

WASHINGTON STATE BOARD OF HEALTH

Date: January 8, 2025

To: Washington State Board of Health Members

From: Paj Nandi, Board Member

Subject: Petition for Rulemaking [WAC 246-290-220](#), Drinking Water Materials and Additives – Possible Action

Background and Summary:

The Administrative Procedure Act ([RCW 34.05.330](#)) allows any person to petition a state agency for the adoption, amendment, or repeal of any rule. Upon receipt of a petition, the agency has sixty days to either (1) deny the petition in writing, stating the reasons and, as appropriate, offer other means for addressing the concerns raised by the petitioner, or (2) accept the petition and initiate rulemaking.

On November 24, 2024, the State Board of Health (Board) received a petition from Washington Action for Safe Water and Bill Osmunson, DDS MPH. The petitioners request the Board consider amending WAC 246-290-220, Drinking Water Materials and Additives, within the Group A Public Water Supplies rules.

The Board has the authority under [RCW 43.20.050](#) to adopt rules for Group A public water systems as defined in [RCW 70A.125.010](#). Chapter 246-290 WAC establishes the standards for these water systems related to their design, construction, sampling, management, maintenance, and operation practices. The purpose of these rules is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies.

The petitioners request that the Board amend [WAC 246-290-220](#) to include a new subsection related to water fluoridation that states the following:

In keeping with the Federal Safe Drinking Water Act S.433 and the Food Drug and Cosmetic Act, Title 21, the Board of Health does not recommend any substance be added to water with intent to treat humans, unrelated to treatment of water as defined in RCW 18.64.011(14)(15) or 21 U.S. Code § 321(g)(1), unless approved by the Food and Drug Administration in compliance with the U. S. Food, Drug and Cosmetic Act. This recommendation does not apply to substances added to water to make water safer as determined by the U.S. Environmental Protection Administration in compliance with the Safe Drinking Water Act.

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The petitioner included attachments to support the request, located in the Board materials. Shay Bauman, Board Staff, will present the Board Members with information related to the petition and recommendations.

Recommended Board Actions:

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

The Board declines the petition for rulemaking to amend WAC 246-290-220 for the reasons articulated by Board Members. The Board directs staff to notify the petitioner of the Board's decision.

OR

The Board accepts the petition for rulemaking to explore the proposed amendment to WAC 246-290-220 to consider additional language related to water fluoridation. The Board directs staff to notify the requestor of its decision and to file a CR-101, Preproposal of Inquiry, to further evaluate the request and possible rule change.

Staff

Shay Bauman, Policy Advisor

To request this document in an alternate format or a different language, please contact the Washington State Board of Health at 360-236-4110 or by email at wsboh@sboh.wa.gov. TTY users can dial 711.

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