BOARD OF HEALTH MINUTES
ANNUAL MEETING
Wednesday, January 15, 2014

MEMBERS PRESENT: Dorothy Bergin, Mike Blankenship, Leo Jenkins, Mike Manus, Wes McCart, Brad Miller, Steve Parker, Shirley Sands, Karen Skoog

STAFF PRESENT: Samuel Artzis, M.D., Kelly LeCaire, Kay Scamahorn, Matt Schanz, Dave Windom

GUESTS: Jim Buck, Erik Johansen, Bruce Perkins, Matt Rose, Scott Simmons, John Skoog

CALL MEETING TO ORDER: Chairman Shirley Sands called the meeting to order at 10:13 A.M. A quorum was present.

INTRODUCTIONS: Introductions were made be all.

DESIGNATION OF 2014 BOARD OF HEALTH: Appointments to the Board of Health of Northeast Tri County Health District for 2014 were read into the record. Ferry County Board of Commissioners have appointed Commissioners Mike Blankenship and Brad Miller; Pend Oreille County has designated Commissioners Mike Manus and Karen Skoog; Stevens County Board of Commissioners have appointed Wes McCart and Steve Parker; the City of Colville appointed Dorothy Bergin; Leo Jenkins was appointed by the City of Republic. The Towns of Metlaw Falls, Cusick and Ione chose not to appoint a representative. The next city/town on the rotation for Pend Oreille County is Newport. The City of Newport appointed Mayor Shirley Sands as representative.

REPORT FROM NOMINATING COMMITTEE AND ELECTION OF OFFICERS: Brad Miller, Steve Parker and Karen Skoog made up the Nominating Committee. Brad Miller reported that the Nominating Committee recommends Shirley Sands as 2014 Board of Health Chairman and Wes McCart as Vice Chairman. The Board concurred with the recommendation.

CONSIDERATION OF MINUTES: Brad Miller moved and Wes McCart seconded the motion to approve the minutes of October 16, 2013, Regular Board of Health Meeting. Motion carried.

CONSIDERATION OF MINUTES: Mike Blankenship moved and Wes McCart seconded the motion to approve the minutes of November 14, 2013, Special Board of Health Meeting. Motion carried.

CORRESPONDENCE AND INFORMATION: There was no correspondence to the Board.

PUBLIC APPEARANCES: No public appearances were pre-registered.

ADDITIONS OR CHANGES TO AGENDA: There were no changes to the agenda.
RESOLUTION 01-2014: ADOPTING THE NORTHEAST TRI COUNTY HEALTH DISTRICT ENVIRONMENTAL HEALTH FEE GUIDANCE POLICY: Matt Schanz said adopting an environmental health fee guidance policy was discussed at length and at the last Board meeting Wes McCart asked that the fee guidance policy be tabled so that he and other Board members could make changes to the document. Matt stated that the only input he received was from Brad Miller. This revised policy reflects input from Brad. He reiterated that the intent is that the document is be used as guidance as there has been no clear guideline for fee recovery. Any changes to the fee schedule must still be done by form of resolution and approved by the Board. He noted that the policy states that the Consumer Price Index (CPI) may be used as a tool. Wes McCart moved and Leo Jenkins seconded the motion to approve Resolution 01-2014: Adopting the Northeast Tri County Health District Environmental Health Fee Guidance Policy. Motion carried.

COMMITTEE APPOINTMENTS: APPEALS – BUDGET – PERSONNEL: Chairman Shirley Sands read the 2014 committee appointments. Wes said he has spent a considerable amount of time learning the budget process and asked that he be on the Budget Committee for 2014. Steve Parker said he would be willing to switch with Wes so that he could stay on the Budget Committee. The following are the 2014 committee appointments:

Appeals Committee: Leo Jenkins, Mike Manus, Steve Parker, Shirley Sands, Alternate Brad Miller

Budget Committee: Wes McCart, Brad Miller, Shirley Sands, Karen Skoog

Personnel Committee: Dorothy Bergin, Mike Blankenship, Mike Manus, Wes McCart, Shirley Sands

Brad Miller moved and Dorothy Bergin seconded the motion to approve the committee appointments as stated above. Motion carried.

REVIEW OF 2014 MEETING SCHEDULE: The Board of Health of Northeast Tri County Health District 2014 meeting schedule was reviewed and approved as follows:

- Wednesday, January 15, 2014 – Annual Meeting, Stevens County
- Wednesday, April 16, 2014 – Regular Meeting, Pend Oreille County
- Wednesday, July 16, 2014 – Regular Meeting, Ferry County
- Wednesday, October 15, 2014 – Regular Meeting, Stevens County
RESOLUTION 02-2014: OPPOSING THE WASHINGTON STATE HEALTH CARE INNOVATION PLAN: Dave Windom stated that when discussing the State Health Care Innovation Plan (SHCIP) with other local health jurisdictions, about half of the administrators cannot support the plan as written. Dave will be attending a meeting next week with the Washington State Association of Local Public Health Officials (WSALPHO) Board of Directors, Department of Health Secretary John Wiesman, and the Healthcare Authority (HCA) Director Dorothy Teeter to discuss the SHCIP. The plan has been in development for some time, yet public health professionals have only been brought into the discussion after the first draft and plan were complete. The plan fundamentally changes the health care delivery systems in Washington State and yet was devised without the advice and expertise of those actually conducting the work and delivering health care.

Dave said the plan is bad for public health and really bad for health care access. The plan is modeled after the process used for the Healthy Communities Initiative in which Spokane was our HUB and received 95% of the contractual money. This does not work for us and other smaller local health jurisdictions. Dave said the way the plan is written, physicians will be told how they will run their clinics. The effort is to get all clinics that serve Medicaid patients off of fee for service and on to outcomes based reimbursement rate. The plan states that physicians will be adequately paid but doesn’t constitute what adequate pay is. A regional accountable communities board of non-profits and quasi-governmental would decide what doctors would be paid and reimbursement rates for each procedure. Any person that is on a state health care plan, such as Medicare, Apple Health (Medicaid), etc. would generate an entry into a database that could be accessed by anyone in state government. There would be some HIPAA involved with that and it also creates an all-payers data base. Every insurance company would have to input every ‘explanation of benefits’ into the database for every patient encounter that adds a whole new cost to the doctor delivery system. Steve Parker asked if there will be a need to increase Department of Health staff at the state level. Dave said each HUB would need a full time position governance body and a regional extension office to help transition each clinic. There are two (2) levels that have to be funded and nowhere does it say how or where the funding will come from. He referred to accountable risk bearing entities that bid on mental and behavioral health as part of a contract that would be used for funding, basically pay to play. Wes McCart said he attended a roundtable at the Legislative Steering Committee meeting in Olympia with the Department of Social and Health Services and Dr. David Nielsen of Northeast Washington Alliance Counseling Services. There is a bill that would combine chemical dependency care and mental health care into one pay stream. It’s a reconstruction of regional support networks (RSNs) which are probably going to be renamed and consolidated. Wes said the next step is taking mental health and chemical dependency and combining it with primary care which is a socialistic one single payer system and bureaucratic nightmare. Karen Skoog also attended the round-table discussion where they said it is important to have employment and housing. Karen said she doesn’t know how possible that would be. All of these things seem like a great idea but doesn’t feel that it is very realistic when dealing with mental health issues. Karen said it seemed a bit ambitious to do and that was going to solve the big problem. Wes said it seems as if you didn’t have a job, or weren’t able to work, and didn’t have housing, you didn’t get the care. Wes asked if we are giving them the care that they need or are we forcing them into a box as part of society that is never going to work. Leo Jenkins noted that there are cases for those with mental health issues or aren’t coherent enough to make decisions on their own that needs every aspect handled by their doctor.
Dr. Artzis arrived at the meeting at 10:40 A.M.

Dave Windom said the plan states that based on their assumptions, it only saves a half of one percent and makes the assumption that all of the infrastructure will be paid for in the first year. Brad Miller said the entire plan seems like socialized medicine with the government adding another layer of bureaucracy. Brad asked Dr. Artzis for his opinion. Wes McCart said a major issue he has is the plan came out of the office of the governor with no input from anyone else that should have been involved. Brad said this seems like more control and could likely send our doctors out of the state. Dr. Artzis said he thinks the direction its going is not the direction it was intended. Several years ago the medical home idea was developed as an approach to providing comprehensive primary care along with preventive health. Not only will the physician take care of patients but will be graded on the outcome. This plan is based on the preventive health and medical home theory. Dr. Artzis said the medical home plan is the way of the future and is a good idea. The problem comes when you go beyond the original idea and add preventive health. Doctors will have to show results with their patients and are graded on a scale. Dr. Artzis said a major problem is that it will go broke because we can't pay for everybody. Once it fails, doctors and insurance companies will sit down and come up with a way to make it work. Leo Jenkins asked Dr. Artzis if he agreed with the concept but did not agree with the means. Dr. Artzis said he does agree with the concept, he feels there is no structure and no way to subsidize it. The west side may be able to obtain funding, but we have no funding on this side of the state. This plan is very expensive. Dr. Artzis believes that we are going to have to get used to doing things on our own such as with preventive health with a team effort from our communities to become healthier. Steve Parker said he would like to meet with others to discuss how we can be more responsible here locally. Dr. Artzis said he would recommend having Ron Rehn, Chief Executive Officer of Providence Northeast Washington Medical Group speak about how health care will be structured in the state of Washington. Ron has been involved in this for many years and would be an excellent resource.

Erik Johansen arrived at the meeting at 10:50 A.M.

Karen Skoog said there is a shift of the patient being the consumer to the patient being the product of the system. Steve said we can do better but this is not the pathway. Dr. Artzis said unfortunately it will have to fail before it can perhaps be fixed by the private sector. Insurance companies already know what works and what does not. The good thing is that costs will be contained. Leo asked Dr. Artzis if under this plan, the pay scale for physicians will be affected adversely enough to leave the state. Dr. Artzis said it is already happening. Medicare reimbursement is around 60 cents on the dollar at best. Leo said the plan isn't perfect but is better than the alternative. He comes from the poorest county in the state with an uninsured rate of about 75% or more.

Scott Simmons arrived at the meeting at 10:55 A.M.
Mike Manus said the hospital district in Newport is looking at the mental health process in Pend Oreille County and combining forces that will make a difference and work best for them. These issues are happening everywhere. Local hospitals aren’t equipped to take care of them and jails can’t afford to take care of them either. He said the solution for health care needs to be done at the local level. Dr. Artzis said Dr. Bacon has set up a methadone clinic at the Stevens County Jail and is trying to get mental health services there as well.

Mike Blankenship appreciates what Dr. Artzis said about the health care industry but feels that the government will not fix this. He asked why you would develop something that you can’t pay for and get peoples hopes up only to have it fail. He talked about minimum wage increases while other wages don’t increase. In the past, minimum wage was quite a bit less than average working wages and is not the case now. In Washington State, working people can’t afford to buy things and pay sales tax and can’t afford real estate tax where the state gets funded from. The state can’t fund this because we aren’t creating jobs and not keeping pace with the living wage. He said if this state doesn’t start putting people back to work at a living wage, without the funding, we are wasting time and putting our grandchildren in debt. He said the SHCIP will not work and he will not support it.

Wes McCart said the mental health health/chemical dependency bill is in this session, but the SHCIP is further out. Dave Windom said the actual bill for SHCIP gets introduced this week. Wes said this resolution is basically stating that this Board does not agree with the SHCIP as it is written and it was not discussed with us previously. We are an integral part of the solution and our input needs to be included before the plan moves forward. Dave said public health is split on this issue. The west side thinks it’s good and the east side does not. The regionalized system does not work on this side of the state.

Wes McCart moved and Karen Skoog seconded the motion to approve Resolution 02-2014: Opposing the Washington State Health Care Innovation Plan. Leo Jenkins does not think the resolution is a good idea and told the other Board members that their constituents will be upset them. Dr. Artzis said your constituents will get their basic health care regardless of what happens with this. Leo said he can agree with the concept of too much too fast, but trying to stop it because you don’t like it is irresponsible. Dr. Artzis said he doesn’t agree. He feels that we are trying to add some objectivity to folks that are theorizing and hypothesizing at the state level who should have included others. They are writing law and have no idea what they are doing. Dr. Artzis said they have excluded everyone that should be involved. We aren’t throwing whole thing out or objecting to the idea, but we are stating that it needs to be changed and without funding it is not going to work. He added that they are making steps towards the right idea about health care. Karen Skoog said she has a problem with the direction the plan is going by including health departments and forming new bigger regions. The regionalization is too distant from local government and is not accomplishing anything. It will be unaffordable to live in rural areas. The real issues that need dealt with in our counties can be handled locally. Mike Manus talked about uncompensated health care and agrees that the health care system is a broken but thinks this plan is too much. Motion carried. Leo Jenkins opposed the motion.

CHAIRMAN REPORT: Chairman Shirley Sands had no report.
BOARD OF HEALTH MEMBERS REPORTS: Brad Miller talked about the marijuana issue in Ferry County. Dave Windom sent Board members notes from a meeting he attended recently regarding this issue. Dave said from a public health standpoint, we are trying to create regulations that work for the medical marijuana patient as well as the recreational marijuana consumer. Dave has not seen a proposal yet. The Washington Liquor Control Board (WLCB) does the licensing and regulating. Brad said Ferry County is receiving applications for businesses as well as objections from neighbors. Leo Jenkins said the City of Republic won’t allow a business of that nature within the city limits. There was discussion about the regulation stating that a licensed location must be 1,000 feet or further from an elementary or secondary school, playground, public park, etc. Dave said the regulation does not reference school bus stops.

HEALTH OFFICER REPORT: Dr. Artzis reported that medical marijuana is still in effect but is at risk of going away. Initiative 502 does not amend or repeal the medical marijuana laws in any way. A health care provider is still allowed to authorize medical marijuana at this time.

Dr. Artzis said the flu is here and encouraged everyone to wash their hands frequently, get a flu shot and stay home if you are sick. We have had several cases of influenza in Chewelah and a few in Colville. We have also seen gastrointestinal illnesses in area schools. There has been speculation that the cause has been foodborne illness, but said that is unlikely.

COMMUNITY HEALTH REPORT: Kay Scamahorn reported for Sandy Owen that influenza is here and it is severe. As of January 14, 2014 there have been eleven (11) deaths (including some without having complications such as obesity, asthma) in Washington State. Spokane hospitals are reporting that admissions for influenza are at 134 as compared to about thirty (30) at this time last year. It appears that the major influenza strain that is circulating is the Influenza A type H1N1 which causes more illness in the under sixty-five (65) age group likely due to this age group not having been exposed to a similar virus in years past. Besides the obvious burden of death and disease, the costs of the hospitalizations are only the start of the costs of influenza. The average cost of a hospitalization for influenza is approximately $11,000 per occurrence. During the 2009 H1N1 outbreak there were 3.1 million hospital days, 31.4 million outpatient visits with a total economic burden of 87.1 billion dollars. Additional costs to caregivers, parents of sick children and employers in lost work days also add up. For parents of hospitalized children, the average hours of work lost is seventy-three (73) hours. This lost productivity along with other associated costs of a flu illness such as out of pocket expenses adds up to approximately 6 billion dollars. Influenza vaccine remains the single most effective means of preventing the flu. It was calculated that in the 2012-2013 flu season that vaccination resulted in a 17% reduction in the number of influenza hospitalizations, translating to an approximate savings of 14.7 billion dollars. This reduction was accomplished even though the vaccination rate was less than half the recommended number for those over six (6) months of age. If the Healthy People 2020 goal of 70% immunization was reached, it is calculated that hospitalizations would be reduced by 30,000. (Sandy Owen gathered the data from the Centers for Disease Control resources and the Health Care Cost and Utilization Project).
Wes McCart said there is a lot of misinformation on side effects and effectiveness of the flu shot and suggested providing some data to better inform local citizens. Dr. Arzis said there will be an article in the local newspaper this week. Kay Scamahorn warned against getting false information off of some websites. Steve Parker asked if the Health District is currently giving infant immunizations. Dave Windom said we just stopped this year. However, we are hearing that people have too long of a wait getting into local clinics, so we may need to look at providing them again. Steve asked if there have been any changes in side effects from immunizations for young infants. Dr. Arzis said they are the same as it has been for years and nothing has changed.

ADMINISTRATION REPORT: Dave talked about the core functions of public health and ten (10) essential services that provide the framework for all activities of the Department:

- Core Function 1 – Assessment
  Essential Services – monitor health; diagnose and investigate
- Core Function 2 – Policy Development
  Essential Services – inform, educate, empower; mobilize community partnerships; develop policies
- Core Function 3 – Assurance
  Essential Services – enforce laws; link to provide care; assure competent workforce; evaluate
- Core Function 4 – System Management
  Essential Service – research

Dave reported that we finished the year $94,000 in the black due to receiving an extra $30,000 from the state, an increase in septic permits and by not replacing nursing positions. This will help since we are using approximately $190,000 from the fund balance. He compared 2013 with past years in revenue/expense; undesignated funds balance; ending balance; revenues; environmental health revenue; current costs; current disbursements. Wes McCart noted that Health District revenue totals for 2012 and 2013 are very close to each other, which is similar to the counties. Dave said he is expecting less revenue from Medicaid Administrative Match and WIC. Wes asked if Dave could email actual numbers of the ending line items.

Next week Dave is going to Washington State Association of Local Public Health Officials (WSALPHO) Board of Directors meeting to discuss the State Health Care Innovation Plan. He will also be attending the Washington State Public Health Association’s (WSPHA’s) Public Health Legislative Education Day. Some of the bills to be discussed are EHB 1538 encouraging the safe practice of public health nurses dispensing certain medications; HB 1750 establishing special license endorsements for cigar lounges and retail tobacconist shops; HB 1827 concerning pass-through wholesale food distributors; HB 2086 concerning smoking in motor vehicles carrying minors.

Dave said the District hired an IT consultant to get our servers and cabling straightened out. We will be going to electronic health records in March, 2014. We will be hiring someone to redo our website. Dave said the broadband is still not hooked up.

Wes McCart asked that fish consumption be on the agenda at the next Board of Health meeting.
ENVIRONMENTAL HEALTH REPORT: Matt Schanz reported that recent groundwater monitoring in northeastern Washington has shown elevated levels of naturally occurring uranium in drinking water. The Health District has provided the recommendation to building officials in all three (3) counties to consider adding uranium to the test parameters at the time of obtaining a building permit. Ferry County highly recommends the test, but does not require it. Pend Oreille County is still considering the proposal. Stevens County added this to testing requirements, which adds $12.00 to the overall testing. In 2013, 11/82 exceeded the maximum contaminate level. One of the main issues is the lack of understanding about what geological formations result in uranium making its way into drinking water. To help address this issue, the U.S. Geological Survey is proposing a review of the occurrence and distribution of uranium in groundwater. Matt gave Board members a copy of draft of the U.S. Geological Survey proposal along with maps indicating problem areas.

Well drilling laws prohibit drilling drinking water wells within 1,000 feet of a property line of a historically used dump site and 1,000 feet from a lined area of a modern lined landfill. There have been situations in the past where land development occurred, such as new subdivisions and new construction, where it was later understood that new lots or new wells were located within these prescribed setbacks. Bryan Hunt recently completed a project of identifying all known dump sites and current landfills by using a global positioning system (GPS) at each location and developing a geographic information system (GIS) layer to share with county planning and solid waste departments. Potential uses of this information include: review process for proposed long or short plats; building permit process for structures that require water adequacy determinations; new water well development process with the Department of Ecology; future land decisions about use of parcels with disposal sites.

RECESS: There was a break for lunch at 12:00 P.M.

RECONVENE: The meeting reconvened at 12:19 P.M.

Jim Buck and Matt Rose arrived at the meeting at 12:19 P.M.

There were introductions by all.

GROUP B PUBLIC WATER SYSTEMS HEARING – RESOLUTION 03-2014: ADOPTING REGULATION NO. 01-2014 GROUP B PUBLIC WATER SYSTEMS REGULATION: Matt Schanz gave a presentation on Group B public water systems. A Group B public water system is defined as a system that provides water to 3-14 service connections, and provides water to less than 25 people per day, or providing water for more than 25 people for less than 60 days per year (small businesses, recreation sites, youth camps, fire halls, churches, etc.). Group B systems in Ferry, Pend Oreille and Stevens Counties: 174 (61%) community systems; 67 (24%) systems serving primarily transient populations (churches, campgrounds, RV parks, youth camps, fire halls, bed & breakfasts); 43 (15%) systems serving primarily non-transient, non-community populations (businesses).
Regulations of these types of systems date back to the 1940’s with Group B naming dates back to 1974. Up until January 1, 2014 regulations have remained unchanged for the past twenty (20) years. In 2009, the Legislature cut funding and directed the State Board of Health (SBOH) to adopt a revised rule focusing on the following:

- At a minimum, the rule must address the initial design and construction of systems. This change will allow the adoption of rules that have no ongoing requirements after the initial approval of the system.
- Local health jurisdictions can set requirements that are more stringent than state rules.
- The rules may eliminate some or all regulatory requirements for systems serving fewer than five (5) connections.

The new rule went into effect on January 1, 2014. The approved Group B regulation, Chapter 246-291 WAC, will significantly change how these systems are regulated. The Washington State Department of Health (DOH) still has the primary responsibility for enforcing the regulations but allows local health jurisdictions (LHJs) the ability to adopt more stringent standards and even provides examples of types of requirements that can be adopted at the local level. A guiding principle of the rules is a more stringent system review during the initial approval with no ongoing requirements for monitoring.

Matt Schanz explained the significant changes to the state rule:

- Exempts one (1) and two (2) connection systems from all requirements except when necessary to protect public health, such as food service, food processing, treatment facilities, transient accommodations, boarding homes, and childcare centers. Allows LHJs to require compliance with rule of one (1) or two (2) connections systems.
- Requires new or expanded Group B systems designed to serve between 10 – 14 connections to meet planning, engineering, and design requirements of the Group A rule.
- Surface water and groundwater under the influence of surface water sources are no longer approvable for new or expanded systems. New sources must be a properly constructed drilled well that meets the minimum supply requirements.
- All system designs submitted to the Department for approval must be signed by a professional engineer (PE). However, LHJs may adopt rules that exempt the PE submittal requirement.
- Changes the standard for arsenic from fifty (50) parts per million (ppm) to ten (10) ppm.
- Sources for new and expanding systems cannot rely on treatment to meet primary drinking water standards. However, LHJs who adopt their own program can approve such sources with on-going treatment and monitoring.
- Eliminates on-going sampling for bacteriological standards and nitrates unless LHJs adopt a local program that requires such monitoring. The rule still obligates purveyors to provide potable water.
- New engineering design standards (peak hourly demand, minimum day demand, storage tank design, etc.).
Matt Schanz said LHJs can choose not to adopt a local program. DOH would retain all responsibilities for the Group B program. Another option is an LHJ can sign a joint plan of responsibility (JPR) with DOH for certain responsibilities in the Group B program under the state rule. Northeast Tri County Health District (NETCHD) is pursuing a local rule adoption as there can be direct benefits to water system owners and users within Ferry, Pend Oreille and Stevens Counties. NETCHD sought input from Group B water systems, public meetings, and a diverse advisory committee. The proposed local rule and program:

- Review and approval of Group B water system packets up to nine (9) connections.

- All one (1) and two (2) connection community systems would be excluded from Group B system requirements. One (1) and two (2) connection non-community systems would be exempt from most parts of the rule but they still would need to:
  - Complete a form that identifies ownership, contact information, number of connections, etc.
  - Use an adequate groundwater source
  - Do sampling for water quality similar to what would be required at the time of water system adequacy determination at the county level
  - If treatment is needed, have the treatment designed by a PE or “qualified professional”

- Allows for non-PE design of basic systems

- If treatment is necessary, the system could still be approved with on-going treatment and monitoring but specifies that a PE or “qualified professional” would need to design the system.

- Added uranium to the testing requirements for primary maximum contaminate levels (MCLs)

- Basic information would be maintained on each system (ownership, number of connections, water sampling results) to assist with water adequacy determinations

- Operating permits would be required for:
  - Systems approved to serve five (5) or more residential connections
  - Systems approved to serve three (3) or more non-residential connections
  - Treatment required for new systems
  - Serves a connection to a regulated facility such as food service, transient accommodations, etc.

- For systems with operating permits:
  - Monitor for bacteriological standards once every year and nitrates every three (3) years
  - Keep treatment systems operational and test as needed
  - Keep basic information current
  - Site visits would be scheduled once every five (5) years to assist water system owners address any significant issues
Operating permit revenue would support:
- Database development and maintenance
- Maintaining status of operating permit and sending renewal and reminder notices
- Tracking number of connections for all Group B systems
- Tracking sampling history and sending reminder notices for sampling
- Responding to building permit inquiries
- Responding to home loan inquiries
- Periodic on-site reviews (sanitary surveys) of water systems

Local rule – significant modifications to state rule:
**Section 2(5):** Wording to clearly state it is the purveyor’s responsibility to secure the legal right to use groundwater

**Section 5(7):** Requirement for annual operating permit when:
- System serves five (5) or more residential connections
- System serves three (3) or more non-residential connections
- Treatment required for new systems
- Serves a connection to a regulated facility such as food service, transient accommodations, etc.

**Section 5(8):** Group B systems serving a non-residential population with one (1) and two (2) connections would be exempt from all parts of the regulation except they still would need to:
- Complete a form that identifies ownership, contact information, number of connections, etc.
- Use an adequate groundwater source
- Do sampling for water quality similar to what would be required at the time of water system adequacy determination at the county level
- If treatment is needed, have the treatment designed by a professional engineer or qualified professional

**Section 13, Table 1:** Added uranium to the testing requirements for primary MCLs

**Section 13(5):** Allows for treatment of a water quality exceedance but specifies that a PE or “qualified professional” would need to design the system

**Section 20:** New sections added to address requirements for operating permits, on-going testing, monitoring, and determination of system adequacy
NETCHD is proposing the development of a Group B drinking water program (for small public water systems serving 3 – 14 connections). Historically, new Group B water systems paid fees to DOH for new system design review and new well site inspections. NETCHD’s program would establish fees for design review with an additional fee for systems that require treatment, well site inspection fee, and an operating permit fee for some Group B systems with fee recovery goal of 50%. Based on the draft local rule that would require operating permits for community systems with five (5) or more connections, non-community systems, and transient systems, approximately ninety-two (92) systems would be subject to operating permit fees. Operating permits have not been required in the past for Group B water systems. Assuming there will be seven (7) new systems per year, the projected maximum revenue is $10,400 annually. The DOH fee for design review in 2014 is $624.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Proposed fee</th>
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<tr>
<td>New Group B Application (includes initial and one design correction submittal, and as applicable, initial operating permit fee)</td>
<td>$350</td>
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<tr>
<td>Additional design correction submittal</td>
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<td>Additional fee for treatment</td>
<td>$150</td>
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<td>Group B New Well Site Inspection</td>
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<td>Operating Permit Fee</td>
<td>$75</td>
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<td>Violation fee (to be assessed when water system is seeking operating permit)</td>
<td>Equal to annual fee for each year of non-compliance (up to maximum of $300)</td>
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<td>Waiver Request</td>
<td>$120</td>
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- Additional considerations: $25 change of ownership fee and $150 system modification fee

Mike Manus asked if recreation properties that are smaller or Class B systems along the Pend Oreille River would be considered Class A. Matt Schanz said DOH uses a matrix to make that determination.

Matt Rose asked if home-based commercial certified kitchens that cook food and sell it at a farmers market would require annual testing. Matt Schanz said you would have to obtain a retail food permit from NETCHD. He said there are various levels when preparing food, such as a cottage kitchen regulated by the Department of Agriculture. A Group B system would be required if you have a separate kitchen and preparing food for retail sale. If you obtain a processor license and don’t have employees, you would continue to be exempt from the requirement. If it is a home based business, the producer goes through the Department of Agriculture usually only if water is added as ingredient. You may have to test your water to meet Group A requirements for larger operations.
Matt Rose asked if churches would constantly have to report and give information of congregation size and how the building is being used. Matt Schanz said if the church has one (1) or two (2) connections, for existing systems they wouldn’t have to do anything. Matt Rose asked about the number of people. Matt Schanz said if they serve more than twenty-five (25) people for less than sixty (60) days per year they would still fall under the Group B rules and exemptions. Matt Rose said they wouldn’t have to unless they use their facility an additional day per week. Matt Schanz said if it is an existing water system, they wouldn’t do anything. For a new system we would ask for basic information that identifies ownership, contact information, number of connections, and how many people are served. Once the water is tested for adequacy, there is nothing to do after that. For larger Group A systems, Dave Windom said it would then go through DOH, not NETCHD. Matt Rose said he thought the new regulations don’t require a periodical site visit, but NETCHD would be adding site visits. Matt Schanz said under the state rule that is correct. NETCHD is saying that if you have to have an operating permit, from a public health perspective and you are serving the public in these situations, there should be some expectation that the water is safe.

John Skoog arrived at the meeting at 12:55 P.M.

Matt Schanz said the advisory group and also owner operators agreed that if you charge a fee there has to be a benefit. It states ‘or as directed by the health officer’ and it could be decided that we would discontinue. Matt Rose said you could decide to impose a fee. Matt Schanz said we aren’t charging that fee right now. All fees are approved and adopted by the Board of Health.

Scott Simmons gave Kelly LeCaire a packet of documents and asked that a photo copy be sent to each Board of Health Member. Scott Simmons stated that 70.05 RCW does not authorize Northeast Tri County Health District (NETCHD) to adopt violation fees. He said NETCHD has no authority to adopt penalties, not just in these proposed regulations, but the other regulations are unlawful also. Scott Simmons referred to 70.05.060 RCW – section (7): Establish fee schedules for issuing or renewing licenses or permits or for such other services as are authorized by the law and the rules of the state board of health: PROVIDED, That such fees for services shall not exceed the actual cost of providing any such services. He said Section (7) says the limit of the fee that can be imposed is cost and that you cannot impose a violation fee.

Scott Simmons stated that all local regulations implementing or impacting comprehensive plans must go through the individual county process. Class B systems are part of the comprehensive plans of each county underneath their public facilities portions. 36.70A.103 RCW says state agencies shall comply with the local comprehensive plans and development regulations pursuant 36.70A RCW. He said there are numerous issues with this process and procedures. Scott Simmons said there needs to be public participation in each individual county along with notification comment period, etc. and this would not comply. He added that this would be a gross violation of existing comprehensive plans. Scott Simmons stated that he doesn’t believe that the proper process has been followed which would invalidate it at this point and time. He thinks NETCHD should go back and take a look at this. He added that just because this hasn’t been done in the past doesn’t mean that it isn’t required it just means that no one has brought it to your attention and now is part of the record.
Matt Schanz said NETCHD has had legal review done to substantiate the fees. We cannot charge more than what the program costs to administer. As long as the violation fees don’t exceed the cost for us to operate we are allowed to charge that. This is done by local health jurisdictions (LHJs) throughout the state of Washington. The RCW gives LHJs the authority and ability to adopt local rules. Dave Windom noted that we are a district, not a department and the difference is that a district is an independent governmental agency. Scott Simmons stated that it is absolutely required to comply with the comprehensive plan under 36.70A.103 RCW.

Wes McCart said he has a question on this entire process from a procedural standpoint. Matt Schanz gave a presentation, this is a hearing and public comment has been received, and now we should close public comment unless someone has a question. We need to move on with deliberations.

Leo Jenkins asked Scott Simmons if the state law says it is illegal to impose a fine for violating ordinances, then how is it enforced without a fine. Scott Simmons said that is a good question and normally violations are turned over to the county prosecutor. Leo asked Scott Simmons if he feels that it is better to turn it over to the prosecutor rather than simply imposing a fine. Scott Simmons said it is better for any agency to be allowed to impose a fine that has not been authorized to do so and by imposing a violation by definition is a tax. Scott Simmons said he can understand fees because those are key to direct cost but a violation is separate and is not key to cost. Leo asked why then would LHJs be given the option to set a local rule if we couldn’t enforce it. Scott Simmons said you can enforce it by going through the county prosecutor and your duty is complete by turning it over.

Scott Simmons said because the WAC as well as the local rule includes the words “and 25 persons”, sometime in the future you will be signing a document that will actually describe what your jurisdictional responsibilities and duties are. He asked at what point would it be required to determine the twenty-five (25) persons. He described a potential situation with five (5) families and five (5) residential hookups, and someone has another child. Matt Schanz gave an example of the process we would go through to determine the number of people. A business has twenty-two (22) employees during that annual operating permit renewal process we send out a water facilities inventory plan asking for information on owner, contact, number of connections and what is usage by number of people. If the business said twenty-seven (27) people, we would notify the business that they no longer fall under our regulatory authority under this rule and would be under the state system. Scott Simmons said under the state system, do they have an operating permit underneath it? Matt Schanz said no on Group B’s, but yes on Group A’s. Scott Simmons said if the local rule is not adopted, then the onus is not on the state to verify compliance, but the onus is self-reporting. If the local rule is adopted, NETCHD will accept the onus of compliance and in that case, essentially penalize the system for having another child. He said there is likely really good reason that the state wants LHJs to take it over because it looks like an administrative nightmare. Scott Simmons said he is not really sure where that liability would come from. Would a purveyor have to notify all of the system users that they are approaching a Class A requirement and if anyone else has a child, we will incur a great deal of cost, is that something NETCHD would have to deal with. He asked what would happen in a property sale and the purchaser has a larger family size that would exceed the limit of people. Would NETCHD be forced to move the system to a Class A and if so, is that the kind of issues that you want to get in to as counties.

Board of Health Minutes
Brad Miller said Scott Simmons brought up a good point. Brad said he would anticipate that NETCHD would put in the operating procedures that we simply notify the person or entity and leave it up to them to self-report. Brad does not see us in the position of reporting anyone to the state. Matt Schanz said from his perspective, if NETCHD knew that a water system was serving too many people that exceeded the amount allowed, we would have to inform the person/entity that NETCHD is no longer the regulatory entity and they would need to contact DOH. NETCHD would also send a copy of the notification to the referencing entity. Brad asked what requirement under RCW is there for us to send a copy to the referencing entity. Brad said he thought that we notified the owner/entity by certified letter and that was it. Brad said we don’t want to put that on the Health District. Dave Windom said if they don’t go through DOH after we have informed them, when the property is sold, it would have to come back to code through DOH. Brad said these are good comments and appreciates the thoughts. Matt Schanz said this is administratively difficult to do and there is a lot to this. Matt said he would not propose this if there weren’t direct benefits. Matt reiterated the benefits to adopting a local rule.

Scott Simmons said NETCHD is authorized to grant Group B waivers provided that the local regulations are as stringent as the state regulations, which NETCHD aren’t or have a JPR with the department. Scott Simmons said there is no JPR for us to comment on and we can’t address it. But we would assume that if you adopt regulations that are less stringent than the state regulations, you assume liability by granting a waiver. His final comment is that if this Board does decide to adopt these regulations, he would suggest that the adoption be conditional upon approval by the Board specifically of the JPR prior to signing, because doing anything else would be gross negligence. Matt Schanz said it is probably open to interpretation as to whether this regulation is this less stringent than the state rule. Under the NETCHD rule, if treatment is necessary, the system could still be approved with on-going treatment and monitoring but specifies that a PE or “qualified professional” would need to design the system. Matt Schanz said to answer the question is this really less stringent would need a legal opinion. The JPR and/or memorandum of understanding (MOU) this regulation makes reference to if we adopt any portion of this rule, would fall under MOU. He said we have not negotiated those agreements until such time this Board makes the decision on which direction we are going to go. It seemed premature to enter into those agreements without the knowledge of which direction we are going to go. Scott Simmons agrees with direction but categorically adopting regulations predicated upon an agreement which doesn’t exist is also extraordinarily premature unless such adoption is condition upon approval of the JPR. Brad said NETCHD has been in effect since 1977 and if some of the original documents were reviewed, we may find the answers to some of these questions.
Bruce Perkins asked if the state will do basic approvals for new water systems and water supplies. He also asked if there was a plan to keep watch on those systems that have ten (10) connections and what about the water systems under ten (10) connections that approval does not exist or wouldn’t happen if NETCHD didn’t do it. Is there also a plan for NETCHD to keep watch on some of the systems. Matt Schanz said there are a few Group B systems that fit under the requirement that says they have to approve water supplies, would still come under initial approval by the state. No expectations after that. Bruce said with small restaurants, childcare facilities, etc. somebody has to be sure that people are drinking safe water. Brad Miller said if we have nothing in place, some of these smaller facilities would fall under more stringent regulations under the state process than with us. Matt Schanz said he doesn’t know if the state would tell them to drill another well or find another piece of property. The state would say under their regulations that the water can’t be treated. Brad said the way the state system is set up there are certain situations that will fall through the cracks. Matt said he honestly thinks that provision was included in the state rule to encourage LHJs into having these discussions about local rules.

Jim Buck asked if the same thing apply for springs and ground water, such as creeks, rivers and lakes. Matt Schanz said under the state rule or local rule, surface water and groundwater under the influence of surface water sources are no longer approvable for new or expanded systems, such as a new development. New sources must be a properly constructed drilled well that meets the minimum supply requirements. Treatment is very difficult with springs or surface water. If it was a residential one (1) or two (2) connections under what we are proposing in the state rule nobody would look at those except for under provisions for water supply adequate under building code.

Bruce Perkins said the regulations on section 2 – Applicability – refers to Group B public water systems that provide drinking water to fewer than fifteen (15) service connections and asked about 10 – 14 service connections. Matt Schanz said the state rule requires new or expanded Group B systems designed to serve between 10 – 14 connections to meet planning, engineering, and design requirements of the Group A rule. Those would be reviewed by DOH.

Shirley Sands said the hearing is closed at 1:29 P.M. and we will now begin deliberations.

Wes McCart said before you close the hearing, we need to ask people if there are any more comments for the hearing because up to this point, you really haven’t had an actual hearing. He said we have had a work session and Scott Simmons declaring who he was and turning documents in for the record. People need to have an opportunity to speak on the record, and not just questions and answers.

Matt Rose said he does not appreciate the way it seems like an invasion of private property. He would appreciate the lowering of standards of some testing requirements once it is approved. He would also appreciate that once approved, there be no continual over-site regulation checking, and that was left to the individuals on their water system to bring it forward.
Wes McCart said even after he met with Matt Schanz and Dave Windom, his question has never been answered regarding 3-4 connection residential systems. The regulations refer to everything else, but still have not addressed 3-4 residential connections. Wes said there is a hole in the regulations that needs to be considered. Matt Schanz said the focus was for ongoing requirements for five (5) or more connection community systems under the Group B rule. This follows the legislative intent and also allows short plat developments with just 3-4 connects have to obtain an operating permit. The attempt was to concentrate on large Group B community systems. With 3-4 connection systems, he stated that how that system is maintained can be monitored by those few residences connected to the system. Scott Simmons asked to see the ‘Group B Systems in NETCHD’ slide again. Matt Rose said someone coming to his home once a year and in his well seems like a violation. Matt Schanz said it was because Group B systems with more connections have greater degrees of separation. Scott Simmons asked about design criteria for residential connections. Matt Schanz said you can go up to Group A and can float back down.

Shirley Sands asked if anyone had any further statements for the record. Hearing none, the public hearing was closed at 1:39 P.M.

Wes McCart moved and Leo Jenkins seconded the motion to continue the Group B Public Water Systems Hearing and Resolution 03-2014: Adopting Regulation No. 01-2014 Group B Public Water Systems Regulation and Resolution 04-2014: Updating Fee Schedule for Northeast Tri County Health District Environmental Health Services. The special meeting of the Board of Health will be set for a date to be determined when Andy Bruff, Attorney for the District is able to attend. Motion carried.

**PAYROLL AND VOUCHERS:** Attached to these minutes are benefits and payroll amounts from November 5, 2013 through January 3, 2014; and voucher amounts from October 16, 2013 through January 8, 2014.

**ADJOURNMENT:** Chairman Shirley Sands adjourned the meeting at 1:44 P.M. The date for the special meeting of the Board of Health of Northeast Tri County Health District is yet to be determined. The next regular meeting of the Board of Health of Northeast Tri County Health District will be on Wednesday, April 16, 2014 in Pend Oreille County.

Respectfully submitted,

Samuel A. Arziz, M.D., Health Officer

By Kelly D. LeCaire, Executive Secretary

Shirley Sands, Chairman
Northeast Tri County Health District

The following voucher/warrants are approved for payment:

2013

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Payroll

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Payroll

$94,394.13 12/5/2013

Payroll

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