PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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DATE: March 06, 2026
TIME: 9:25 AM

WSR 26-07-010

Agency: State Board of Health

Subject of possible rule making: Minimum horizontal separations for on-site sewage systems (OSS). The State Board of Health (board) is considering amending WAC 246-272A-0210 to clarify the minimum horizontal separations for surface water used as a public and nonpublic drinking water source. The board is also considering making several technical, grammatical, and editorial corrections in WAC 246-272A-0010, 246-272A-0110, 246-272A-0120(5)(b)(ii), 246-272A-0210, and 246-272A-0240(2)(c). Edits will be limited to correcting a misspelling within the definition of "residential sewage", updating the publication dates of NSF/ANSI 40, 41, and 245 to reflect the most recent versions, correcting the publication date of a proprietary on-site wastewater treatment products department standards and guidance document, addressing missing and incorrect footnotes, and correcting an internal citation.

Statutes authorizing the agency to adopt rules on this subject: RCW 43.20.050(3).

Reasons why rules on this subject may be needed and what they might accomplish: The board has the authority under RCW 43.20.050(3) to adopt rules for the design, construction, installation, operation, and maintenance of on-site sewage systems with flows of less than 3,500 gallons per day. Chapter 246-272A WAC establishes the standards for these systems, and the Department of Health (department) implements the OSS program.

In March 2024, the board adopted the most recent revisions to chapter 246-272A WAC. Under this rulemaking, the minimum horizontal separations, or setbacks, in Table IV of WAC 246-272A-0210, were amended. The setback requirement for surface water used as a public drinking water source measured from the ordinary high-water mark was increased to proactively protect source water around surface water intakes.

In November 2025, the board received a petition for rulemaking. The petition described unintended consequences of the rule change, including limiting or prohibiting development along river systems regardless of where water is withdrawn for drinking water, and requested that the board change the setback for surface water used as a public drinking water source back to what it was in the previous version of the rule. The board accepted the petition.

This rulemaking project will explore changes to WAC 246-272A-0210 to clarify the minimum horizontal separations for surface water used as a public and nonpublic drinking water source. The board will also consider making a limited number of technical edits to correct errors discovered after implementation of the revised rule.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: There are no other federal or state agencies that regulate this subject.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe) Collaborative rulemaking

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

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Additional comments: To be added to the listserv for notifications regarding this rulemaking, enter your email address at the following link: https://public.govdelivery.com/accounts/WADOH/subscriber/new?topic_id=WADOH_290.

Date: 3/4/2026 **Name:** Michelle Davis, MPA **Title:** Executive Director, Washington State Board of Health	**Signature:**