



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

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May 10, 2006

TO: Washington State Board of Health Members

FROM: Keith Higman, SBOH Member

SUBJECT: PETITIONS FOR RULE MAKING: CHAPTER 246-272A WAC, ON-SITE SEWAGE – DRAIN FIELD REMEDIATION DEVICES

Background and Summary

In March 2006, two similar requests for rule making were sent to Secretary Mary Selecky—one from ten legislators including Representative Eickmeyer, chair of the Select Committee on Hood Canal, and one from Lieutenant Governor Brad Owen (both are attached). They asked the Department of Health (DOH) to examine new technologies that claim to rehabilitate failing septic systems and reduce nitrogen output, and then develop rules for permitting of such devices statewide. The Department responded by forwarding the requests to the State Board of Health as petitions for rule making under RCW 34.05.330. The Board briefly discussed these petitions at its April 12, 2006 meeting in Kennewick, but asked for a background briefing from DOH staff at its May meeting before deciding whether to initiate rule making.

Staff members of DOH are currently heavily involved with activities to implement major new on-site sewage system requirements in chapter 246-272A WAC, which the Board adopted in July 2005 and which take effect in July 2007. Additionally, staff members of DOH are in the process of rule making for large on-site sewage systems (chapter 246-272B) and for septic tank design and construction (chapter 246-272C WAC). Initiating rule making in response to these petitions will require DOH to evaluate on-site sewage system rule making priorities. Standards for approving treatment technologies for the removal of nitrate from on-site sewage effluent are already contained in Board rules.

The petitions address biological treatment systems and specifically mention a proprietary device called Pirana-ABG, which facilitates the multiplication of beneficial bacteria and may help rehabilitate a drain field. However, not all devices marketed in Washington intended to rehabilitate a drain field are biological. Others are based on chemical or mechanical technologies. Maryanne Guichard, Director of the Office of Environmental Health and Safety, is here to brief the Board about the requests and the DOH recommendations. Please refer to materials behind Tab 08 in your packets.

Board Policy 2005-01 guides the handling of petitions for rule making (attached). In most instances, the Board's executive director makes a recommendation to the Board chair on how to respond. The

chair is authorized to respond without further Board action, but may choose to bring a request to the Board for a vote. Board members can also call for a vote.

Board Action Recommended

The Board may choose to consider, amend if necessary, and adopt the following motion:

Motion: The Board directs the executive director to initiate rule making, in conjunction with the Department of Health, by filing a CR-101 for the purpose of developing statewide standards for devices marketed for the rehabilitation of on-site sewage system drain fields. The Board requests the Department to develop a proposed rule that would apply to all types of on-site sewage system drain field remediation technologies marketed in Washington State.