



REVISION OF CHAPTER 246-272A WAC
State Board of Health Hearing
January 2024

Presenter

Jeremy Simmons

Manager

Wastewater Management Section
Division of Environmental Public Health
Office of Environmental Health and Safety

Jeremy.Simmons@doh.wa.gov

Presentation Overview

- Rulemaking History
- 2017 Rule Review
- Proposed Rule – Key Changes
- Public Comment
- Public Comment – Recommended Changes
- Implementation Schedule

Rulemaking History

- 1960: First On-site Sewage Systems (OSS) Rule.
- 1974: Permits required for installation and repair of OSS.
- 1989: Higher treatment required for repairs of marine shoreline OSS.
- 1994: Higher treatment required for new installations on sensitive sites and nonconforming repairs.
- 2005: Required treatment to be determined based on site conditions. Required proprietary products to be registered with the department.

2017 Rule Review

WAC 246-272A-0425 requires DOH to:

- Evaluate the effectiveness of the rule every four years.
- Determine if revisions are needed.
- Report recommendations to the state board of health and local health officers.
- The rule was reviewed in 2009 and 2013, with the finding that no revisions were needed.
- In 2017 we concluded the review with the finding that revisions were needed.

Key Changes

- Local management plans
- Field verification of proprietary products
- Property transfer inspections
- Repairs
- Remediation
- Minimum lot sizes
- Product supply chain issues

Proposed Rule

Local Management Plans

- Review plans every 5 years.
- Sea level rise and phosphorus impacted areas added to list of enhanced OSS management areas.
- No change for non-Puget Sound LHJs.

Field Verification of Proprietary Products

- Sample disinfecting and nitrogen treating products.

Property Transfer Inspections

- Beginning 2 years after the rule effective date, all OSS must be inspected at time of property transfer.
- LHJ may waive requirement if the OSS is up-to-date with routine inspections.

Proposed Rule

Repairs

- Expanded the definition of “minor repair” to allow low-risk routine repairs to be completed without a permit.
- Incorporated requirements from RCW 43.20.065.

Remediation

- LHJs may allow remediation practices/technologies to restore a failed drainfield.

Proposed Rule

Minimum Lot Sizes

- Minimum lot sizes for new developments increased by between 500 and 1,000 sq. ft.
- Minimum usable land area requirement for new developments.
- Allowance to make lots smaller if nitrogen treatment is added.
- Clarified that LHJs may permit an OSS on a preexisting lot of record that does not meet current minimum land area requirements only if it meets all requirements of chapter 246-272A WAC without the use of a waiver.

Product Supply Chain Issues

- Allow necessary repairs of proprietary products with components that the product was not tested and registered with.
- Requires an Engineer to attest that repairs will not impact performance or maintenance.

Public Comment

- Public comment – No changes
- Trends in comments
- Public Comment – Recommended changes

Public Comment Summary – No Changes

Topic: Various editorial suggestions

Comment example: Revise rules to cover situations when information submitted by the proprietary product manufacturer is false, erroneous, or unrepresentative.

Comment example: Please clarify the difference between wells and nonpublic drinking water wells.

Comment example: Subsection WAC 246-272A-0265(2) seems as though it could be consolidated in subsection (1).

Topic: Various technical suggestions

Comment example: Maximum drainfield bed width should be expanded to 12 feet due to the common usage of gravelless chambers and their typical widths.

Comment: Connect drainfield lateral pipes every 10 feet to equalize flow.

Public Comment Summary – No Changes

Topic: Permitting

Comment: Artificial Intelligence (AI) should be used for OSS siting and design.

Comment: Requiring the vertical datum on site plans is impractical.

Comment: Requiring survey techniques/tools, such as an elevation benchmark will add to costs of inspections.

Topic: Operation and Maintenance

Comment: Require service maintenance holes for proprietary pretreatment devices.

Comment: Install long-sweep ells to grade at the end of each drainfield lateral to aid in flushing and jetting of laterals.

Public Comment Summary – No Changes

Topic: Local Management Plans

Comment: What standards will be used to review plans?

Comment: There is no standard for mitigating phosphorus impacts.

Comment: Support for updates to Local Management Plan section.

Response:

The Department will develop guidance for reviewing local management plans and for areas where phosphorus is a contaminant of concern.

Public Comment Summary – No Changes

Topic: Product Testing Requirements

Comment: EPA Method 1664 is inappropriate to register Category 2 products. Recommend using NSF/ANSI Standard 40 instead.

Response:

The Department recommends no change to the proposed rule at this time. This suggestion requires additional engagement with the industry and plans to be addressed in a separate rule update in the near future.

Public Comment Summary – Opposition

Topic: Opposition to Property Transfer Inspections

Comment: Too much extra cost and oversight.

Comment: RCW 70A.105.030 gives property owners a clear right to deny entry onto their property.

Response:

The Department believes the benefits will outweigh the costs. This is already a part of the purchase and sale agreement governing real estate sales in Washington. There is no requirement to have OSS inspected at property transfer if it is current with routine inspection requirements.

Public Comment Summary – Recommended Changes

Topics: Various editorial, spelling, and stylistic

Comment Examples:

- Ensure consistent use of mL (little m, big L) for milliliter abbreviation.
- Ensure the use of oxford commas.
- Confirm with DOH Style Guide the use of a hyphen between measurement and unit. Ex. 30-percent vs 30 percent (vs 30%); 12 inch vs 12-inch.
- Ensure the abbreviation for Escherichia coli is *E. coli*. Big E, dot, space, little c, all italics.
- Confirm with DOH Style guide that dates do or do not the “st” or “nd” after the number. Ex. December 31st vs December 31.

Response: Make corrections

Public Comment Summary – Recommended Changes

Topic: Definitions

Comment: The definitions for “detention pond” and “infiltration pond” should be added for clarification of the Table IV setbacks.

Response: Add the following definitions:

“Detention pond” means an earthen impoundment used for the collection and temporary storage of incoming stormwater runoff.

“Infiltration ponds” means an earthen impoundment used for the collection, temporary storage, and infiltration of incoming stormwater runoff.

Public Comment Summary – Recommended Changes

Topic: Definitions

Comment: For consistency, amend definition of “Fill” to insert "soil" before "dispersal component".

Response: Change definition of Fill to:

"Fill" means unconsolidated material that:

- (a) Meets soil types 1-6 textural criteria and is used as part of a ((soil)) dispersal component;
- (b) Is used to change grade or to enhance surface water diversion; or
- (c) Is any other human-transported material.

Public Comment Summary – Recommended Changes

Topic: Definitions

Comment: For the definition of “Failure” replace "septic" with "septage".

Response: Change the definition of Failure to:

"Failure" means a condition of an OSS or component that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

- (a) Sewage on the surface of the ground;
- (b) ((Sewage)) ((Septic)) backing up into a structure caused by slow soil absorption of septic tank effluent;
- (c) Sewage leaking from a sewage tank or collection system;
- (d) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;
- (e) Inadequately treated effluent contaminating groundwater or surface water; or
- (f) Noncompliance with standards stipulated on the permit.

Public Comment Summary – Recommended Changes

Topic: Reference Changes

Comment: “NSF” officially changed its name to NSF International. Change definition of NSF to: NSF International.

Response: Change as suggested.

Topic: Reference Changes

Comment: NSF International does not use the term “Standard” in its titles. The term “Standard” should be removed throughout the rules to align with the title of the documents.

Response: Change as suggested

Public Comment Summary – Recommended Changes

Topic: Editorial Changes

Comment: Footnotes for Table II are missing

Response: Add footnotes

Topic: Editorial Changes

Comment: References in WAC 246-272-0200(4)(d) are incorrect and should be changed to reference section WAC 246-272A-0200(2)

Response: Make correction

Public Comment Summary – Recommended Changes

Topic: Editorial Changes

Comment: The products registration section (WAC 246-272A-0120) should reference the list of registered on-site treatment and distribution products constitutently with the rest of the chapter.

Response: Change WAC 246-272A-0120(7) to:

(7) The department shall maintain a list of (~~(proprietary treatment)~~) ((registered on-site treatment and distribution)) products meeting the registration requirements established in this chapter.

Topic: Editorial Changes

Comment: In WAC 246-272A-0230(1) add “s” after designer or remove the “s” after engineer to make consistent singular or plural.

Response: Make correction.

Public Comment Summary – Recommended Changes

Topic: Editorial Changes

Comment: In Table XI, ensure leading zeros are used and that footnotes reference the correct subsection.

Response: Add leading zeros to Table XI. Correct Table XI footnote reference from WAC 246-272A-0234(6) to WAC 246-272A-0234(7).

Topic: Editorial Changes

Comment: WAC 246-272A-0280(4)(e) erroneously references WAC 246-272A-0014 and WAC 246-272A-0016.

Response: Change WAC 246-272A-0280(4)(e) to:

(e) Minimize nitrogen discharge in areas where nitrogen has been identified as a contaminant of concern in the local management plan under (WAC 246-272A-0015) (~~WAC 246-272A-0014 or 246-272A-0016~~);

Public Comment Summary – Recommended Changes

Topic: Editorial Changes

Comment: WAC 246-272A-0420(2)(b) erroneously includes the word “consistent”. This should be removed.

Response: Change WAC 246-272A-0420(2)(b) to:

(b) Upon review, if the department finds that the waivers previously granted are inconsistent, (~~consistent~~) with the standards in, and the intent of these rules purposes of this chapter, and DS&G for granting waivers,

Public Comment Summary – Recommended Changes

Topic: Technical Changes

Comment: The new term, Disinfection Level (DL), would be better articulated as Bacterial Level (BL). This would provide better consistency throughout the rule and avoid conflicts and confusion with references to disinfecting technology.

Response: Change as suggested.

Public Comment Summary – Recommended Changes

Topic: Technical Changes

Comment: Add provision allowing the department to remove a proprietary product's approval if the manufacturer provides false, erroneous, or unrepresentative information to the department.

Response: Change WAC 246-272A-0100(3) to:

The department may remove, restrict, or suspend a proprietary product's approval for use based on failure to meet required standards or conditions of approval (or if the information provided by the manufacturer is false, erroneous, or unrepresentative of the approved product)).

Implementation Schedule

- Supply chain emergency rule provisions – Effective 31 days after filing CR-103
- Property Transfer Inspection requirement – Effective February 1, 2027
- The remainder of the rule – Effective 1 year after filing the CR-103



To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.