

**From:** Alexanian, Dan A (DOH)  
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Commenter Name: Dan Alexanian, Department of Health, Office of Drinking Water

Date: September 20, 2013

The Department of Health appreciates the opportunity to comment on your draft rules.

We understand from discussions with UTC staff that court rulings regarding the legal applicability of UTC jurisdiction conflict with the current exemption in rule. We also understand the case law does not support completely eliminating the exemption currently in WAC 480-110-255. To address this conflict, the UTC draft changes would eliminate the current exemption for UTC regulation of homeowner associations, cooperatives, mutual corporations, and similar entities. The UTC further intends to clarify its jurisdiction by adopting a policy to provide specific direction about which types of water system entities are subject to regulation and which are not.

We are concerned with the approach of relying on a policy to define the applicability of regulations. Placing exemptions in policy rather than rule will likely confuse the regulated public. We support developing clear regulations that explain to the public how the regulation applies to them. Clarity is especially important in this case because water systems affected by the rule change—especially homeowner associations—are often operated by homeowner volunteers with less experience navigating complex regulations.

Relying on policy rather than rule to identify exemptions could result in more homeowner associations having to comply with UTC rules. These types of organizations often struggle to gain support to raise sufficient revenue to maintain their water system and fund capital improvements. More burdensome regulations will worsen this situation.

However, if you decide regulating these systems is necessary, we recommend considering a different regulatory model for systems owned by homeowner associations versus those owned by for-profit entities. This model would recognize the consumer protections inherent in homeowner associations with representative governance compared to for-profit entities that require a different level of consumer protection.

To support your efforts in gaining public input on your draft rules, we sent an email announcement and the link to your rule development web page to affected public water systems, primarily homeowner associations, and satellite management agencies. We can provide you with the email contact information so that you can contact water systems directly

as you continue with the rule making process. Please contact me if you would like to discuss our comments or receive the email contact information.

Regards,

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