



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

DIVISION OF ENVIRONMENTAL PUBLIC HEALTH

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March 13, 2024

TO: Michelle Davis, Executive Director
Washington State Board of Health

FROM: Lauren Jenks, Assistant Secretary
Division of Environmental Public Health

SUBJECT: State Board of Health Rule Making Authority Delegation Request-
WAC 246-272A-0110, Proprietary treatment products, Onsite Sewage Systems

The Department of Health (department) is requesting delegation of rule-making authority from the State Board of Health (board) to change product testing requirements in WAC 246-272A-0110, Table I, Category 2.

Changes to the rule under this delegation request, if approved, will be limited to adding NSF/ANSI 40 testing to category 2.

Category 1 products treat residential-strength sewage from homes. The rule requires that Category 1 products are tested under NSF/ANSI 40 -Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021). This protocol tests the product's capacity to treat organic sewage strength (CBOD₅) and suspended solids (TSS).

Category 2 products treat high-strength sewage from restaurants and other facilities that generate high levels of oil and grease. Prior to the recent rule revision, the rule required testing for Category 2 products under the EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/EPA Environmental Technology Verification (April 2001). This protocol tested for organic sewage strength (CBOD₅) and suspended solids (TSS), as well as oil and grease. EPA archived this testing protocol in 2013. Most laboratories have stopped testing for it. This has created a barrier for manufacturers to register new Category 2 products. None have been registered for several years.

During the recent rule revision, the department recommended updating the Category 2 product testing requirements to EPA Method 1664, Revision B (February 2010). This method tests the product's capacity to treat oil and grease. This recommendation, however, neglected to assure that Category 2 products have also been tested for organic sewage strength (CBOD₅) and suspended solids (TSS). A manufacturer provided formal comment highlighting this oversight and recommending Category 2 products instead be tested with NSF/ANSI 40 -Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021).

The department has determined that Category 2 products should be tested by both EPA Method 1664, Revision B (February 2010) and NSF/ANSI 40 -Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021). This will ensure the product is tested for organic sewage strength (CBOD₅), suspended solids (TSS), and oil and grease.

The department believes that most existing products that manufacturers are interested in registering as Category 2 products have already undergone testing under NSF/ANSI 40 -Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021). Likewise, manufacturers are expected to test most new products under NSF/ANSI 40 Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021). Therefore, adding it as a testing requirement is not expected to impact most manufacturers.

The department anticipates completing this rule making by December 31, 2024.

Conformance with the State Board of Health Delegation Criteria:

The board's policy (Policy Number 2000-001) for Considering Delegation of Rule to the Department of Health provides the following elements for consideration:

The extent to which the proposed rule revision is expected to include editorial and/or grammatical changes that do not change the substance of the rule:

- The department does not anticipate editorial or grammatical changes to the rule.

The extent to which the proposed rule may make significant changes to a policy or regulatory program.

- The proposed rule revision would add a testing requirement for Category 2 products, which treat high-strength sewage.

The extent to which the rule revision process would benefit from the board's role as a convener of interested parties.

- The department does not anticipate any controversy or opposition to the rule change because most manufacturers already test their products under NSF/ANSI 40 -Residential Wastewater Treatment Systems (versions dated between January 2009 and May 31, 2021).
- The department will keep interested parties informed through email updates sent to everyone that has signed up for our rule updates and all known manufacturers.

For additional information, please contact Jeremy Simmons at 360.236.3346 or jeremy.simmons@doh.wa.gov.