



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

DIVISION OF ENVIRONMENTAL PUBLIC HEALTH

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July 20, 2016

TO: Michelle A. Davis, Executive Director
Washington State Board of Health

FROM: Clark Halvorson, Assistant Secretary 
Division of Environmental Public Health

SUBJECT: Delegation of Rule Making for Chapter 246-271 WAC, Public Sewage

The Department of Health (department) completed the required rule review of chapter 246-271, Public sewage. The department recommends the State Board of Health (board) repeal the chapter because it is outdated and duplicative with Department of Ecology (Ecology) and other public health statutes and rules. This repeal will not affect the specific statutory authority for rules governing small and large on-site sewage systems granted to the board and department respectively. If the board concurs with the recommendation to repeal chapter 246-271 WAC, the department requests the board delegate rule making authority consistent with the board's delegation criteria.

The rule making authority given to the board under RCW 43.20.050 has been superseded by more current and more specific Ecology statutory authority in chapter 90.48.RCW. As a result, the requirements of chapter 246-271 WAC, Public sewage, do not reflect the most current and appropriate regulation of public sewage, including those that apply to public health, water quality standards, all known available and reasonable methods of treatment (AKART), permitting, operation and maintenance, and water quality monitoring.

Department staff performed a section-by-section analysis of the chapter to confirm all requirements of chapter 246-271 WAC are adequately regulated under Ecology statutes and rules and other public health statutes and rules to protect public health.

Department staff consulted with the program-assigned Assistant Attorney General and Ecology staff to complete the rule review to ensure no essential public health regulatory oversight will be lost with the repeal of the chapter.

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Staff consulted with local health jurisdiction environmental health staff and Environmental Health Directors through their Liquid Waste Committee to ensure they do not rely on these rules for any activities unknown to the department. The only concern from local health is that the department be engaged with Ecology review of public sewage system permits. This rule doesn't address the department authority to routinely review Ecology wastewater permits. However, department staff have an ongoing collaborative relationship with Ecology on wastewater matters, and specifically under Ecology's statutory directive in RCW 90.48.100.

For additional information, please contact Jerrod Davis, Director, Office of Environmental Health and Safety, (360) 236-3391 or Jerrod.Davis@doh.wa.gov.

cc: Jerrod Davis, Director, Office of Environmental Health and Safety

Attachments: Rule Review of chapter 246-271 WAC, Public Sewage
Section-by-section analysis