Chapter 246-270 WAC
SEWER SYSTEMS—CERTIFICATION OF NECESSITY FOR WATER DISTRICT INVOLVEMENT

WAC
246-270-001 Purpose. This regulation prescribes the procedure whereby a water district organized under the provisions of chapter 57.04 RCW may apply for and receive an approval and a certification of necessity from the department in accordance with the provisions of RCW 57.08.065 in order to exercise powers of a sewer district in accordance with the provisions of Title 56 RCW, as now, or hereafter amended. Additionally, this regulation will define the criteria which the department will consider in determining the eligibility of an applicant water district for an approval and a certification of necessity.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-270-001, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 92-02-018 (Order 224), § 246-270-010, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-270-010, filed 12/27/90, effective 1/31/91; Order 6, § 248-91-010, filed 10/16/68; Emergency Order 3, § 248-91-010, filed 8/2/68.]

WAC 246-270-010 Definitions. For purposes of this chapter, the following definitions are applicable:

(1) "Approval and a certification of necessity" shall mean an order of the department which gives approval to a sewer district to establish, maintain, construct and operate a sewer system in accordance with the provisions of chapter 57.08 RCW.

(2) "Board" shall mean the Washington state board of health.

(3) "Department" shall mean the Washington state department of health.

(4) "Drainage basin" shall mean a geographic area drained by a surface stream or body of impounded water together with all tributary surface streams and bodies of impounded surface water.

(5) "Industrial wastes" shall mean the liquids, solids, or other wastes resulting from any process of industry, or from the development of any natural resource.

(6) "Necessity" shall mean a reasonable need and not mean an indispensable need.

(7) "Proposed service area" shall mean the area proposed to be served with a sewer system by the applicant water district.

(8) "Sewage" shall mean the water-carried waste products or discharge from human beings or other wastes from residences, public or private buildings, or industrial plants, together with such ground, surface or storm waters as may be present.

(12/23/91)

(9) "Sewer entities" shall mean any municipal or public corporations which by law are entitled to construct and operate a sewer system.

(10) "Sewer system" shall mean a system of sewers and appurtenances for the collection, transportation, treatment and disposal of sewage and industrial wastes.

WAC 246-270-020 Application content. An application for an approval and a certification of necessity must be presented to the department and shall include, but not be limited to, the following considerations:

(1) A general statement of the present and future sewage problems in the proposed area of service.

(2) A consideration of the relationship of the district to contiguous, nearby or overlapping sewer entities.

(3) Service areas considering reasonable drainage basin oriented planning.

(4) Population forecasts as a basis of sewer system design in the proposed service area.

(5) A layout map showing major trunk lines and interceptor lines including the drainage area to be served within and outside of the boundaries of the water district.

(6) The methods of interception and disposal of sewage.

(7) The projected completion time for the sewer system.

(8) An affidavit signed by an officer of the applicant water district, stating that all persons, parties or entities have been given the notice required by WAC 246-270-030.

(9) A summary setting forth the reasons why the applicant water district is better suited to provide a sewer system within the proposed service area than a contiguous or adjacent sewer entity.

[Statutory Authority: RCW 43.70.040 and 57.08.065. WSR 92-02-018 (Order 224), § 246-270-020, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-270-020, filed 12/27/90, effective 1/31/91; Order 6, § 248-91-030, filed 10/16/68; Emergency Order 3, § 248-91-030, filed 8/2/68.]

WAC 246-270-030 Notification of interested parties. Prior to the submission of an application to the department for an approval and a certification of necessity, an applicant water district shall:

(1) Notify all the contiguous and affected sewer entities in the area in which the water district is proposing to construct and operate a sewer system that the applicant water district will submit an application for an approval and a certification of necessity, and that the department will consider all written comments and objections submitted to the department from any contiguous and affected sewer entity if the same
written comments and objections are received by the department before a date which will be specified by the department.

(2) Notify the county commissioners, county health officer, county engineer, county planning commission and the county boundary review board, if any, in the county of the proposed service area, that the applicant water district will submit an application for an approval and certification of necessity and the department will consider all written comments and objections submitted to the department by any of the same if the written comments and objections are received by the department before a date which will be specified by the department.

(3) The dates for inclusion in the notification provided for in paragraphs (1) and (2) hereof will be furnished by the department upon the request of any applicant water district to the department.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-270-030, filed 12/27/90, effective 1/31/91; Order 6, § 248-91-040, filed 10/16/68; Emergency Order 3, § 248-91-040, filed 8/2/68.]

WAC 246-270-040 Criteria for necessity. The department will issue an approval and a certification of necessity to an applicant water district if all of the following conditions are satisfied:

(1) The granting of an approval and a certification of necessity will eliminate or alleviate an existing or imminent health problem as determined by the department.

(2) A sewer system does not exist in a substantial portion of the proposed service area and no regularly constituted and established sewer entity intends to construct and operate a sewer system in a substantial portion of the proposed service area within the reasonably foreseeable future.

(3) The proposed service area conforms to any or all established sewage drainage basins designated pursuant to RCW 90.48.270.

(4) The proposed service area conforms to any or all established comprehensive plans for sewage drainage basins, established pursuant to RCW 90.48.280.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-270-040, filed 12/27/90, effective 1/31/91; Order 6, § 248-91-050, filed 10/16/68; Emergency Order 3, § 248-91-050, filed 8/2/68.]

WAC 246-270-040 Notice of decision—Adjudicative proceeding. (1) The department's notice of a denial, suspension, modification, or revocation of an approval and certification of necessity shall be consistent with RCW 43.70.115. An applicant or certificate holder has the right to an adjudicative proceeding to contest the decision.

(2) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Administrative Hearings Unit, Department of Health, 1300 Quince Street S.E., P.O. Box 47851, Olympia, WA 98504-7851; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

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