



Evaluating the Effectiveness of the On-Site Sewage System Rule Chapter 246-272A WAC

November 2013

Introduction

The mission of the Department of Health's (department) Wastewater Management Section is to protect public health by promoting the safe treatment and disposal of domestic and other non-industrial wastewater in areas of Washington not served by municipal sewage treatment plants.

Chapter 246-272A WAC, On-Site Sewage Systems, regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems. This rule protects public health by minimizing both the potential for exposure to sewage from on-site sewage systems, and the adverse effects of discharges from on-site sewage systems on ground and surface waters.

Local health jurisdictions (LHJs) have three options to enforce Chapter 246-272A WAC. They can incorporate the chapter into local code, adopt a reference to the state code into local code, or apply the state code without a local code. When LHJs choose to adopt the rules, the department reviews local rules to make sure they comply with the state rule. Today, 22 local boards of health have adopted their own local code, 2 have adopted the rule by reference, and 11 defer to Chapter 246-272A WAC.

2013 Evaluation

WAC 246-272A-0425 requires us to evaluate the effectiveness of the rule every four years and determine if revisions are needed. This is the second review of the rule since its adoption in 2005. The 2013 evaluation used three methods to gather feedback on the rules from our partners and stakeholders: we administered the same online survey used in 2009 to solicit feedback from LHJs; we convened a meeting with the department's on-site wastewater technical advisory group (TAG); and facilitated a one-day discussion with a review panel of key stakeholders to get additional feedback on the rule's effectiveness. In addition, the department conducted an internal review.

To help us understand changes over time, we compared responses from the 2013 survey to the one conducted in 2009. While there is growing interest in updating aspects of the rule, the majority of responses continue to indicate that "no" to "slight" revisions are needed at this time:

- The entire chapter of rules (from 94% in 2009 to 91% in 2013).
- Requirements pertaining to system
 - location (from 94% in 2009 to 91% in 2013);
 - design (from 97% in 2009 to 76% in 2013);
 - installation (from 97% in 2009 to 85% in 2013);
 - operation (from 91% in 2009 to 79% in 2013)
 - maintenance (from 83% in 2009 to 79% in 2013); and
 - monitoring (from 82% in 2009 to 79% in 2013).

Three key issues identified

Using the feedback we received from stakeholders together with our internal review, the department identified the following three key issues impacting the implementation of the rules.

Proprietary treatment product testing requirements

Respondents indicated that issues related to treatment products, long-term field performance, and verification and correction of sub-standard performance should be addressed in rule-making. Comments also identified concern with field performance of treatment products.

Application of treatment levels

The evaluation identified problems with the treatment levels and soil types and conditions established in the rules, and the need to reevaluate the effluent treatment requirements and corresponding soil treatment capabilities to ensure effective treatment.

Minimum land area requirements

The minimum land area requirements in WAC 246-272A-0320(2)(d)(ii)(A) and WAC 246-272A-0320(5)(e) are unclear in some situations. Local health officers identified this lack of clarity as a problem.

Conclusions

Our evaluation of chapter 246-272A WAC considered the responses to the LHJ survey, the TAG and rule review panel discussions, together with information gathered within the department. While a comparison of 2009 and 2013 survey results show growing interest in updating aspects of the rule, the majority of responses continue to indicate that revisions are not needed at this time. The evaluation resulted in identification of three key issues and a number of smaller issues that need to be addressed through rule-making. However, the feedback from this evaluation is not compelling enough to offset the cost of rule-making.

Recommendations

We recommend that the Board retain the existing rules and the department implement the following steps:

- Research and clarify technical aspects of the three areas identified in the rule that need revision, and provide guidance to clarify the intent and application of the rule requirements.
- Continue to provide technical assistance, monitor inquiries for new or recurring topics, and target our technical support activity as needed.
- Continue to develop and assist at the national level in preparing standards for evaluating new technologies.
- Continue to track rule issues and future need to revise the rules.

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