

Summary of Comments

Chapter 246-272A WAC, On-site Sewage Systems

Table 1: General support

Comment Received	Department of Health Recommendation
Member of the On-Site Rule Revision Committee supports the changes. Encourages the SBOH to adopt the rules as written.	No change to proposed rule. The Department appreciates the feedback and support for the proposed rules.
Supports the changes, especially the changes to WAC 246-272A-0015 regarding Local Management Plans (LMPs).	No change to proposed rule. The Department appreciates the feedback and support for the proposed rules.
Supports the proposed changes, especially the proposed changes to increase the ease of maintenance, effectiveness, and longevity of septic system drainfields, at a minor cost increase in materials and labor.	No change to proposed rule. The Department appreciates the feedback and support for the proposed rules.

Table 2: General opposition

Comment Received	Department of Health Recommendation
Opposes the proposed changes. Believes the changes are too much extra cost and government oversight. Encourages the SBOH to not adopt the rules as written.	No change to proposed rule. The Department appreciates the feedback. The rule revision committee made of experts and interested parties came to consensus on the proposed changes.
Opposes the proposed changes. Believes the changes do not fix the problems with the original WAC 246-272A, does not include and prevents the use of efficient organic household waste treatment technologies, unreasonably limits the rights of the owners, gives Local Health Officers unlimited power of decision making, contains arbitrary requirements, and needs a thorough scientific and legal examination by independent specialists and lawyers.	No change to proposed rule The Department respectfully disagrees with assertions made. We believe public health would be threatened if we allowed owners to choose from a menu of household waste treatment technologies rather than require testing and registration of the products and practices allowed in OSS.
Opposes the proposed changes, especially the changes related to transfer of a property. Believes the changes impose additional expenses and responsibilities on the home owner. Wants chapter 246-272A WAC to remain in its current state. Encourages the SBOH to not adopt the rules as written.	No change to proposed rule. A committee of experts and interested parties determined that the rule is out of date and needs updating. The Department believes the benefits to public health protections from requiring property transfer inspections will outweigh the financial cost and burden on the owner.

Opposes the proposed changes. Does not support mandatory inspections other than as required under RCW 70A.105.030.	No change to proposed rule. The Department appreciates the feedback. The rule revision committee made of experts and interested parties came to consensus on the proposed changes.
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Table 3: Technical, spelling, stylistic edits

Comment Received	Department of Health Recommendation
Ensure consistent use of mL (little m, big L) for milliliter abbreviation.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
Ensure the use of oxford commas.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
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.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
Ensure initial table references are consistent. Some are simply Table X of this subsection while others are Table X, Title.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
Ensure the abbreviation for Escherichia coli is <i>E. coli</i> . Big E, dot, space, little c, all italics.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
Several manuals or guidance documents are referenced with edition years. Consider adding “or newer editions” so that the WAC does not need to be updated to be able to reference the newest edition of a manual.	No change to proposed rule. The suggested change conflicts with SBOH policy.
Consider identifying words in the text of the document that are in the definitions by using all caps/italics.	No change to proposed rule. The recommendation does not align with the Code Reviser’s Bill Drafting Guide (2023).
Recommend using the NSF International standard citations. 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.	Adopt rule with amendment. Editorial changes to the rule without changing the effect.
Confirm with DOH Style guide that dates do or do not the “st” or “nd” after the number. Ex. December 31st vs December 31.	Adopt rule with amendment. The Department will ensure the format for the dates conform to the Code Reviser’s Bill Drafting Guide. Editorial changes to the rule without changing the effect.

Table 4: WAC 246-272A-0001, Purpose, objectives, and authority

Comment Received	Department of Health Recommendation
To ensure consistent and unbiased execution, recommend adding the following to WAC 246-272A-0001(6) " <u>Based on an established standard operating procedure approved by the state board of health,</u> "	No change to proposed rule. The Department has determined the authority granted in this section to be substantively similar to other duties of the local health officer and within their authority.
Recommend adding the interests of WA property owners as a priority to subsection 1. Consider the following edit: (1) The purpose of this chapter is to <u>assist single family homeowners in managing household biodegradable organic waste in the most efficient way to prevent contamination of surface and ground waters with untreated sewage and solid organic waste, conserving and recycling waste waters and protecting the public health.</u> by minimizing: (a) The potential for public exposure to sewage from on-site sewage systems (OSS); and (b) Adverse effects to public health that discharges from OSS may have on ground and surface waters.	No change to proposed rule. The Department believes the suggested change deprioritizes public health by removing focus on minimizing exposure to sewage and adverse impacts on ground water and surfacewater. The suggested change also introduces new undefined terms and appears to inaccurately assume single family owners are the only users of OSS.

Table 5: WAC 246-272A-0010, Definitions

Comment Received	Department of Health Recommendation
NSF officially changed its name to NSF International. Recommend modifying WAC 246-272A-0010(56) "NSF" means <u>NSF International</u> National Sanitation Foundation.	Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends changing the definition of "NSF" to: "NSF" means ((<u>NSF International</u>)) ((National Sanitation Foundation.))
The definitions for "detention pond" and "infiltration pond" should be added for clarification of the Table IV setbacks, to distinguish the difference between or specifically include drainage swales, and to ensure consistent interpretation and application of the setbacks required.	Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends adding the following definitions: "Infiltration pond" means an earthen impoundment used for the collection, temporary storage, and infiltration of incoming stormwater runoff. "Detention pond" means an earthen impoundment used for the collection and temporary storage of incoming stormwater runoff.

Consider including the term “geothermal well“ to the definition of well.	No change to proposed rule. Geothermal wells are included in the definition of “Well“.
For the definition of “Fill” why is it specified "unconsolidated"? Fill material is often intended to be consolidated.	No change to proposed rule. Fill is specified as unconsolidated because it has no soil structure. Soil becomes consolidated over time as it develops soil structure through natural weathering processes.
For the definition of “Failure” replace "septic" with "septage".	Adopt rule with amendment. The Department recommends changing "septic“ to “sewage“ in part (b) of definition of Failure: (30) "Failure" means a condition of an (on-site sewage system) 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: (b) (Septic) (Sewage) backing up into a structure caused by slow soil absorption of septic tank effluent;
Consider adding a new definition for "DS&G" that means department standards and guidance.	No change to proposed rule. The proposed rule has a definition for DS&G.
Does adding the definition of “Fill” to the definition allow this material to be used in a drainfield? How is this term used in application.	No change to proposed rule. Definitions do not include regulatory requirements. Fill is used in drainfields in certain circumstances under waivers, in accordance with WAC 246-272A-0420.
For consistency, amend definition of “Fill” to insert "soil" before "dispersal component".	Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends changing the 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.
The definition of "Fill" seems to suggest that fill meeting the textural criteria may be used for a soil dispersal component and violates the broader provisions of the definition of "suitable" soil, which includes "original, undisturbed, unsaturated".	No change to proposed rule. Definitions do not include regulatory requirements. While suitable soil is required for drainfields, fill is used in drainfields in certain circumstances under waivers, in accordance with WAC 246-272A-0420.
What is included in subsection (31)(c) in definition of “fill”?	No change to proposed rule. This refers to shredded rubber, glass, or other materials that may be used in a drainfield.

<p>Was it intended to define "residential sewage" as septic tank effluent. What about raw sewage entering a septic tank of a residential system. Certainly it can't be septic tank effluent quality when it enters the tank. Even Table III identifies that Treatment Level E is for septic tank effluent. Clearly STE and residential sewage are not to be defined as the same thing.</p>	<p>No change to proposed rule. This definition is meant to be used in the context of WAC 246-272A and is admittedly an imprecise description of the range of characteristics that completely untreated residential sewage is known to demonstrate. The Department has developed this definition to facilitate clear requirements for treatment products. We reviewed available literature and determined that there is too much variability in untreated sewage to develop a useful quantitative definition which encompasses the actual range of residential sewage.</p>
<p>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.</p>	<p>Adopt rule with amendment. Technical change to the rule without changing the effect. The Department agrees and recommends changing Disinfection Level (DL) to Bacterial Level (BL) throughout the proposed rule.</p>
<p>I note that while language saying that treatment levels shall not be used as field compliance standards is removed from the definition of Treatment Levels it is retained in the rule in Section 246-272A-0110(5) where Field Performance Verification is introduced and linked to the DS&G for Proprietary Treatment Products.</p>	<p>No change to proposed rule. No specific recommendation.</p>

Table 6: WAC 246-272A-0015, Local management plans

Comment Received	Department of Health Recommendation
<p>Questions about how the Department of Health will review existing LMP plans, what standards or guidance will be used to review a plan, and what activities can an LHJ do to address a local management plan that identifies an area where phosphorous is a contaminant of concern. General comment that there is no standard for phosphorous discharge in septic effluent and there are no DOH approved devices for phosphorous reduction.</p>	<p>No change to proposed rule. The questions will be addressed in guidance documents.</p>

Table 7: WAC 246-272A-0025, Connection to public sewer systems

Comment Received	Department of Health Recommendation
<p>There is no direction in the rules anywhere about old systems that must be inspected, that have not failed, but are older than the local health district has records for. Section 246-272A-0025 (Connection to public sewer system) is the closest, but it is only for systems that have failed. Suggestion to add specific evaluation steps for addressing pre-historic OSS.</p>	<p>No change to proposed rule. The proposed rule allows these pre-permit OSS to continue to operate until they fail or there is evidence they are threatening public health or water quality. The rule doesn't require specific documentation of most OSS. Documentation of OSS is a programmatic function rather than a regulatory one.</p>

Table 8: WAC 246-272A-0100, Sewage technologies

Comment Received	Department of Health Recommendation
<p>Recommend modifying subsection 3 to expand the scope to cover situations when information submitted by the proprietary product manufacturer is false, erroneous, or unrepresentative.</p> <p>(3) 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 <u>or if the information provided by the manufacturer is false, erroneous, or unrepresentative of the approved product.</u></p>	<p>Adopt rule with amendment. The Department agrees with this suggestion. Technical change to the rule without changing the effect.</p>
<p>Recommend rewriting WAC 246-272A-0100 to list and describe public domain technologies commonly used for wastewater treatment and add where to find the Department's Standards and Guidelines (DS&G).</p>	<p>No change to proposed rule. Department approved public domain technologies are listed in DS&Gs. The Department reviews and approves public domain technologies based on available literature and use cases.</p>
<p>Recommend incorporating separate treatment of blackwater, graywater and solid organic waste as described in the USEPA "Onsite Wastewater Treatment Systems Manual" (revised 2002).</p>	<p>No change to proposed rule. The proposed rule provides a method and requirements for treating blackwater and greywater separately from residential sewage. This is described in WAC 246-272A-0110.</p>
<p>Recommend adding public domain advanced treatment units (ATU) systems.</p>	<p>No change to proposed rule. The Department and local health jurisdictions do not have the resources to review and approve public domain ATUs.</p>
<p>This is where referring to bacteriological standard levels as "disinfection levels" is most awkward. It strikes me that stating that manufacturers may not resister products for Disinfection Level 3 (DL3) using disinfection presents a conflict of</p>	<p>Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends changing Disinfection Levels (DL) to Bacterial Levels (BL) throughout the</p>

<p>words. When the bacteriological standard was retained in Performance Levels A, B, and C, the text of the rule that limited the use of disinfection with Level C made sense and did not present an awkward use of words. If separating the bacteriological standards from the other parameters in Performance Levels A, B, and C is desired, that could still be accomplished by identifying these new performance levels as "Bacterial Levels" or "Coliform Levels". With this approach the established restriction on using disinfection to achieve BL3, or CL3 would not present the awkward terminology that exists when the "Disinfection Level" terminology is used.</p>	<p>proposed rule.</p>
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Table 9: WAC 246-272A-0110, Proprietary treatment products – Eligibility for registration

Comment Received	Department of Health Recommendation
<p>Footnotes for Table II are missing.</p>	<p>Adopt rule with amendment. Editorial changes to the rule without changing the effect. The Department recommends changing the footnotes to:</p> <p>¹ Test results for BOD₅ may be submitted in lieu of test results for CBOD₅. In these cases numerical values for CBOD₅ will be determined using the following formula: (BOD₅ x 0.83 = CBOD₅).</p> <p>² Supplemental bacteriological reduction technology must be tested for influent/effluent fecal coliform or <i>E. coli</i> per WAC 246-272A-0130 (bacteriological reduction testing protocol). Supplemental fecal coliform or <i>E. coli</i> reducing technologies will be rated for log base 10 removal of fecal coliform or <i>E. coli</i>. The lowest 30 day geometric mean will be used to rate reduction level. The highest monthly geometric mean for treatment technology fecal coliform or <i>E. coli</i> reduction will be used as the baseline value for review.</p>
<p>Table III uses two units for fecal coliforms and <i>E. coli</i>. These should match as cfu/100 mL. FC and EC results are typically in cfu/100 mL, however, MPN is also a common result unit. Consider clarifying the treatment level required in both CFU and MPN.</p>	<p>Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends changing how the units for FC and EC on Table III are displayed so that both clearly have the units "cfu/100 mL.</p>
<p>EPA Method 1664 is inappropriate to register Category 2 products. Recommend using NSF/ANSI Standard 40 instead.</p>	<p>No change to proposed rule. The Department recommends no change to the proposed rule at this time. This suggestion is considered a substantive change and requires additional engagement with the industry. The Department plans to address this in a separate rule</p>

	update in the near future.
Requirement (in WAC 246-272A-0110(1)) that proprietary products are registered with the department (using the process described in WAC 246-272A-0120) conflicts with the requirement (in WAC 246-272A-0110(4)) that product performance is verified using laboratory data from a laboratory certified by the Washington Department of Ecology because data cannot be available from a certified laboratory before the product is allowed to be used in Washington.	No change to proposed rule. The comment appears to assume that the product must be used in Washington to meet the requirement. The sampled product is not required to be installed in Washington. The samples may be shipped to a certified laboratory. There are several certified laboratories located outside of Washington.
Are field compliance standards intended to only address fecal coliform?	No change to proposed rule. The proposed rule language requires field verification for products which disinfect or treat nitrogen.
As the rule is proposed there is not a Performance Level with the singular letter "D". Perhaps it should read "Values for Levels A-C, and DL1, DL2, and DL3 are 30-day values..."	Adopt rule with amendment. Technical change to the rule without changing the effect. Treatment level D was removed in the proposed rule. The Department recommends the following change to Table III: "Values for Levels A - C are 30-day values".
NSF International and other standards publishers regularly republish standards, leading to a date change on the standard title. To avoid citing obsolete standards in the rules, please verify the most recent published date of each NSF/ANSI standard prior to adoption of the revised rule.	No change to proposed rule. The referenced standards in the proposed rule are the most current. The Department appreciates the suggestion and will add this to the list for potential future changes to the rule.

Table 10: WAC 246-272A-0120, Proprietary treatment product registration

Comment Received	Department of Health Recommendation
Recommend modifying subsection 7 for consistency with other subsections. (7) The department shall maintain a list of proprietary treatment <u>registered on-site treatment and distribution</u> products meeting the registration requirements established in this chapter.	Adopt rule with amendment. Editorial change to the rule without changing the effect. The Department recommend changing WAC 246-272A-0120(7): The department shall maintain a list of ((proprietary treatment)) ((<u>registered on-site treatment and distribution</u>)) products meeting the registration requirements established in this chapter.
For all installed proprietary products, what happens when that product then fails the field performance testing requirements? Requiring a compliance plan will not address installed systems that are not meeting the requirements of approved design.	No change to proposed rule. This depends on the results of the department review of the product. If the department removed the product from the registered list for failure to meet the requirements of section WAC 246-272A-0120 it would no longer be permitted for new installations. This would not impact compliance of existing OSS.

	This is the process for any product that is removed from the registered list for any reason.
How does the state plan to administer the field sampling for devices that treat the sewage as part of their dispersal component? For example, OSCAR or Glendon systems, would require some sort of containment under the dispersal component to effectively catch the sewage for sampling.	No change to proposed rule. The draft Proprietary On-site Wastewater Treatment Products Department Standards and Guidance document requires the manufacturer to propose a sampling method for department review and approval.
For WAC 246-272A-0120(3)(b), suggest leaving “proprietary” and inserting “registered on-site” in front of the word “proprietary”. The current “List of Registered On-site Treatment and Distribution Products” titles Section 2 as “List of Manufacturers of Registered Proprietary On-site Products”.	No change to proposed rule. The Department will consider renaming the List of Registered On-site Treatment and Distribution Products to match the rule language.
Questions about WAC 246-272A-0120(5)(b)(ii). If it is legal to put requirements for manufacturers to register their products in departmental standards documents and what does “dated the effective date of the rule” mean.	No change to proposed rule. The requirement to complete field verification is included in the rule. The details of the process are included in the standards document. A draft of this document has been available for review and public comment on the department’s rulemaking webpage.
For WAC 246-272A-0120(5)(b)(ii), suggest inserting “treatment” between “proprietary” and “products” in the statement relating to the standards and guidance document, to clarify the distinction between treatment products and distribution products.	Adopt rule with amendment. The Department recommends changing WAC 246-272A-0120(5)(b)(ii) to: A field verification performance report as identified in the ((proprietary products)) <u>((Proprietary On-site Wastewater Treatment Products))</u> DS&G, dated February 1, 2025.
Proprietary treatment products that would fall under Category 2 are. designed using influent BOD5. Please change “CBOD5” to “BOD5”.	No change to proposed rule. Category 2 products must demonstrate their capacity to treat CBOD ₅ as describe in WAC 246-272A-0110, Table II. This is not a proposed change.

Table 11: WAC 246-272A-0130, Bacteriological reduction

Comment Received	Department of Health Recommendation
Suggest adding "when striving to meet" instead of "for meeting" in subsection 1. (1) Manufacturers shall, for the purpose of product registration as described in WAC 246-272A-0110 and 246-272A-0120: (a) when striving to meet for meeting treatment level DL1, verify bacteriological reduction performance by sampling for fecal coliform or <i>E. coli</i> . (b) when striving to meet for meeting treatment level DL2 or DL3, verify bacteriological reduction performance by sampling for fecal coliform.	No change to proposed rule. The Department appreciates the suggestion and will add this to the list for potential future changes to the rule.

Suggest rephrasing subsection (2)(b). (2)(b) <u>When testing treatment product or treatment component sequence according to the NSF/ANSI Standard 40 testing protocol.</u>	No change to proposed rule. The Department appreciates the suggestion and will add this to the list for potential future changes to the rule.
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.	Adopt rule with amendment. Technical change to the rule without changing the effect. The Department recommends changing Disinfection Level (DL) to Bacterial Level (BL) throughout the proposed rule.

Table 12: WAC 246-272A-0145, Proprietary distribution product registration – Process and requirements

Comment Received	Department of Health Recommendation
Subsection (6)(a) has a date of November 1 while WAC 246-272A-0120(6)(a) has a date of October 31. Are these supposed to be the same dates?	No change to proposed rule. The two sentences use slightly different constructions due to the surrounding language but both references are for the same day.
For consistency it may be better to leave "proprietary" and insert "registered" in front of the word "proprietary". The current "List of Registered On-site Treatment and Distribution Products" titles Section 2 as "List of Manufacturers of Registered Proprietary On-site Products". Or strike "proprietary" as proposed and make changes for consistency of language in other documents.	No change to proposed rule. The Department will consider renaming the List of Registered On-site Treatment and Distribution Products to match the rule language.

Table 13: WAC 246-272A-0200, Permit requirements

Comment Received	Department of Health Recommendation
Consider adding a sample permit application with gravity O.S.S. design layout.	No change to proposed rule. Permit applications are the responsibility of the local health jurisdictions, not the Department of Health.
Subsection (4)(d) references subsection (1) however, it should reference subsection (2).	Adopt rule with amendment. Editorial changes to the rule without changing the effect. The Department recommends changing WAC 246-272A-0200(4)(d) to: d) Issue a permit when the information submitted under subsection ((1))(2) of this section meets the requirements contained in this chapter and in local rules;

Use artificial intelligence (AI) to site and design OSS.	No change to proposed rule. The proposed rule does not preclude designers from using AI to assist in OSS design work. The final design must be stamped by an OSS Designer or Engineer.
Pertaining to (2)(c)(x), it is likely that only commercial projects will have surveyors using the vertical datum which provides a static, unchanging reference. It is important to recognize that a design with its own benchmark, may have a benchmark chosen that could be removed, moved or otherwise during construction or even over the 5-years allowed between issuance of an installation permit and actual installation of the system.	No change to proposed rule. The requirement to include the vertical datum used on every map that includes topographical elements comes from WAC 332-130-145 Topographic elements on maps—Requirements. This requirement was added to chapter 246-272A WAC to provide consistency and as a service to Designers.
Pertaining to 2(c)(xi), the added requirement to include elevations in reference to the vertical datum or established benchmarks would create the need for significant fee increases due to the additional training, equipment and increased time needed for inspectors to verify in the field and office when evaluating the site/plan during any part of the design or installation.	No change to proposed rule. The rule revision committee came to consensus that use of an elevation benchmark and relative elevations is currently standard practice in the industry.
2(c)(xii) seems duplicative to (2)(a)(x), since (2)(a)(x) already requires the name, signature, and stamp of the designer. Consider consolidating this into one requirement.	No change to proposed rule. (2)(a)(x) lists the requirements for the permit application. (2)(c)(xii) list the requirements of the site plan. The requirement to include the name, signature, and stamp on every map that includes topographical elements (including site plans) comes from WAC 332-130-145 Topographic elements on maps—Requirements. This requirement was added to chapter 246-272A WAC to provide consistency and as a service to designers.

Table 14: WAC 246-272A-0210, Location

Comment Received	Department of Health Recommendation
“Unlined stormwater infiltration pond” needs to be defined to exclude commonly used drainage swales. If the intent is to include drainage swales this will have a significant effect on land development, negatively impacting usable land area (Table XI).	No change to proposed rule The requirement does not refer to Infiltration Swales (“drainage swales” is not defined in Department of Ecology’s Stormwater Manual). It refers to Infiltration ponds as defined in the Stormwater Manual.
The new setbacks could not be properly evaluated since there were questions on the definition of terms used.	No change to proposed rule. The Department appreciates the feedback. No recommended change provided.
Clarification is needed for the setback for pressurized water supply line or easement for water supply line. Is it to the easement if the water supply line has not been installed or always to the easement line?	No change to proposed rule The setback is to the easement, or to the waterline whichever is closer.

<p>Upgradient vs Down-gradient are difficult to evaluate. Is this from the bottom of the trench, top of the trench etc. Consider eliminating the distinction and using a single setback distance.</p>	<p>No change to proposed rule. The Department provides routine training and technical assistance on applying this aspect of the rule. A single setback distance that applied to both scenarios would need to default to the more conservative of the two.</p>
<p>Please clarify the difference between wells and nonpublic drinking water wells. With the same horizontal separation, two separate lines in Table IV does not seem to be needed.</p>	<p>No change to proposed rule. This was added to provide clarity between public drinking water wells and nonpublic drinking water wells. The Department routinely receives questions about this.</p>
<p>Table IV is missing footnotes for 3-8.</p>	<p>Adopt rule with amendment. The Department recommends adding the following footnotes to Table IV:</p> <p>³ Any in-ground containment vessel used to store drinking water.</p> <p>⁴ A network of underground piping carrying fluid under pressure used to heat and cool a structure.</p> <p>⁵ Lined means any component that has the intended function of detaining the storm water with no intention of dispersal into surrounding soil.</p> <p>⁶ OSS components take precedence in cases of horizontal setback conflicts between OSS and stormwater components.</p> <p>⁷ Down-gradient means that subsurface water flows toward and is usually located lower in elevation. Up-gradient means subsurface water does not flow toward and generally flat, or flows away from and generally located higher in elevation.</p> <p>⁸ Unlined means any component that has the ability to or intended function of infiltrating the storm water.</p>
<p>Table IV outlines nonpublic, in-ground, drinking water containment vessel but excludes the public equivalent. Consider adding this to the proposed rule.</p>	<p>No change to proposed rule. The Department routinely receives questions about nonpublic, in ground, drinking water containment vessels. These containment vessels are common on properties served by OSS. We have not received questions about public, in ground, containment vessels and have determined that we do not need to add a setback requirement for them at this time.</p>
<p>If OSS treat sewage to treatment level A and above DL1 it should be allowed to discharge to surface water and discharged closer to the features on Table IV.</p>	<p>No change to proposed rule. The setback requirements in Table IV have been established through review of the available scientific literature and collaborative discussion with experts. The consensus and view of the Department is that the listed setbacks are appropriate. Discharges to surface water fall outside the authority of chapter 246-272A WAC and would need to be permitted as an NPDES</p>

permit through the Department of Ecology.

Table 15: WAC 246-272A-0220, Soil and site evaluation

Comment Received	Department of Health Recommendation
The winter groundwater level evaluation is done incorrectly. The proposed rule allows only engineers, designers, and local health officers to complete this evaluation. Farmers know their winter soil water table. The rule prevents them from managing their property in the way they think is best.	No change to proposed rule. The Department appreciates the feedback. There is no specific recommendation.

Table 16: WAC 246-272A-0230, Design requirements - General

Comment Received	Department of Health Recommendation
Subsection (1). Add back the “s” after designer or remove the “s” after engineer to make consistent singular or plural.	Adopt rule with amendment. Editorial changes to the rule without changing the effect. The Department recommends changing WAC 246-272A-0230(1) to: (1) OSS must only be designed by ((a)) professional engineer((s)), licensed under chapter 18.43 RCW, or ((an)) OSS designer, licensed under chapter 18.210 RCW, except: (a) If at the discretion of the local health officer, a resident owner of a single-family residence not within 200 feet of a marine shoreline is allowed to design an OSS for that residence; or (b) If the local health officer performs the soil and site evaluation, the health officer may design the OSS.
If no bedrooms in additional dwelling, then what? (2)(d)(ii)(B) & (2)(d)(iii)(C).	No change to proposed rule. If the dwelling has no separate bedrooms, it counts a single bedroom.
The rule shields department-licensed contractors from market competition and gives too much power to the LHO. All OSS technologies are many years old and designers simply use ready-made designs. Artificial intelligence can do the same.	No change to proposed rule. The Department appreciates the feedback. There is no proposed change.
The requirement in section WAC 246-272A-0230 (2)(a) to direct all sewage from the building served to the OSS contradicts EPA recommendations to separate blackwater and greywater from the OSS influent. Separating these waste flows facilitates better sewage treatment.	No change to proposed rule. No specific recommendation. The EPA Design Manual does not recommend separating waste flows, but instead provides considerations for doing so. This section does not preclude separation of blackwater and greywater.

WAC 246-272A-0230 (2)(d) and its subparagraphs shall take into account separation of blackwater and graywater.	No change to proposed rule. WAC 246-272A-0230 (2)(d) and its subparagraphs do not preclude separation of blackwater and greywater.
In DS&G, the Department should list and describe the well-known and developed components of OSSs with effluent qualities that can be discharged to surface waters, and make recommendations as to which of these components should be used depending on the environmental conditions of the site. OSS installers should not be responsible to measure the quality of the resulting water.	No change to proposed rule. Discharges to surface water fall outside the authority of chapter 246-272A WAC and would need to be permitted as an NPDES permit through the Department of Ecology. The proposed rule does not require OSS installers to measure water quality or effluent quality.
Believes the changes give too much authority to the Local Health Officer in the local health jurisdiction without any process to appeal their decisions.	No change to proposed rule. Local Health Officer permitting decisions are generally appealable to the Local Board of Health.

Table 17: WAC 246-272A-0232, Design requirements – Septic tank sizing

Comment Received	Department of Health Recommendation
Table VII is no longer needed. Change the section to: (a) for a single family residence, or an OSS treating sewage from a residential source other than a single-family residence, 250 gallons per bedroom with a minimum of 1,000 gallons. Item (c) becomes item (b).	No change to proposed rule. The Department has determined that Table VII is useful in providing the information in a clear, easy-to-understand format.

Table 18: WAC 246-272A-0234, Design requirements – Soil dispersal components

Comment Received	Department of Health Recommendation
Ensure that each (letter) sections following “meet the following requirements” are in complete sentences. Most of the items listed are missing a verb leaving no ‘action’ for the designer to take.	No change to proposed rule. The Department has reviewed this section and has determined that no editorial changes need to be made at this time. The section describes the requirements that the Subsurface Soil Absorption System (SSAS) must meet, not actions for the designer to take.
Install inverted u-shaped pipes over drainfield piping to prevent blockage of drainfield pipes	No change to proposed rule. The Department appreciates the suggestion and will forward this idea to the local health department to conduct a possible field test. The suggestion will be added to the list of potential future changes to the rule.

Connect drainfield lateral pipes every 10 feet to equalize flow.	No change to proposed rule. The rule allows the recommended technique but does not require it. The Department appreciates the suggestion and will forward this idea to the local health department to conduct a possible field test. The suggestion will be added to the list of potential future changes to the rule.
The requirements for soil distribution components could impose an unintended requirement on proprietary dispersal products without clarifying the proposed rule language. Consider adding the following: (4)(c) Beds are only designed in soil types 1, 2, 3 or in fine sands with a width not exceeding 10 feet. Gravity beds must have a minimum of one lateral for every three feet in width. <u>For proprietary distribution products, extension of the lateral beyond the connection to the product is required only if specified in the product registration;</u>	No change to proposed rule. The full impact of the recommended change is not well understood. All currently registered proprietary dispersal products are designed with a 3-foot wide footprint and are expected to easily comply with the proposed rule language without the recommended change.
Consider adding a list of all technologies used for dispersal of effluent from treatment tanks and a link where requirements to all types of dispersal components can be found. Separation of blackwater, graywater and solid organic waste is not considered.	No change to proposed rule. Approved proprietary products are found in the List of Registered On-site Treatment and Distribution Products. Other guidance is found in related standards documents on the department’s webpage.
(4)(c) bed width should be expanded to 12 feet due to the common usage of gravelless chambers and their typical widths.	No change to proposed rule. This is a technical change with potential impacts to treatment. This change merits literature review and collaboration with technical experts and impacted parties. The Department recommends saving this recommendation for consideration in future rule reviews and revisions.

Table 19: WAC 246-272A-0238, Design requirements – Facilitate operation, monitoring and maintenance

Comment Received	Department of Health Recommendation
Install long-sweep ells to grade at the end of each drainfield lateral to aid in flushing and jetting of laterals.	No change to proposed rule. This is a technical change with potential impacts to operations and maintenance. This change merits collaboration with technical experts and impacted parties. The department recommends saving this recommendation for consideration in future rule reviews and revisions.
Correct misspelling of “maintainence” to “maintenance” in WAC 246-272A-0238(1)(b)(i)	Adopt rule with amendment. Editorial change to the rule without changing the effect. The Department recommends changing WAC 246-272A-0238(1)(b)(i) to:

	(i) Septic tanks must have service access ((maintainance)) ((<u>maintenance</u>)) holes (formerly manholes) and monitoring ports for the inlet and outlet;
Consider revising WAC 246-272A-0238(1)(b)(iii) to read: (iii) Other pretreatment units such as aerobic treatment units and packed-bed filters must have service access maintenance holes <u>and/or monitoring ports, as necessary to access components of the OSS</u> ;	No change to proposed rule. Proprietary products are required to be installed according to manufacturer’s instructions. If the manufacturer’s installation instructions include installation of monitoring ports they are required to be installed.
It is unclear why the language in WAC 246-272A-0238(1)(a)(i) is changed from referencing septic tanks to referencing septic tanks. This section refers to gravity OSS, which all use septic tanks.	No change to proposed rule. The comment provided no recommended change. The change in question is proposed include all scenarios. Some OSS have a gravity-operated septic tank and drainfield preceded by a pump tank or other sewage tank.

Table 20: WAC 246-272A-0250, Installation

Comment Received	Department of Health Recommendation
Consider removing the exclusion and allowing homeowners to continue to install replacement systems under Table IX.	No change to proposed rule. Repairs under Table IX pose an increased risk to public health and the environment. The Department does not believe homeowners should be allowed to conduct these repairs at this time.
Recommend adding “licensed” between “only” and “installers” in Subsection (1).	No change to proposed rule. “Installer” is defined in the definitions section.
Subsection (2)(c) references “Table IX standards in WAC 246-272A-0270.” Section -0270 does not have a table and believe the anticipated table to be references in now Table X of 246-272A-0280.	Adopt rule with amendment. Technical change without change to impact. The Department recommends changing WAC 246-272A-0250(2)(c) to: (c) The installation permit meets Table ((IX)) ((<u>X</u>)) standards in WAC ((246-272A-0270)) ((<u>246-272A-0280</u>)).
Subsection (1) unreasonably limits the rights of the owner to manage their property. The Code does not reveal clear descriptions of how to construct all components of OSSs. Instead, WWMS DOH gives this information into the hands of few installers and requires to use their services. LHOs do not have a right to decide who fulfills the installation, if the installed components of the system meet the requirements.	No change to proposed rule. The comment does not provide a recommendation. WAC 246-272A-0250(1) requires that only approved installers construct OSS. LHOs approve installers. This duty and authority are granted to LHOs by RCW 70.05.070.

Table 21: WAC 246-272A-0265, Record Drawings

Comment Received	Department of Health Recommendation
Subsection (2) seems as though it could be consolidated in subsection (1).	No change to proposed rule. The suggestion will be added to the list for potential future changes to the rule.

Table 22: WAC 246-272A-0270, Operation, monitoring, and maintenance – Owner responsibilities

Comment Received	Department of Health Recommendation
Subsection (1)(e) states “obtain an inspection, as required in WAC 246-272A-0260(5)...” This references section is not what “requires” the inspection; -0270 is. Section -0260 outlines what makes up an inspection. Consider replacing “required” with “outlined.”	No change to proposed rule. The requirements of the inspection are described in WAC 246-272A-0260(5). WAC 246-272A-0270(1)(e) describes when property transfer inspections must occur.
Opposes requirements for inspection because the proposed rule gives the local health department authority to enter private property and annual inspections are costly, inefficient, and time consuming. Opposes mandatory inspections other than as required under RCW 70A105.030.	No change to proposed rule. The Department respectfully disagrees with the assertions being made. The proposed rule does not give the local health department authority to enter private property without permission. It requires the owner to hire an inspector to conduct an inspection. Routine inspections are currently required in rule. The proposed rule does not change the frequency of routine inspections.
Opposes the requirements for inspection because this comprises unwarranted additional expense and scope of activity imposed on the seller when selling their home.	No change to proposed rule. Inspections will protect public health and buyers. There is no requirement to inspect or added cost to the seller if the OSS is up-to-date with routine inspection requirements. Property transfer inspections are a long-standing component of the Purchase and Sale Agreement governing all property sales in Washington.
Table X has conforming systems that meet Class A waiver criteria outside of the conforming system label – as an example, a system that is 70 feet from surface water, has 30 inches of vertical, with Treatment B & DL2 is conforming following the waiver criteria. There should be a horizontal separation recategorization between 50-75 and 75-100 feet based on footnote 3.	No change to proposed rule. The suggestion will be added to the list of potential future changes to the rule.
I question the benefit of changing the term from "septic" to "sewage" in WAC 246-272A-0270(1)(e)(i).	No change to proposed rule. The comment does not provide a recommendation. The proposed change from referencing a septic tank to referencing a sewage tank is meant to add clarity and include

all scenarios. Septic tanks are a type of sewage tank. Some OSS with gravity SSAS include other types of sewage tanks.

Table 23: WAC 246-272A-0278, Remediation

Comment Received	Department of Health Recommendation
<p>The Summary of Key Draft Rule Changes document (October 2023) states for this subsection that there is a requirement for DOH to maintain a guidance document on remediation. I don't see this requirement in this draft of the rule. Was the requirement for a guidance document removed from the draft rule by intent or simply an oversight?</p>	<p>No change to proposed rule. This is an error on the Summary of Changes document. The rule language is intended to not include a requirement for DOH to maintain a guidance document on remediation.</p>
<p>How will the new Remediation section (WAC 246-272A-0278) interact with the RS&G for Remediation Technologies and Processes?</p>	<p>No change to proposed rule. The comment does not provide a recommendation. The Department will update and republish the Interim Remediation Technologies and Processes RS&G as a DS&G.</p>

Table 24: WAC 246-272A-0280, Repair of failures

Comment Received	Department of Health Recommendation
<p>We would highly support DOH and Ecology to work together to make this option more realistic and feasible for homeowners, especially with advanced OSS treatment designs. Table IX, Option F</p>	<p>No change to proposed rule. The rule revision committee included representation from Department of Ecology and several other partners. No committee members voiced an interest in revising this option. Because this change could potentially impact surface waters around the state, the department believes it would require thorough rule analysis and deliberative collaboration with partners and impacted parties. The Department recommends this proposal is tabled and considered in upcoming rule reviews and revisions.</p>
<p>Subsection (1)(a) references Table X which was previously Table IX. Table IX is now options for addressing OSS Failures but is not references until Subsection 3. Consider reorganizing the two tables so that the tables are in order of their reference and will maintain the contents of the "Treatment Component Performance Levels for Repair of OSS Not Meeting Vertical & Horizontal Separation" as Table IX.</p>	<p>No change to proposed rule. The suggestion will be added to the list for potential future changes to the rule.</p>

<p>Subsection (4)(e) references 246-272A-0014 & -0016. These WACs do not exist; recommend updating the WAC reference to the correct section.</p>	<p>Adopt rule with amendment The Department recommends the following correction be made in WAC 246-272A-0280(4)(e): (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-00154 or 246-272A-0016;</p>
<p>In Table IX, the term “dispersal” is used. Table VI uses the term "distribution", as in "method of distribution". Shouldn't "distribution" be used in Table IX instead of "dispersal"?</p>	<p>Adopt rule with amendment. The Department recommends the following correction be made to Table IX, Option A, 2: The soil dispersal component to be repaired or replaced complies with the treatment level and ((distribution))((dispersal)) method requirements in Table VI of WAC 246-272A-0230;</p>
<p>In the Table X’s footnote 2 it references “treatment level A”. Should this also include DL1, in accordance with the new treatment levels as described in Table III?</p>	<p>Adopt rule with amendment. The Department recommends the following change be made to Table X’s footnote 2: ²The horizontal separation indicated in Table X of this section is the distance between the soil dispersal component and the surface water, well, or spring. If the soil dispersal component is up-gradient of a surface water, well, or spring to be used as a potable water source, or beach where shellfish are harvested, the next higher treatment level shall apply unless treatment level A ((and BL1)) is already required.</p>

Table 25: WAC 246-272A-0300, Abandonment

Comment Received	Department of Health Recommendation
<p>(3) Consider removing this requirement since this may not always be possible and is mostly addressed in (2)(b).</p>	<p>No change to proposed rule. The Department respectfully disagrees; it is generally possible to provide grading to match the site conditions. A waiver can be applied in the rare instance that it is not possible.</p>

Table 26: WAC 246-272A-0320, Developments, subdivisions, and minimum land area requirements

Comment Received	Department of Health Recommendation			
<p>The additional setback requirements listed in Table IV may have a significantly impact minimum usable land area. Guidance from DOH on how to do calculations using Table XII will be needed.</p>	<p>No change to proposed rule. The minimum usable land area requirement is intended to ensure that enough land is available for OSS installation and replacement. Without the appropriate land area OSS installations and repairs are more expensive, if not impossible. Impacts are expected to be positive and protective to public health and owners in the long term. The department will provide training and guidance on the use of Table XII.</p>			
<p>Table XI. Ensure leading zeros are used (<u>0</u>.5 acres) and footnotes reference the correct subsection [0234(67) now].</p>	<p>Adopt rule with amendment. Editorial change to the rule without changing the effect. The Department recommends changing the cell in <i>Soil Type 1</i> column and <i>Public Water Supply</i> row of Table XI to:</p> <table border="1" data-bbox="1087 641 1333 760"> <tr> <td data-bbox="1087 641 1333 678">21,780 sq. ft.</td> </tr> <tr> <td data-bbox="1087 678 1333 716">(((0)),5 acre)</td> </tr> <tr> <td data-bbox="1087 716 1333 760">2.5 acres¹</td> </tr> </table>	21,780 sq. ft.	(((0)),5 acre)	2.5 acres ¹
21,780 sq. ft.				
(((0)),5 acre)				
2.5 acres ¹				
<p>Recommend clarifying with Office of Drinking on the definition of public versus nonpublic water systems and defining in 246-272A. EPA defines (Group A) public water systems and DOH Office of Drinking Water has defined Group B public water systems. Section (2)(b) states “with nonpublic wells”, however, the wording of the WAC sounds as though a development/subdivision is creating a (privately-owned) public water system with multiple wells.</p>	<p>No change to proposed rule. Office of Drinking Water has been consulted on the relevant definitions.</p>			
<p>Removing the terms “Method 1” and “Method 2” from the rule doesn’t add clarity to WAC 246-272A-0280. There are two methods in the proposed rule.</p>	<p>No change to proposed rule. The comment does not provide a recommendation. The proposed rule language has been updated to minimize confusion between the requirements associated with the existing methods (Method 1 and Method 2, respectively) and the requirements associated with the options in the proposed rule.</p>			
<p>Table XII title is missing the table number.</p>	<p>No change to proposed rule. The table title is in the proposed rule, just separated by a page break in the document.</p>			
<p>The section describing the method of determining lot sizes that do not meet the requirements in Table XI could benefit from additional editing for clarity.</p>	<p>No change to proposed rule. The Department appreciates the feedback. The comment does not provide a recommendation.</p>			

Table 27: WAC 246-272A-0340, Approval of installers, pumpers, and maintenance service providers

Comment Received	Department of Health Recommendation
<p>This would require non-Puget Sound counties that would not be mandated to do property transfer inspections until 2 years after implementation, to put an approval process for maintenance service providers in place 2 years in advance. Consider changing the requirement date for these counties to have an approval process for maintenance service providers in place closer to the implementation date, e.g., Jan 1, 2027.</p>	<p>No change to proposed rule. The Department respectfully disagrees. This is designed to require that approval processes for maintenance service providers to be well established before the property transfer inspection requirement begins.</p>

Table 28: WAC 246-272A-0420, Waivers

Comment Received	Department of Health Recommendation
<p>Revise subsection (2)(b). (b) Upon review, if the department finds that the waivers previously granted are inconsistent, consistent with the purposes of this chapter, and DS&G for granting waivers, the department shall provide technical assistance to the local health officer to correct the inconsistency, and may notify the local and state boards of health of the department's concerns.</p>	<p>Adopt rule with amendment. Editorial change without changing effect. The Department recommends WAC 246-272A-0420(2)(b) is changed to: (b) Upon review, if the department finds that the waivers previously granted <u>are inconsistent, ((consistent))</u> with the purposes of this chapter, and DS&G for granting waivers, the department shall provide technical assistance to the local health officer to correct the inconsistency, and may notify the local and state boards of health of the department's concerns.</p>
<p>In subsection (4), recommend adding what timeframe the annual report will cover. Will it be of the calendar year or biennium?</p>	<p>No change to proposed rule. The suggestion will be added to the list for potential future changes to the rule.</p>

Table 29: WAC 246-272A-0430, Enforcement

Comment Received	Department of Health Recommendation
<p>In subsection 2, consider adding that each notice and order must “include the date in which the required repair must be completed (due date)”.</p>	<p>No change to proposed rule. WAC 246-272A-0430(2)(e) requires that notices and orders include the time or times of compliance.</p>

<p>Opposes the use of civil or criminal penalties as an enforcement action. Expressed concerns with the proposed rules giving too much authority to the Local Health Officer and punishing the homeowners.</p>	<p>No change to proposed rule. The Department appreciates the feedback. The proposed rule cannot change the local health officer’s enforcement authority set by statute.</p>
<p>The words "may be" is redundant in this sentence (WAC 246-272A-0430(1)(f)) as the lead in "(1) ...may initiate enforcement action. Enforcement action <i>may</i> include, but is not necessarily limited to:"</p>	<p>No change to proposed rule. The proposed rule language is intended to describe that the Department or the Local Health Officer may initiate enforcement actions that may include, but are not limited to, the items listed in WAC 246-272A-0430(1)(a) – (1)(e) and that an informal conference may be held at the request of any party. The Department believes the intent is clear and that understandability would not be enhanced by removing the words “may be”.</p>
<p>Believes the changes give too much authority to the Local Health Officer in the local health jurisdiction without any process to appeal their decisions.</p>	<p>No change to proposed rule. Decisions made by the local health officer are appealable to the local board of health.</p>

Notes: The Department did not receive written comments for sections WAC 246-272A-0005, 0007, 0013, 0140, 0170, 0233, 0240, 0260, 0282, 0290, 0310, 0400, 0410, 0425, and 0440.



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