following a minimum twelve-month observation period as addressed in 5.2, EVALUATION AND APPROVAL PROCESS, the Secretary of DEP shall notify the DOH CHD through the DOH State Surgeon General of the decision. If DEP is unable to approve the nomination, the Secretary of DEP shall state the reasons with particularity. If the Secretary of DEP approves the DOH CHD's qualifications, the DOH CHD shall then be called a DOH ACHD.

5.2 EVALUATION AND APPROVAL PROCESS

The statement of qualifications of a nominated DOH CHD, based upon approval criteria listed in 5.3, APPROVAL CRITERIA, shall be evaluated by a DEP professional engineer (PE) registered in the State of Florida. If initial review shows that qualifications appear to be adequate, written notice will be provided by DEP to the DOH CHD and the DOH DEH that conformance with approval criteria will be assessed during a twelve-month interval referred to as the observation period. The twelve-month observation period is divided into three segments. During this period, the DOH CHD's capability to carry out the duties listed in this Agreement will be closely observed by DEP District and Tallahassee offices.

The nominated DOH CHD shall commence all surveillance and record keeping activities during the observation period. The DEP District Office shall direct each PWS permit applicant to submit a complete set of application materials to the nominated DOH CHD during the observation period. The applicant DOH CHD will conduct parallel engineering plan reviews with the DEP District Office during the second three months of the observation period. The DOH CHD will provide recommendations on permit issuance and conditions based on its plan review to the DEP District Office within 20 calendar

days of receipt of an application package to facilitate the plan review process mandated under Chapter 120, F.S. Subsequently, the DEP District Office shall audit all permits issued by the DOH CHD during the remaining six months of the observation period.

During the first segment, months one to three, the nominated CHD shall:

- Receive training in PWS data management, enforcement, compliance and sanitary surveys.
- Conduct all compliance inspections.
- Begin to enter data into the PWS and PA databases.
- Accompany DEP District Office personnel on sanitary surveys of PWSs within the nominated county.
- Set up paper files (or equivalent).
- Establish a reference library that contains, at a minimum, those publications listed in Sections 62-555.330 and .335, F.A.C.

Initiate correspondence with PWSs within the nominated county.

During months four to six the nominated DOH CHD, in addition to the previously mentioned responsibilities, shall:

- Perform parallel permit reviews.
- Conduct all sanitary surveys of PWSs within the nominated county.
- Enter all data into the PWS database.
- Begin informal enforcement where applicable.

During months seven to twelve the nominated DOH CHD, in addition to the previously mentioned responsibilities, shall:

- Process all permits applications.
- Perform all enforcement actions.
- The DEP District Office will audit all permit and final enforcement actions as necessary.

5.3 APPROVAL CRITERIA

The minimum criteria a DOH CHD shall meet to be considered for DOH ACHD status include, but are not limited to:

5.3.1 The permitting staff shall be under the direct supervision of a PE registered in the State of Florida, or under the indirect supervision of a PE registered in the State of Florida when the staff's immediate director is an individual who possesses an engineering degree from a university with a curriculum accredited by the Engineers' Council for Professional Development. In either event, the staff's immediate director must have experience in an environmental health or engineering-related field with a minimum of six months of experience with Florida's water system program (prior to the observation period).

5.3.2 The staff shall consist of an adequate number of technically qualified persons. The program shall be provided with sufficient funding to consistently perform the duties set forth in Section 403.862, F.S., as described in this Agreement.

5.3.3 There must be adequate legal resources provided to implement and execute the responsibilities for enforcement of the Florida SDWA as delegated by Section 403.862(1)(c), F.S.

5.3.4 Upon demonstration that all criteria in Part 5, Designation of Approved County Health Department, are satisfied by a DOH CHD, and upon recommendation by the DEP Division of Water Resource Management, the Secretary of DEP shall designate the DOH ACHD Director/or Administrator, or his or her designee (a professional engineer registered in the state of Florida), as signatory of DEP permits authorized by Section 403.862(1)(c), F.S. For general permits, the standard procedures developed for the district offices shall be followed by the DOH ACHDs. This shall include the use of standard approval letters developed by the DEP. Denials of permit applications must be signed by the DOH ACHD Director or Administrator, or his or her designee. The DEP shall act on review results as authorized by Section 5.5, Program Evaluation of DOH ACHDs.

5.4 EXISTING ACHDs

The DOH ACHDs approved prior to the signing of this Agreement shall not be required to submit a revised statement of qualifications as described above. Nevertheless, all DOH ACHDs must meet the approval criteria and are subject to annual review by DEP to determine if they are meeting PWSS Program requirements.

5.5 PROGRAM EVALUATION OF DOH ACHDs

Per 403.862(3) F.S., the DEP shall annually evaluate all ACHDs based on program evaluation tools developed jointly by the DEP Drinking Water Section in Tallahassee and DOH DEH Water Programs. The evaluation team will include a representative from the DOH DEH Water Programs, the DEP Division of Water Resource Management and the DEP District Office. The DEP District Office shall take the lead for the DOH ACHDs within their district boundaries.

The DEP District Office, prior to the program evaluation, will make a detailed review of the DOH ACHD's files to assist the evaluation team in determining adherence to the PWSS program requirements. This detailed file review will occur on a three-year rotational basis. The DOH DEH Water Programs representative will be invited to attend this data collection visit.

The date and time of the evaluation shall be established by mutual agreement between the DEP and the DOH DEH Water Programs. An evaluation will consist primarily of file reviews and interviews with DOH ACHD program staff. A copy of the Program Evaluation Protocols and Form to be used for this activity can be found in Appendix I.2. At the conclusion of an evaluation, the DEP staff will discuss its findings with the DOH ACHD director/administrator. A copy of a draft report will be sent to the DOH DEH Water Programs. A final report will be prepared by the lead District Office with input from both DEP HQ and DOH DEH Water Programs Offices prior to forwarding the final report to the DOH ACHDs.

5.6 RESCISSION OF ACHD STATUS

In accordance with Section 403.862(4) F.S., if DEP determines that an DOH ACHD is not adequately performing its PWSS Program functions, as reflected in two successive unsatisfactory reviews, the Secretary of DEP shall inform the DOH State Surgeon General in writing of rescission of DOH ACHD's program delegation. Deficiencies that may result in immediate withdrawal of delegation include, but are not limited to, the following: falsifying documents, conflict of interest, loss of resources that result in significant program deficiencies, or intentional deletion or destruction of records.

This provision in no way precludes a DOH CHD that has had the PWSS program rescinded from reapplying for delegation after the noted deficiencies have been corrected to the satisfaction of DEP.

If a DOH ACHD approval is rescinded, DEP shall be responsible for resuming the PWSS Program functions in that county.

5.7 LIST OF DOH ACHDs (as of January 2010)

Broward	Lee	Polk
Dade	Manatee	Sarasota
Hillsborough	Palm Beach	Volusia

This list will be revised as necessary to reflect formal actions taken by the Secretary of DEP and without the re-negotiation of this Agreement. Revisions will be made directly to the list above and re-dated as shown above.

Part 6 Administrative Issues

6.1 POLICY, GUIDANCE, AND RULEMAKING RESPONSIBILITIES

The DEP maintains the authority and responsibility of providing guidance to DEP District Offices and DOH ACHDs. This guidance may be in the form of rule interpretation, or Division of Water Resource Management Program Guidance Memoranda. The DEP Drinking Water Section is authorized to provide routine non-policy technical guidance in the form of final PCE Workgroup minutes. The PCE Workgroup shall be comprised of representatives from the DEP District Offices, DOH ACHDs, and DOH DEH Water Programs and DEP headquarters offices. All DEP District Offices and DOH ACHDs have the responsibility to follow, apply, or otherwise use such guidance.

Any apparent conflicts between federal and state or DEP and DOH rules or guidance shall be brought to the attention of the DEP Drinking Water Section Tallahassee office and the DOH DEH Water Programs office. Final resolution shall be by the DEP.

The DEP also maintains the authority and responsibility for rulemaking for the SDWA program. The DEP will invite the DOH DEH Water Programs to have representatives on all rulemaking committees, technical advisory workgroups and attend rulemaking public workshops. As a corollary, any rulemaking impacting the SDWA Drinking Water Program (e.g. revisions to Chapter 64E-8, F.A.C.), initiated by the DOH will provide for the same considerations as extended by the DEP to the DOH as outlined above.

6.2 FUNDING

6.2.1 Joint Report - A yearly accounting of funds, overhead, personnel, and property used by DEP and DOH, including the DOH CHDs, will be exchanged by January 15 of each year. This accounting by State Fiscal Year will be included in a joint report prepared by DEP and DOH and presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than February 1 of each year.

6.2.2 Permit Fees and Quarterly Payments - DEP agrees to provide DOH funding from the Water Quality Assurance Trust Fund or other funds as it may become available, contingent on an annual appropriation by the State Legislature. Payments will be made quarterly for the management of delegated DOH ACHD PWSS Programs. The amount will be reduced by \$150,000 annually to cover the cost of Program overview by the DEP. In return the DOH ACHDs shall retain all permit application fees collected under Chapter 62-4, F.A.C.

6.2.3 Penalty Retention - DEP agrees that DOH ACHDs shall retain penalties, costs and expenses pursuant to Section 403.860(4), F.S., which they recover either through an administrative or civil action. The DOH ACHDs recognize that such moneys collected under that section must be expended as provided in Section 403.862(7), F.S. Therefore, DOH ACHDs may retain all penalties, costs, and expenses recovered pursuant to Sections 403.860, 403.862(7), F.S., and Rules 62-560.310(2), and (3), F.A.C., so long as the moneys are expended only for the operation of the DEP delegated PWSS activities in the DOH ACHD.

6.2.4 Annual Operating License (AOL) Fees – The DOH and DEP will independently invoice, collect, and retain all AOL fees submitted by PWSs in their jurisdictional areas. Such fees will be reported and accounted for annually as stipulated in the Joint Report under 6.2.1 of this Agreement. These fees will be assessed and are governed by the provisions of Chapter 62-4, F.A.C., as amended most recently and made effective on April 21, 2009.

6.2.5 Budget Approval - DOH agrees to expend any moneys transferred or collected under this program only on the SDWA program. Any such expenditure shall be accounted for through the use of a specific module number. An annual report shall be prepared to detail the expenditure of such funds during the year just ended. DEP shall verify during the annual program evaluation that the funds have been expended on the supervision of public drinking water systems regulated under the Florida SDWA.

6.2.6 Data Management - DEP agrees to provide the DOH ACHDs and the DOH DEH Water Programs office all necessary computer hardware and software to adequately conduct data management activities utilizing the Oracle Public Water System Data Base and PA system. DEP further agrees to provide technical assistance and training in the utilization of the Oracle and PA data management systems, and provide technical service if system repairs are necessary.

6.2.7 Funding Sufficiency – DEP and DOH shall meet at least once annually to discuss revenue sufficiency and expense budgets for the program in the individual agencies. The agencies shall work in cooperation, per 403.682 F.S., to establish sufficient revenue to support the program in both agencies. Changes to the interagency funding transfers may be negotiated and agreed to during these interagency budget discussions and become an amendment to this agreement when documented through written correspondence and joint signature by appropriate DEP and DOH division directors.

6.3 TRAINING

The DEP has the responsibility of providing or ensuring adequate training of field staff in the DOH ACHDs and DEP District Offices. Training covering new rules or refresher training, sanitary survey school, and other drinking water program topics will be provided on an as needed basis. All DOH ACHDs and DEP District Offices are expected to send appropriate staff to such training at their own expense. As resources and the budget allow DEP PWS HQ will allocate an apportioned amount of

funds among the 15 field offices. Where practical the DEP will utilize existing EPA and DEP webcasts or webinars and may at times develop instructional or training videos or webcasts covering important topics and rules.

6.4 MODIFICATIONS TO THE AGREEMENT

This Agreement sets out the procedures to be followed by the DEP and its District offices, and DOH and all of its ACHDs and CHDs. Either of the parties may seek a modification of this Agreement by giving written notice outlining the desired modification to the other. No modification is effective until the modification is in writing and added to this document and reissued by DEP. This Agreement shall remain in effect until revised by the DEP after consultation with DOH or terminated by either department.

6.5 TERMINATION OF THE AGREEMENT

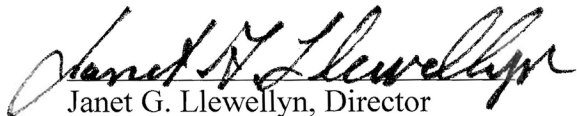
To terminate this Agreement the terminating department shall inform the other department of its desire for termination at least 90 days prior to the termination date. By the termination date, each department shall return any equipment purchased by or owned by the other department, including all computer equipment. Furthermore, DOH ACHDs shall transfer all appropriate documents to the appropriate DEP District Office if requested, as described in Part 4, Recordkeeping Requirements.

Signing and Execution of Agreement

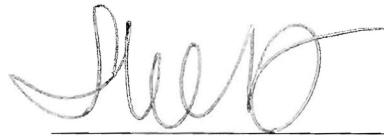
This DEP-DOH Interagency Agreement becomes effective on January 1, 2010 or upon the date this I/A is executed below, whichever is later.

EXECUTED this _____ day of November, 2009.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION


Janet G. Llewellyn, Director
Division of Water Resource Management

STATE OF FLORIDA DEPARTMENT OF
HEALTH


Shairi Turner, M.D., M.P.H., Deputy Secretary
Department of Health