



DATE: June 13, 2013

TO: Washington State Board of Health Members

FROM: Environmental Health Committee
Keith Grellner, Chair

SUBJECT: REQUEST FOR DELEGATION: CHAPTER 246-290 WAC, GROUP A PUBLIC WATER SUPPLIES – ADOPT FEDERAL REVISED TOTAL COLIFORM RULE

Background and Summary:

The Washington State Board of Health has authority under RCW 43.20.050(2) to adopt rules to protect public health concerning public drinking water systems. The Board has adopted requirements for larger public drinking water systems (Group A) under chapter 246-290 WAC. In February 2013, the U.S. Environmental Protection Agency (EPA) published in the *Federal Register* drinking water system requirements called the “Revised Total Coliform Rule.” The purpose of this rule is to better address the public health protection goals of the original 1989 Total Coliform Rule. States must adopt rules equivalent to this federal rule within two years and begin complying with the rule by April 2016 to maintain primacy. The federal rule revision changes the indicator of microbial contamination from total coliform bacteria to *E. coli* (*Escherichia coli*), which is a better indicator of fecal contamination. The rule places a greater emphasis on eliminating contamination by requiring systems to perform assessments and correct defects. There is a new incentive for systems to have a good history of coliform-free operation because they would then be able to collect monitoring samples less frequently. The rule has new requirements for seasonal water systems that shut down for a period of time each year. It also has new requirements for high-risk, smaller systems to monitor more frequently than under the original rule.

The Department of Health is requesting the Board delegate its rulemaking authority to the department to adopt the federal requirements into chapter 246-290 WAC. The department’s request for delegation meets several of the board’s criteria for rule delegation listed in policy 2000-001, Considering Delegation of Rules to Department of Health:

- the rule making would include some clarifying language changes;
- the state has limited discretion in this rule making through a few options in the federal rule;
- the regulated community supports state adoption of the requirements to maintain state primacy;
- policy changes would be limited to federal requirements and options in the federal rule; and
- stakeholders would be adequately involved through the Washington Water Utility Council, the Office of Drinking Water Advisory Group, other Department outreach, and through the Department’s newsletter, *Water Tap*.

Denise Clifford, Director of the Department of Health's Office of Drinking Water, is here to explain this request for limited delegation of rule making. Please refer to materials under Tab 09 for more detail.

Recommended Board Action:

The Environmental Health Committee recommends the Board adopt the following motion:

The Board delegates to the Department of Health rule making authority for chapter 246-290 WAC for the purpose of adopting state standards equivalent to the U.S. Environmental Protection Agency's Revised Total Coliform Rule as published in the Federal Register on February 13, 2013.

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