

Chapter 246-273 WAC

ON-SITE SEWAGE SYSTEM ADDITIVES

WAC

| | |
|-------------|--------------------------------------------------------------------|
| 246-273-001 | Purpose and authority. |
| 246-273-010 | Definitions. |
| 246-273-020 | Applicability. |
| 246-273-030 | Additive review and approval application—Process and requirements. |
| 246-273-040 | Review criteria and decision-making procedures. |
| 246-273-050 | Ingredients—Prohibitions and conditions. |
| 246-273-060 | Unfair practices. |
| 246-273-065 | Reregistration. |
| 246-273-070 | Confidentiality. |
| 246-273-080 | Enforcement. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 246-273-990 | Fees. [Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-990, filed 12/1/95, effective 1/1/96.] Repealed by 11-03-069, filed 1/18/11, effective 2/18/11. Statutory Authority: RCW 43.70.110 and 43.20B.020. |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

WAC 246-273-001 Purpose and authority. (1) This chapter establishes the review, criteria and decision-making procedures for evaluating on-site sewage disposal system additives to determine whether individual additives have an adverse effect on public health or water quality.

(2) The Washington state department of health administers this chapter under the authority and requirements of chapter 70.118 RCW.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-001, filed 12/1/95, effective 1/1/96.]

WAC 246-273-010 Definitions. "Additive" means a commercial product intended to affect the performance or aesthetics of an on-site sewage disposal system.

"Additive manufacturer" means any person who manufactures, formulates, blends, packages, or repackages an additive product for sale, use, or distribution within Washington state.

"Approved" means a written statement of acceptability, in terms of the requirements of this chapter, issued by the Washington state department of health.

"Chemical additive" means those additives containing acids, bases, or other chemicals deemed unsafe by the department for use in an on-site sewage disposal system. Chemicals identified as unsafe are specified in WAC 246-273-050.

"Department" means the Washington State Department of Health, P.O. Box 47826, Olympia, Washington 98504-7826.

"Failure" means:

- Effluent has been discharged on the surface of the ground prior to approved treatment; or
- Effluent has percolated to the surface of the ground; or
- Effluent has contaminated or threatens to contaminate a groundwater supply.

"On-site sewage disposal system" means any system of piping, treatment devices, or other facilities that convey,

(1/18/11)

store, treat, or dispose of sewage on the property where it originates or on nearby property under the control of the user where the system is not connected to a public sewer system. For purposes of this chapter, an on-site sewage disposal system does not include indoor plumbing and associated fixtures.

"Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of any such entities.

"Sewage" means any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-010, filed 12/1/95, effective 1/1/96.]

WAC 246-273-020 Applicability. (1) After July 1, 1994, no person shall use, sell, or distribute an on-site sewage disposal system chemical additive in Washington state.

(2) After January 1, 1996, no person shall use, sell or distribute an on-site sewage disposal system additive whose ingredients have not been approved by the department in accordance with requirements of chapter 70.118 RCW and this chapter.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-020, filed 12/1/95, effective 1/1/96.]

WAC 246-273-030 Additive review and approval application—Process and requirements. (1) Manufacturers desiring to sell, advertise, or distribute an on-site sewage disposal system additive for use in Washington state must request and obtain departmental review and approval of their product(s) by submitting a complete application, including:

(a) Comprehensive, yet concise, response to the questionnaire (see subsection (3) of this section);

(b) A product sample in the labeled container intended for sale or distribution;

(c) The on-site sewage disposal system additive evaluation fee described in WAC 246-273-990.

(2) All submitted material (written responses and other materials) must be legible, typed or printed. Hand-written responses to the application questions or hand-written notes or other submitted documentation may, at the discretion of the department, result in rejection of the application.

(3) The questionnaire for review and approval of an on-site sewage disposal system additive consists of four parts: Applicant information, product information, product literature, and certification. All applicants must provide complete written responses to the following questions:

Applicant information (AI)

- (AI-1) Applicant name, mailing address, street address, city/town, state, zip code, telephone and fax, with area code, time zone. The applicant must be vested with the authority to represent the manufacturer in this capacity.
- (AI-2) Contact individual (if different from person in Item 1) name, mailing address, street address, city/town, state, zip code, telephone and fax, with area code, time zone.
- (AI-3) Manufacturing facility location/address, mailing address, street address, city/town, state, zip code.
- (AI-4) Name of on-site sewage disposal system additive product. (One product per application. If identical formulations of product are marketed under different product names or distributor labels, list them here. If product formulations vary, submit separate applications for each product.)
- (AI-5) List of firms, companies, or persons distributing the on-site sewage disposal system additive product in Washington state. Do not list product retailers. Provide the following information for each: Contact person name, mailing address, street address, city/town, state, zip code, telephone and fax, with area code, time zone.

Product information (PI)

- (PI-1) List all physical, chemical, biological, or other agents which make up the additive and provide toxicity information for each component (provide material safety data sheet, if possible). Provide trade and scientific name and formula of chemical agents. Specify trade and scientific name(s) of bacteria and enzymes, and characterization (origin, native occurrence, pathogenicity, etc.). Report formulation in "% by weight," including inert and active ingredients, and trace amounts, if any, of prohibited ingredients (WAC 246-273-050).
- (PI-2) Describe the anticipated use of the additive in the on-site sewage system. Include in the description where and how the product is to be applied, the frequency of application, who will perform the application, and the amount and/or concentration of the product per application. For additives with chemical constituents, indicate the amount and/or concentration of each chemical constituent applied and resulting from application of the product.
- (PI-3) Describe the function of the additive within the on-site sewage disposal system and explain in detail how the additive achieves this function.
- (PI-4) List all known reactions and by-products produced by the use of the additive including:
 - The product's effect on bacteria normally found in a septic tank or aerobic treatment device and the soil surrounding a subsurface drainfield, and in the treatment media of a sand filter or sand mound system; and
 - pH range adjustment in all parts of an on-site sewage disposal system.
- (PI-5) Provide any known or projected limitation on the use of the on-site sewage disposal system additive.
- (PI-6) Provide reports of any available studies on the use of the on-site sewage disposal system additive to sup-

port the responses to questions PI-1 through PI-5 and to demonstrate the product's safety (lack of harm) to the public health, water quality, on-site sewage system components and function. Include monitoring reports and data from actual field or laboratory-based on-site sewage system studies.

- (PI-7) Attach any formal approvals or other acceptances from other jurisdictions (private sector, state, or federal) for use of the on-site sewage disposal system additive.

Product literature (PL)

- (PL-1) Attach single copies of sewage system additive product marketing, sales, distribution, advertising literature/materials intended for use in Washington state, not otherwise submitted as part of the complete application.

Certification (C)

- (C-1) The following statement must be included as part of a complete application:
 "I certify that I represent (INSERT MANUFACTURING COMPANY NAME), that I am authorized to prepare, or direct the preparation of, this application, and that the product presented for review and approval contains no prohibited ingredients (WAC 246-273-050). I attest, under penalty of law, that this document and all attachments, to the best of my knowledge and belief, are true, accurate, and complete."
- (C-2) Lines or space must be provided for the applicant's signature, printed name of preparer (if different than the applicant), preparer's signature (if needed) and date.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-030, filed 12/1/95, effective 1/1/96.]

WAC 246-273-040 Review criteria and decision-making procedures. The department shall:

- (1) Upon receipt of an application for review and approval of an on-site sewage disposal system additive:
- (a) Determine if the application is complete. The department may return incomplete applications, suspending further review until a completed application is submitted. Processing time period begins anew with resubmittal.
- (b) Notify the applicant, in writing, that the completed application has been received, and inform the applicant of the anticipated time period for review. A decision of either approval or denial shall be made within forty-five calendar days of receiving a complete application.
- (2) Upon review of a complete application, grant or deny approval of the on-site sewage disposal system additive for use, sale, or distribution in Washington state, informing the applicant, in writing, of either approval or denial of the application. Notice of denial shall include explanation of the reason(s) for denial.
- (3) Evaluate the request for approval of an on-site sewage disposal system additive according to the following criteria:
- (a) Does the additive contain any ingredients deemed unsafe by the department? If yes, the application for approval shall be denied.

(b) Does the additive contain acids or bases that raise or lower the pH of the contents of a septic tank, or wastewater in any other portion of an on-site sewage disposal system, outside of a pH range between 6.0 - 8.0? If yes, the application for approval shall be denied.

(c) Would use of the additive (when applied according to the manufacturer's product-use instructions) adversely affect public health or water quality (surface water or groundwater) by either the nature of the ingredients or the effect of the additive on the function of the on-site sewage system? If yes, the application for approval shall be denied.

(d) If the review according to the criteria listed above determines that none of these questions are answered "yes," the on-site sewage disposal system additive shall be approved.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-040, filed 12/1/95, effective 1/1/96.]

WAC 246-273-050 Ingredients—Prohibitions and conditions. (1) The following substances and compounds shall not be ingredients of approved on-site sewage disposal system additives. Trace amounts of these substances and compounds may exist in approved on-site sewage disposal system additives if deemed safe by the department for use in an on-site sewage disposal system.

(a) Any substance or compound listed as an EPA toxic pollutant in Title 40 Code of Federal Regulations (CFR 40) 1994, Part 122, Tables II, III, and V of Appendix D:

Table II—Organic Toxic Pollutants In Each Of Four Fractions In Analysis By Gas Chromatography/Mass Spectroscopy (GS/MS)

| <i>Volatiles</i> | |
|------------------|----------------------------|
| IV | acrolein |
| 2V | acrylonitrile |
| 3V | benzene |
| 5V | bromoform |
| 6V | carbon tetrachloride |
| 7V | chlorobenzene |
| 8V | chlorodibromomethane |
| 9V | chloroethane |
| 10V | 2-chloroethylvinyl ether |
| 11V | chloroform |
| 12V | dichlorobromomethane |
| 14V | 1,1-dichloroethane |
| 15V | 1,2-dichloroethane |
| 16V | 1,1-dichloroethylene |
| 17V | 1,2-dichloropropane |
| 18V | 1,3-dichloropropylene |
| 19V | ethylbenzene |
| 20V | methyl bromide |
| 21V | methyl chloride |
| 22V | methylene chloride |
| 23V | 1,1,2,2-tetrachloroethane |
| 24V | tetrachloroethylene |
| 25V | toluene |
| 26V | 1,2-trans-dichloroethylene |
| 27V | 1,1,1-trichloroethane |
| 28V | 1,1,2-trichloroethane |
| 29V | trichloroethylene |

31V vinyl chloride

Acid Compounds

1A 2-chlorophenol
 2A 2,4-dichlorophenol
 3A 2,4-dimethylphenol
 4A 4,6-dinitro-o-cresol
 5A 2,4-dinitrophenol
 6A 2-nitrophenol
 7A 4-nitrophenol
 8A p-chloro-m-cresol
 9A pentachlorophenol
 10A phenol
 11A 2,4,6-trichlorophenol

Base/Neutral

1B acenaphthene
 2B acenaphthylene
 3B anthracene
 4B benzidine
 5B benzo(a)anthracene
 6B benzo(a)pyrene
 7B 3,4-benzofluoranthene
 8B benzo(ghi)perylene
 9B benzo(k)fluoranthene
 10B bis(2-chloroethoxy)methane
 11B bis(2-chloroethyl)ether
 12B bis(2-chloroisopropyl)ether
 13B bis(2-ethylhexyl)phthalate
 14B 4-bromophenyl phenyl ether
 15B butylbenzyl phthalate
 16B 2-chloronaphthalene
 17B 4-chlorophenyl phenyl ether
 18B chrysene
 19B dibenzo(a,h)anthracene
 20B 1,2-dichlorobenzene
 21B 1,3-dichlorobenzene
 22B 1,4-dichlorobenzene
 23B 3,3'-dichlorobenzidine
 24B diethyl phthalate
 25B dimethyl phthalate
 26B di-n-butyl phthalate
 27B 2,4-dinitrotoluene
 28B 2,6-dinitrotoluene
 29B di-n-octyl phthalate
 30B 1,2-diphenylhydrazine
 (as azobenzene)
 31B fluoranthene
 32B fluorene
 33B hexachlorobenzene
 34B hexachlorobutadiene
 35B hexachlorocyclopentadiene
 36B hexachloroethane
 37B indeno(1,2,3-cd)pyrene
 38B isophorone
 39B naphthalene
 40B nitrobenzene
 41B N-nitrosodimethylamine
 42B N-nitrosodi-n-propylamine
 43B N-nitrosodiphenylamine
 44B phenanthrene
 45B pyrene

46B 1,2,4-trichlorobenzene

Pesticides

1P aldrin
 2P alpha-BHC
 3P beta-BHC
 4P gamma-BHC
 5P delta-BHC
 6P chlordane
 7P 4,4'-DDT
 8P 4,4'-DDE
 9P 4,4'-DDD
 10P dieldrin
 11P alpha-endosulfan
 12P beta-endosulfan
 13P endosulfan sulfate
 14P endrin
 15P endrin aldehyde
 16P heptachlor
 17P heptachlor epoxide
 18P PCB-1242
 19P PCB-1254
 20P PCB-1221
 21P PCB-1232
 22P PCB-1248
 23P PCB-1260
 24P PCB-1016
 25P toxaphene

Table III-Other Toxic Pollutants (Metals and Cyanide) and Total Phenols

Antimony, Total
 Arsenic, Total
 Beryllium, Total
 Cadmium, Total
 Chromium, Total
 Copper, Total
 Lead, Total
 Mercury, Total
 Nickel, Total
 Selenium, Total
 Silver, Total
 Thallium, Total
 Zinc, Total
 Cyanide, Total
 Phenols, Total

Table IV-Toxic Pollutants and Hazardous Substances Required To Be Identified By Existing Dischargers If Expected To Be Present*Toxic Pollutants*

Asbestos

Hazardous Substances

Acetaldehyde
 Allyl alcohol
 Allyl chloride
 Amyl acetate
 Aniline
 Benzonitrile
 Benzyl chloride
 Butyl acetate

Butylamine
 Captan
 Carbaryl
 Carbofuran
 Carbon disulfide
 Chlorpyrifos
 Coumaphos
 Cresol
 Crotonaldehyde
 Cyclohexane
 2,4-D(2,4-Dichlorophenoxy acetic acid)
 Diazinon
 Dicamba
 Dichlobenil
 Dichlone
 2,2-Dichloropropionic acid
 Dichlorvos
 Diethyl amine
 Dimethyl amine
 Dinitrobenzene
 Diquat
 Disulfoton
 Diuron
 Epichlorohydrin
 Ethion
 Ethylene diamine
 Ethylene dibromide
 Formaldehyde
 Furfural
 Guthion
 Isoprene
 Isopropanolamine
 Dodecylbenzenesulfonate
 Kelthane
 Kepone
 Malathion
 Mercaptodimethur
 Methoxychlor
 Methyl mercaptan
 Methyl methacrylate
 Methyl parathion
 Mevinphos
 Mexacarbate
 Monoethyl amine
 Monomethyl amine
 Naled
 Napthenic acid
 Nitrotoluene
 Parathion
 Phenolsulfanate
 Phosgene
 Propargite
 Propylene oxide
 Pyrethrins
 Quinoline
 Resorcinol
 Strontium
 Strychnine
 Styrene
 2,4,5-T (2,4,5-Trichlorophenoxy acetic acid)
 TDE (Tetrachlorodiphenylethane)

2,4,5-TP (2-(2,4,5-Trichlorophenoxy propanoic acid)
 Trichlorofan
 Triethanolamine
 Dodecylbenzenesulfonate
 Triethylamine
 Trimethylamine
 Uranium
 Vanadium
 Vinyl acetate
 Xylene
 Xylenol
 Zirconium

(b) Other chemicals deemed by the department to be detrimental to on-site sewage disposal system function, public health, or water quality.

(2) The department may prohibit (not approve on-site sewage system additives containing) acids and bases depending upon the effect on public health or groundwater of their concentration when applied according to the manufacturer's product-use instructions.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-050, filed 12/1/95, effective 1/1/96.]

WAC 246-273-060 Unfair practices. Manufacturers of approved additives advertised, sold, or distributed in Washington state shall:

(1) Make no claims relating to the elimination of the need for septic tank pumping or proper septic tank maintenance;

(2) List the components of additive products on the product label, along with information regarding instructions for use and precautions;

(3) Make no false statements, design, or graphic representation relative to an additive product that is inconsistent with RCW 70.118.060, 70.118.070, or 70.118.080; and

(4) Make no claims, either direct or implied, about the performance of the product based on state approval of its ingredients.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-060, filed 12/1/95, effective 1/1/96.]

WAC 246-273-065 Reregistration. Reregister, by written correspondence to the department, their on-site sewage disposal system additive product(s) each time the product formulation changes. The department may require a new review and approval for reregistration of products that undergo formulation changes.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-065, filed 12/1/95, effective 1/1/96.]

WAC 246-273-070 Confidentiality. (1) Manufacturers shall submit a signed confidentiality statement if any information submitted would, if made public, divulge confidential business information, methods, or processes entitled to protection as trade secrets of the manufacturer, and identify any such information.

(2) The department shall not disclose any information obtained from manufacturers, when stated by the manufacturer, that the information, if made public, would divulge

(1/18/11)

confidential business information, methods or processes entitled to protection as trade secrets of the manufacturer.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-070, filed 12/1/95, effective 1/1/96.]

WAC 246-273-080 Enforcement. (1) The attorney general, or appropriate city or county prosecuting attorney may bring appropriate action to enjoin any violation of the:

(a) Prohibition on the sale or distribution of on-site sewage disposal system additives; or

(b) Conditions of RCW 70.118.080 Additives—Unfair practices, and WAC 246-273-060 (1) through (4).

(2) The department may rescind approval of an on-site sewage disposal system additive in response to:

(a) Demonstrated link to on-site sewage disposal system failure resulting from use (consistent with the manufacturer's product-use instructions) of an approved additive; or

(b) Documentation that ingredients or formulation of an approved on-site sewage system additive differs from the ingredients or formulation information submitted for review, and upon which departmental approval was granted.

[Statutory Authority: Chapter 70.118 RCW and RCW 43.70.040. 95-24-062, § 246-273-080, filed 12/1/95, effective 1/1/96.]