

# WASHINGTON STATE BOARD OF HEALTH

**Date:** March 13, 2024

**To:** Washington State Board of Health Members

**From:** Kate Dean, Environmental Health Subcommittee Chair

**Subject:** Request for Delegated Rulemaking Authority – WAC 246-272A-0110, Table I, Category 2.

## **Background and Summary:**

The Department of Health (Department) is requesting the delegation of rulemaking authority from the State Board of Health (Board) to update the small on-site sewage system rule regarding eligibility requirements for proprietary treatment products, WAC 246-272A-0110, Table I, Category 2, to align with industry and subject matter expert recommendations.

RCW 43.20.050(3) authorizes the Board to adopt rules concerning on-site sewage systems (OSS) with design flows less than three thousand five hundred gallons a day. WAC 246-272A-0110, Table I, Category 2 lists the core testing requirements for Category 2 proprietary treatment products for small on-site systems.

At the January 2024 Board meeting, the Board adopted the permanent rule for chapter 246-272A WAC. The permanent rule identifies EPA Method 1664 as the testing protocol for Category 2 treatment products. The protocol tests the ability of the product to treat oil and grease but does not include a test for organic sewage strength and suspended solids.

The Board may delegate any of its rulemaking authority to the Department under RCW 43.20.050(4). Board Policy number 2000-001 further outlines conditions and circumstances for “Considering Delegation of Rules to Department of Health.” Delegated rulemaking authority would allow the Department to revise WAC 246-272A-0110, Table I, Category 2 to incorporate the necessary testing requirements.

Joining us today from the Department’s Office of Wastewater Management is Roger Parker, the OSS Technical Assistance Lead. He will discuss the Department’s request for delegated rulemaking authority.

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**Recommended Board Actions:**

The Board may wish to consider, amend if necessary, and adopt one of the following motions:

The Board delegates to the Washington Department of Health rulemaking authority to amend WAC 246-272A-0110, Table I, Category 2 to incorporate the necessary testing requirements for Category 2 treatment products.

Or

The Board denies the Department's request to delegate rulemaking authority to amend WAC 246-272A-0110, Table I, Category 2.

**Staff**

Andrew Kamali

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