



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

PO Box 47990 • Olympia, Washington 98504-7990

April 24, 2014

Pend Oreille County Commissioners
PO Box 5025
Newport WA. 99156

Dear Commissioners:

This letter is to inform you that the Washington State Board of Health denied your request for rule-making at its April 9, 2014 meeting in Tumwater. The petition, dated March 17, 2014 requested 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 request as asking for a revision of 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, under the authority of RCW 43.20.050 and chapter 70.119A RCW. Section 060, Waivers, of the rules currently allows a local health jurisdiction to give waivers to Group B systems on a case-by-case basis to allow such treatment without adopting local rules if the local jurisdiction has accepted primary responsibility for enforcing the rules under a joint plan of responsibility (JPR). The rule requires such a waiver to be conditioned with ongoing oversight of monitoring to assure that the treatment is working. The Board understands it can be difficult for local jurisdictions to accept primary responsibility for these activities. However, the rules allow the option.

The Board understood the limitations of the rules when it revised them in 2012. It understood treatment devices can be unreliable and require monitoring. It also understood that the Department of Health had lost all general funds for implementing the Group B rules in 2009 and had existing fee schedules to allow charging fees only for review of plans for new or expanding systems and not for ongoing monitoring oversight activities. For the Department to charge a new fee for ongoing monitoring activities would require legislative approval per Initiative 960. Therefore, the Board decided in 2012 that public health would best be protected by not allowing treatment to meet a primary MCL that would require ongoing oversight by the Department of Health. The Department of Health's funding situation for monitoring Group B systems has not changed since then.

Thank you for expressing your concerns regarding the Board's Group B rules and trying to address a difficult situation caused by funding constraints for public health. Staff of the Department of Health's Office of Drinking Water is available to provide technical assistance to local health jurisdictions to develop ordinances and/or joint plans of responsibility and to implement local Group B programs.

Sincerely,

A handwritten signature in cursive script that reads "John Austin". The signature is written in black ink and is positioned above the printed name and title.

John Austin
Chair

cc: John Wiesman