



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

PO Box 47990 • Olympia, Washington 98504-7990

April 24, 2014

Representative Joel Kretz
PO Box I
Omak, WA 98841

Dear Representative Kretz:

This letter is to inform you that the State Board of Health denied your request for rule-making at its April 9, 2014 meeting in Tumwater. The petition, dated February 28, 2014 requested the Secretary of Health, John Wiesman, to revise chapter 246-291 WAC, Group B Public Water Systems. The Board handled your request as a petition for rule making under RCW 34.05.330. Subsection (3) of RCW 34.05.330 allows an agency's denial of a petition be appealed to the Governor within 30 days of notice of the denial.

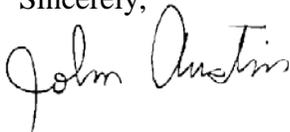
The Board understood your petition as a request to revise chapter 246-291 WAC to allow the Department of Health to approve treatment of water sources that exceed primary maximum contaminant levels (MCL). The Board last adopted revisions to these rules in October 2012. The revised rules became effective on January 1, 2014. WAC 246-291-060 allows a local health jurisdiction to give waivers to Group B systems on a case-by-case basis, to allow treatment without adopting local rules, if the local jurisdiction has accepted primary responsibility for enforcing the state rules under a joint plan of responsibility (JPR). Because treatment devices vary in scope and complexity and can be unreliable, the state rules require waivers to be conditioned with ongoing oversight and monitoring to assure that the treatment is working as intended.

When the Board adopted the new rules in 2012, it faced a difficult situation. The Department of Health had lost all general funds for implementing Group B rules in 2009 and did not have authority to charge fees for ongoing oversight activities required to monitor their treatment. At the time, the Board discussed that it could be difficult for local jurisdictions to accept primary responsibility for these activities, but it appeared to be the best alternative to protect public health and allow for local decisions about whether to permit treatment. The Department still does not have the authority to charge fees nor the funding to oversee and monitor Group B water system treatment.

The Board does not believe it has the authority to address the resource issues you raise. The Department adopts its own rules about fees for services. However, for the Department to charge a new fee for ongoing monitoring activities would require legislative approval per Initiative 960.

Thank you for your interest in trying to address a difficult situation caused by funding constraints for public health at both the local and state levels. The Board and the Department of Health would welcome the opportunity to have further discussions with you to look for solutions to this problem.

Sincerely,

A handwritten signature in cursive script that reads "John Austin". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

John Austin, Chair
Washington State Board of Health

cc: John Wiesman