Draft of

Chapter 246-275 WAC

On-site Nonpotable Water Systems

to solicit comments during the

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## Chapter 246-275 WAC On-site Nonpotable Water Systems

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ON-SITE NONPOTABLE WATER SYSTEMS

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NEW SECTION

# WAC 246-275-100 Purpose and scope.

1. **Purpose**. The purpose of this chapter is to set standards for the use of *treated nonpotable water* from *on-site nonpotable water systems* (ONWS) to:
	1. Protect and improve public health.
	2. Protect and enhance the environment.
	3. Conserve potable water where nonpotable water can be used safely.
2. **Scope**. This chapter establishes risk-based standards, administrative, review, and approval processes for ONWS and use-based requirements for treated nonpotable water.This chapter establishes:
3. General provisions, including, but not limited to, those for applicability, waivers and extensions of compliance, variances, professional engineer requirements, and inspections.
4. Treatment and performance requirements, including risk-based *log reduction targets* for the removal of pathogens.
5. Allowable source water, end uses, and implementation scales.
6. Design and construction standards.
7. Cross-connection control requirements.
8. Permitting.
9. Water quality standards, monitoring, reporting, and recordkeeping.
10. Operation and maintenance, including qualified operators and O&M manual.
11. Malfunction notification and user confidence requirements.
12. Enforcement, violations, and fees.
13. **Related statutes.** The rules set forth are adopted under [RCW 90.46.290](https://apps.leg.wa.gov/RCW/default.aspx?Cite=90.46.290) and [43.20.230](https://apps.leg.wa.gov/RCW/default.aspx?Cite=43.20.230). Other statutes relating to this chapter include, but are not limited to:
	1. [Chapter 19.27 RCW](https://apps.leg.wa.gov/rcw/default.aspx?cite=19.27), State building code.
	2. [RCW 43.20B.020](https://apps.leg.wa.gov/rcw/default.aspx?cite=43.20B.020), Fees for services—Department of health and department of social and health services.
	3. [Chapter 43.70 RCW](https://apps.leg.wa.gov/rcw/default.aspx?cite=43.70), Department of health.
	4. [Chapter 70.05 RCW](https://apps.leg.wa.gov/rcw/default.aspx?cite=70.05), Local health department, boards, officers—Regulations.
	5. [Chapter 70.46 RCW](https://apps.leg.wa.gov/rcw/default.aspx?cite=70.46), Health districts.

New Section

# WAC 246-275-105 Applicability.

1. **Applicability**. The requirements of this chapter apply to *ONWS* designed, constructed, operated, and maintained to collect and treat *source waters* for distribution and use as *treated nonpotable water,* and to the *persons,* owners*,* and *purveyors* involved in these activities, including *unapproved legacy ONWS* as defined in this chapter.
2. **Non-applicability.** The requirements of this chapter do not apply to:
	1. Single-family residences.
	2. *[Industrial reuse water](#Industrial)* and closed loop process water reuse, such as closed loop laundry recycling.
	3. [*Rooftop runoff*](#Rooftop) not used inside a building.
	4. [*Stormwater*](#Stormwater)not used inside a building.
	5. [*Reclaimed water*](#ReclaimedWater) facilities permitted or eligible for permitting under [chapter 173-219 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=173-219).

New Section

# WAC 246-275-110 Relationship to other applicable regulations.

1. **Local permits.** Purveyors shall obtain all applicable permits from local *authorities having jurisdiction*.
2. **Other regulations.** *Persons* designing, constructing, altering, repairing, or operating and maintaining an *ONWS* shall comply with all applicable local ordinances and codes, federal and state statutes, rules, and regulations including, but not limited to, this chapter, [chapter 90.46](https://app.leg.wa.gov/RCW/default.aspx?cite=90.46) and [19.27 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=19.27), and [chapter 51-56 WAC](https://apps.leg.wa.gov/wac/default.aspx?cite=51-56).

New section

# WAC 246-275-115 Definitions, abbreviations, and acronyms.

The definitions, abbreviations and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

1. “Air conditioning condensate (AC condensate)” means water extracted from atmospheric water vapor due to the operation of air conditioning or refrigeration.
2. “Accredited laboratory” means an environmental laboratory accredited under chapter 173-50 WAC and operating within its scope of accreditation.
3. “***ANSI***” means American National Standards Institute.
4. “***Approved*** air gap” as defined in chapter 246-290 WAC.
5. “Annual report” means a *department*-supplied form summarizing the annual operational conditions and service population of an on-site nonpotable water system.
6. “Authority having jurisdiction” means local, state, or federal entities having regulatory authority over a specific aspect of the ONWS project.
7. “Blackwater” means water-carried domestic human waste, including from toilets or urinals, including liquid effluent from kitchen sinks or dishwashers.
8. “BOD” means biochemical oxygen demand, typically expressed in mg/L.
9. “***Commercial building***” means a structure with a single occupancy classification and constructed under [RCW 19.27.031](https://app.leg.wa.gov/rcw/default.aspx?cite=19.27.031)(1)(a), as implemented by [chapter 51-50 WAC](https://app.leg.wa.gov/WAC/default.aspx?cite=51-50) or local ordinance.
10. “Conditional startup mode” means a period after the construction of the ONWS during which the treatment and distribution system’s operations and performance are monitored and evaluated to validate design and performance assumptions.
11. “Continuous monitoring” means ongoing confirmation of system performance with the use of sensors, analyzers, meters, and other instrumentation, no less than once every 15 minutes for the continuous observation of selected parameters, including *surrogate parameters* correlated with pathogen *log reduction targets*.
12. “CT” means the disinfectant residual concentration multiplied by contact time.
13. “Data and monitoring report (DMR)” means a document containing the operation and water quality results of an ONWS permitted under this chapter.
14. “Department” means the Washington state department of health or *health officer* as identified in a *joint plan of responsibility* under [WAC 246-275-135(3)](#_WAC_246-275-030_135).
15. “Department of health” means the Washington state department of health.
16. “Disinfection” means a physical or chemical process, including, but not limited to ultraviolet irradiation, ozonation, and chlorination used for the inactivation of pathogenic microorganisms.
17. “District-scale project” means a single project at the time of design consisting of two or more commercial, multifamily residential, or *mixed-use buildings* on one or more parcels near the point of treatment, generation, or use and sharing an ONWS.
18. “Engineering report” means a technical document prepared under the direction, and bears the seal, date, and signature of a professional engineer, sent by *purveyor* to the *department* describing the ONWS as required under [WAC 246-275-210](#_WAC_246-275-120_210).
19. “Facility inventory” means a *department*-supplied form summarizing the characteristics of an ONWS.
20. “First flush diverter” means a device operated by a mechanical float valve or other type of automatic control which redirects a quantity of roof runoff or *stormwater* collected from a surface following the onset of a rain event.
21. “Foundation drainage” means shallow groundwater collected from the drainage around building foundations or sumps. Foundation drainage does not include nonpotable groundwater extracted for a beneficial use.
22. “Graywater” means liquid effluent collected from non-blackwater sources, such as bathroom sinks, showers, bathtubs, clothes washers, and laundry sinks. Does not include flow from a toilets or urinals, and does not include liquid effluent from kitchen sinks or dishwashers.
23. “Health officer” means the person holding this title for the city, county, city-county health *department* or district, or an authorized representative.
24. “HPC” means heterotrophic plate count.
25. “Implementation scale” means the size of the *ONWS* in terms of the number and type of buildings it serves.
26. “Industrial reuse water” means water used for industrial processing that has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses as defined in [RCW 90.46.010(9)](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46.010).
27. “Inadequately treated nonpotable water” means a *source water* put through all or part of the ONWS’s treatment process that does not satisfy the requirements of this chapter.
28. ***"Joint plan of responsibility (JPR)"*** means a written agreement between the department of health and a local health officer, or designee, as needed, to either partially or fully administer, enforce, and carryout the responsibilities under this chapter
29. “Legal agreement” means a written document defining the roles and responsibilities of each property owner or entity acting as a *purveyor* or user of an ONWS.
30. “Local health jurisdiction” means a county health department, city-county health department under chapter 70.05 RCW, or a health district under chapter 70.46 RCW.
31. “Log reduction” means the reduction in the concentration of infective pathogens or surrogate parameters through a treatment process expressed in log10 units. For example, a 1-*log reduction* equates to 90-percent removal, 2-*log reduction* to 99-percent removal, and 3-*log reduction* to 99.9-percent removal.
32. “Log reduction credit (LRC)” means the log10 reduction value approved by the *department* for a treatment technology based on the capability of the technology to remove or inactivate pathogens and proposed *surrogate parameter* for *continuous monitoring*.
33. “Log reduction target (LRT)” means the required degree of pathogen reduction needed to reduce an individual’s risk to 1 in 10,000 infections per year through exposure to *treated nonpotable water*.
34. “Major modification” means:
	1. Deviations from existing *source waters*, *treatment unit processes*, end uses, or implementation scales.
	2. Changes made to the existing capacity, design flow, or physical footprint of the ONWS.
35. “MBR” means membrane biological reactor.
36. “Mixed-use building” means a structure containing two or more occupancy classifications and constructed under [RCW 19.27.031](https://apps.leg.wa.gov/rcw/default.aspx?cite=19.27&full=true#19.27.031)(1)(a), as implemented by [chapter 51-50 WAC](https://app.leg.wa.gov/WAC/default.aspx?cite=51-50&full=true) or local ordinance.
37. “Multifamily residential building” means a common wall residential building consisting of four or fewer units, not exceeding two stories in height, less than five thousand square feet in area, and with a one-hour fire-resistive occupancy separation between units.
38. **“*NSF*”** means National Sanitation Foundation.
39. **“*NTU*”** means nephelometric turbidity unit.
40. **“*NWRI*”** means National Water Research Institute.
41. “On-site nonpotable water system (ONWS)” means the equipment, including the distribution, storage, and treatment components, necessary to collect and treat *source waters*, including *blackwater*, for *treated nonpotable water* end uses at a single building or in a *district-scale project*, near the point of treatment, generation, or use. “Nonpotable reuse systems” defined under [chapter 173-219 WAC](https://apps.leg.wa.gov/WAC/default.aspx?cite=173-219), “on-site systems” defined under [WAC 51-56-1500](https://apps.leg.wa.gov/wac/default.aspx?cite=51-56-1500), and “nonpotable rainwater catchment systems” defined under [WAC 51-56-1600](https://apps.leg.wa.gov/wac/default.aspx?cite=51-56-1600), are considered on-site nonpotable water systems.
42. “Operations and maintenance manual (O&M manual)” means a document providing comprehensive information including, but not limited to the ONWS’s design, legal status, operation, maintenance, performance, and repair.
43. “***Operating*** permit” means a legally enforceable written document designed to improve compliance by clarifying the compliance obligations of this chapter for each ONWS. Operating permits are issued by the *department* to the owner upon application and annually upon reapplication as required under [WAC 246-275-405](#_WAC_246-275-400_Operating).
44. “Person” means any individual, government agency, political subdivision of the state, public or private corporation, firm, company, mutual or cooperative association, institution, partnership, or other legal entity.
45. “Premises isolation” means a method of protecting a public water system by installation of approved *air gaps* or approved backflow prevention assemblies at or near the service connection to isolate the consumer’s water system from the *purveyor*’s distribution system.
46. “Professional engineer” means a *person* licensed in the state of Washington under [chapter 18.43 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=18.43) or exempt under [RCW 18.43.130(6)](https://app.leg.wa.gov/rcw/default.aspx?cite=18.43.130), and having specific expertise appropriate to ONWS design, operation, and maintenance.
47. “Public access” means the right of people in general to go into parts of buildings or on areas of land for purposes other than operations and maintenance of the ONWS.
48. “Purveyor” means a *person* owning, proposing to own, or operating an ONWS. *Purveyor* also means the authorized agents of these entities, including, but not limited to, a qualified operator in responsible charge.
49. “Qualified operator” means a suitably qualified individual or entity with routine duties that affect the treatment performance or water quality of the *treated nonpotable water*.
50. “Reclaimed water” means water derived in any part from wastewater with a domestic wastewater component that has been adequately and reliably treated, so that it can be used for beneficial purposes. Reclaimed water is not considered a wastewater.
51. “Record drawing” means a document created by an engineer from the collection of the original design plans, including changes made to the design or to the system, which reflects the actual constructed condition of the water system, also called as-build drawings.
52. “Responsible charge” means the ability, authority, and responsibility of a qualified operator to make decisions that directly impact:

(a) Water quality, water quantity, or public health protection of an ONWS; and

(b) Daily operational activities, process control, or system integrity of a treatment process or distribution system of an ONWS.

1. “Roof runoff” means precipitation from rain or snowmelt events collected directly from a rooftop not subject to frequent *public access*.
2. “Rooftop” means a part of a fixed structure above the ground with a primary purpose other than the collection of roof runoff for beneficial use.
3. “RPB**A**” means reduced pressure backflow assembly.
4. “RPDA” means reduced pressure detector assembly.
5. “Source water” means *blackwater*, *graywater*, *roof runoff*, *stormwater*, *foundation drainage*, *AC condensate*, or other untreated, nonpotable water approved by the *department* under [WAC 246-275-120](#_WAC_246-275-020_Allowed) that is captured for treatment and nonpotable end uses on-site or nearby.
6. “Spray irrigation” means a method of applying water for use by plants where the water emits from a fixture or device into the air before contacting the soil, ground, or plant surface.
7. “Stormwater” precipitation runoff from rain or snowmelt events that flows over land or impervious surfaces, for example streets and parking lots. Stormwater also includes precipitation from rain or snowmelt events collected directly from a *rooftop* subject to frequent *public access.*
8. “Subsurface irrigation” means a method of applying water for use by plants where the water is delivered beneath the soil surface.
9. “Surface non-spray irrigation” means a method of applying water for use by plants where the water is delivered directly at the ground plane via hardware such as a drip emitters or soaker hoses.
10. “Surrogate parameter” means a measurable physical or chemical parameter that can assess the performance of a treatment unit process in the control of a specific group or groups of pathogens or chemicals.
11. “Treated nonpotable water” means the water generated by the ONWS that meets the *log reduction targets* and water quality limits established in this chapter which make it suitable for approved nonpotable end uses. *Treated nonpotable water* is not intended nor is it approved for drinking or other potable uses.
12. “Treatment process” means a combination of *treatment unit processes* and is also known as a treatment train.
13. “Treatment unit process” means a physical, chemical, or biological system intended to improve water quality. Examples include filtration, oxidation, adsorption, *disinfection*, and membrane separation.
14. “TSS” means total suspended solids.
15. “Unapproved legacy ONWS” means any ONWS, not yet permitted under this chapter, either in operation prior to January 1, 2022, and required to comply with [RCW 90.46.290](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46)(3)(a) and (b) and this chapter, or any ONWS designed, constructed, or permitted prior to the effective date of this chapter and required to comply with this chapter.
16. “User” means people who use or otherwise interact with fixtures, appliances, or landscaping using *treated nonpotable water* from an ONWS including, but not limited to property owners, residents, commercial tenants, and employees.
17. “Validation engineering report” means a technical document prepared under the direction, and bears the seal, date, and signature, of a professional engineer providing a detailed treatment technology evaluation study conducted by challenging the treatment technology over a wide range of operational conditions.

New Section

# WAC 246-275-120 Allowed source water.

The following source waters may be collected, stored, treated, used, and permitted under this chapter:

1. *Source waters* approved under the variance procedure described in [WAC 246-275-145(1)](#_WAC_246-275-060_Variances).
2. *Blackwater*.
3. *Graywater*.
4. *Stormwater*.
5. *Roof runoff*.
6. *Foundation drainage*.
7. *AC condensate*.

New Section

# WAC 246-275-125 Allowed end uses.

*Treated nonpotable water* may be permitted under this chapter for the following end uses:

* 1. End uses approved under the variance procedure described in [WAC 246-275-145(1).](#Variances)
	2. Toilet and urinal flushing.
	3. Priming drain traps.
	4. Clothes washing.
	5. *Subsurface irrigation*, *surface non-spray irrigation*, and *spray irrigation* of non-food plants.
	6. Dust control and street cleaning.

New Section

# WAC 246-275-130 Allowed implementation scales.

*ONWS* may be designed, constructed, and permitted and its treated nonpotable water may be used under this chapter at the following implementation scales:

1. *Implementation scales* permitted under the variance procedures described in [WAC 246-275-145(1)](#Variances).
2. *Multifamily residential building*.
3. *Commercial building*.
4. *Mixed-use building*.
5. *District-scale project*.

New Section

# WAC 246-275-135 General administration.

1. The department of health shall administer, enforce, and carryout the responsibilities under this chapter.
2. The department of health may establish joint plans of responsibility (JPR) with a local health officer, or designee, to either partially or fully administer, enforce, and carryout the responsibilities under this chapter. A JPR must:
	1. List the roles and responsibilities of each jurisdiction and agency necessary to fulfill the purpose of this chapter, including but not limited to, the required number and type of full-time equivalent (FTE) positions to administer, enforce, and carryout the responsibilities under this chapter.
	2. Specifically designate types or categories of ONWS for which the department of health and a local health officer have primary responsibility.
	3. Provide for an agreed-to level of ONWS oversight that fulfill the roles and responsibilities necessary to administer, enforce, and carryout the responsibilities under this chapter.
	4. Be signed by the secretary of health, or designee, and the health officer, or designee.
	5. Be reviewed at least once every five years and updated as needed.
3. **Shared services**. If allowed in a JPR established under subsection (1) of this section and in accordance with RCW 39.34.030, a health officer or designee may establish joint or cooperative action agreements with other health officers, or designee, to either partially or fully administer, enforce, and carryout the responsibilities under this chapter. The agreement must include, but is not limited to, the required number and type of FTE positions to administer, enforce, and carryout the responsibilities under this chapter.
4. **Local engineering review**. For those ONWS where the health officer has assumed primary responsibility under subsection (2) or (3) of this section, the health officer, or designee, may review and approve feasibility studies, *engineering reports*, and construction documents in accordance with this chapter.
5. **Forms**. The *department of health* may provide forms to administer this chapter. Such forms may be altered by the health officer or designee as necessary to, without limitation, request or require additional information, and provide *local health jurisdiction* contact information.
6. **Statewide ONWS data collection**. *Local health jurisdictions* implementing all or part of this chapter shall provide ONWS information and data annually to the *department of health* on a form provided for by the department of health.

New Section

# WAC 246-275-140 Engineering qualifications.

All work required to be prepared under the direction of a professional engineer, including, but not limited to, feasibility studies*, engineering reports*, *validation engineering reports*, construction documents, and construction completion reports must be prepared under the direction of a professional engineer and bear the seal, date, and signature of this professional engineer. The professional engineer shall:

1. **License.** Be licensed in the state of Washington under [chapter 18.43 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=18.43) or engaged within the state in the practice of the profession of engineering for the United States government pursuant to RCW [18.43.130(6)](https://app.leg.wa.gov/rcw/default.aspx?cite=18.43.130) as officers or employees.
2. **Experience.** Have expertise commensurate with the complexity of the design, operation, and maintenance of the *ONWS*.

New Section

# WAC 246-275-145 Variances, waivers, and extensions.

1. **Variances.** *Purveyors* may apply for a variance from certain requirements of this chapter. Variances are granted in the sole discretion of the *department*. Applications must be consistent with the purpose of this chapter and submitted in writing to the *department*. Variances may be granted for:
	1. **Water source and use**. Additional water sources and end uses under [WAC 246-275-120](#_WAC_246-275-020_Allowed) and [246-275-125](#_WAC_246-275-022_125) may be approved and permitted.
		1. *Purveyor*s shall provide analogous system performance data, appropriate water quality criteria, and ongoing monitoring results to demonstrate the expected water quality data for *source waters*, treatment, and end uses are consistent with the purpose of this chapter.
		2. End uses inconsistent with the purpose of this chapter include drinking, food preparation, cooking, bathing, showering, handwashing, and bidets.
	2. **Implementation scale**. Additional implementation scales under [WAC 246-275-130](#_WAC_246-275-130_Allowed) may be approved and permitted provided:
		1. The proposed implementation scale is consistent with the purpose of this chapter.
		2. The *purveyor* provides a copy of the feasibility study required under [WAC 246-275-205](#_WAC_246-275-110_205) to the department of ecology to evaluate the need for a water right impairment review under RCW 90.46.290(2)(i).
		3. The *purveyor* provides other relevant documents requested by the *department* or the department of ecology.
		4. The *engineering report* under [WAC 246-275-210](#_WAC_246-275-120_210) satisfies all relevant requirements from the *department* and, if applicable, department of ecology requirements to mitigate, compensate, or otherwise address a water right impairment.
	3. **Sampling and reporting**. Alternative sampling requirements and reporting frequencies may be approved and permitted if a *purveyor* demonstrates exceptional circumstances causing practical difficulties or unnecessary hardship.
2. **Waiver of compliance.** As provided under [RCW 90.46.290](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46.290)**,** a permitting local jurisdiction, including the applicable *local health jurisdiction*, county, city, or town, may grant a waiver of compliance to the risk-based water quality or construction standards of this chapter to an *ONWS* in operation before January 1, 2022, unless otherwise provided for in a JPR. If a waiver of compliance is granted, written notice of the decision must be sent to the owner, the local permitting agency or health jurisdiction, and the department of health.
	1. **Application.** Owners of an ONWS in operation prior to January 1, 2022, may apply to the for a waiver of compliance with the risk-based water quality and construction standards if compliance requiring engineering, repair, or replacement is shown to be cost prohibitive. The application must:
		1. Identify the specific risk-based water quality or construction standard for which the waiver is sought.
		2. Identify the cost prohibitive engineering, repair, or replacement necessary to achieve compliance with the standards under (a)(i) of this subsection.
		3. State no *major modifications* have been madeto the ONWS after the effective date of this chapter.
		4. Supply any additional information requested by the permitting local jurisdiction including, but not limited to, record drawings and a description of all the modifications needed to comply with this chapter.
	2. **Duration**. Waivers may not be greater than a three-year term. Upon expiration, purveyors shall comply with the risk-based water quality and construction standards of this chapter or reapply for a waiver of compliance under (c) of this subsection.
	3. **Reapplication**. If necessary and allowable under (a) of this subsection, *purveyors* may submit successive applications for a waiver of compliance provided the requirements under this subsection continue to be met, including *user* notification under subsection (4) of this section.
3. **Extension of compliance.** P*urveyors* operating an *ONWS* may apply to the *department* for an extension of time to comply with requirements of this chapter.
	1. The application must be in writing, provide compelling cause for an extension to comply and state a reasonable compliance schedule.
	2. The *department* may issue purveyors an extension for specific requirements of this chapter for a reasonable period provided there is compelling cause.
	3. Supply any additional information requested by the department including, but not limited to, record drawings and a description of all the modifications needed to comply with this chapter.
4. ***User* notification.** *Purveyors* granted a waiver of compliance under subsection (2) of this section or an extension of compliance under subsection (3) of this section shall deliver annual, dated notice to all *users*. The notice must identify the requirements for which the ONWS has received the:
	1. Waiver of compliance; costs associated with coming into compliance; expiration date of the waiver.
	2. Extension of compliance; compelling cause for the extension; anticipated timeline for coming into compliance.

New Section

# WAC 246-275-150 Inspection.

**Site and document access.** Owners, *purveyors,* and *users* shall allow the *department* to enter and inspect any ONWS governed by this chapter.

1. All properties served by an ONWS, including all properties that provide *source waters* or are served *treated nonpotable water*, are subject to inspection.
2. The *department* may conduct an inspection without advance notice.
3. The *department* shall conduct inspections during normal business hours or during construction.
4. Owners and *purveyors* shall make all required documentation available for inspection and provide copies on request.

[Part 2 Planning, Review, Approval, and Permitting Process](https://youtu.be/OGtFzL_3tHQ%22%20%5Co%20%22Link%20to%20YouTube%20video%20of%20Part%202%20overview)

New section

# WAC 246-275-200 New systems and major modifications to approved ONWS.

1. **General process.** Owners and purveyorsproposing a new *ONWS* or *major modifications* to an approved ONWS shall, in general, follow the sequence provided in this section unless the department or the sequence in a JPR states a different order is necessary to satisfy the requirements of this chapter.
2. **Before construction.** Before construction, *purveyors* shall submit to the department for review and approval the following:
	1. Feasibility study under [WAC 246-275-205](#_WAC_246-275-110_Feasibility).
	2. Engineering report under [WAC 246-175-210](#_WAC_246-275-120_210).
	3. Construction documents under [WAC 246-275-210](#_WAC_246-275-120_210)(5).
	4. All applicable permits issued by local *authorities having jurisdiction*, including, but not limited to all construction and plumbing permits.
3. **During construction.** During construction, *purveyors* shall make the site available for inspection by the *department* or local *authority having jurisdiction*, as required under [WAC 246-275-150](#_WAC_246-275-070_160).
4. **After construction.** After construction, *purveyors* shall send to the department:
	1. A construction completion report pursuant to [WAC 246-275-215](#_WAC_246-275-140_Plan).
	2. *Record drawings* if the *ONWS* as constructed differs in any way from the approved design under [WAC 246-275-215](#_WAC_246-275-140_Plan).
5. **Before entering conditional startup mode.** P*urveyors* shall:
	1. Test, in the presence of the *authority having jurisdiction*, to confirm that no cross-connections exist under [WAC 246-275-400(1)](#_WAC_246-275-360_400).
	2. Request and receive a notice to proceed to conditional startup mode under [WAC 246-275-400(3)](#_WAC_246-275-360_400).
6. **During conditional startup mode.** While operating in *conditional startup mode*, p*urveyors* shall:
	1. Operate, monitor, and report pursuant to the *conditional startup mode* requirements of this chapter, including [WAC 246-275-400](#_WAC_246-275-360_400) and [246-275-500](#_WAC_246-275-500_Monitoring).
	2. Submit the required *validation engineering reports* to the *department* for review and approval under [WAC 246-275-305](#_WAC_246-275-305_Log)(2).
7. **Completing conditional startup mode.** To complete the *conditional startup mode* performance period, *purveyors* shall comply with the requirements under [WAC 246-275-400](#_WAC_246-275-360_400), including, but not limited to the following submittals to the department for review and approval:
	1. A *conditional startup mode* final report.
	2. O&M manual.
8. **Applying for an operating permit.** *Owners* shall, after the *conditional startup mode* performance period is complete:
	1. **S**ubmit an *operating permit* application under [WAC 246-275-405](#_WAC_246-275-400_Operating) and the documentation required under [WAC 246-275-405(2)(a)-(e)](#_WAC_246-275-400_Operating) to the department.
	2. Pay applicable fees under [WAC 246-275-990](#_WAC_246-275-990_800) to the department.
9. **During final use mode.** P*urveyors* shall:
	1. Operate, maintain, monitor, keep records, and report on the *ONWS* pursuant to the following:
		1. Final use mode requirements in this chapter.
		2. Approved O&M manual.
		3. Operating permit issued by the department.
10. **Annual permit renewal and fees.** Owners shallrenew the operating permit annually under [WAC 246-275-405](#_WAC_246-275-400_Operating) and pay applicable fees under [WAC 246-275-990](#_WAC_246-275-990_800).

New section

# WAC 246-275-205 Feasibility study.

*Purveyors* may request a pre-project meeting with the *department* to discuss the scope of the project and the feasibility study required in this section.

1. Purveyors shall submit a feasibility study to the *department* for review and approval before construction or installation of any ONWS component.
2. The feasibility study must include, but is not limited to a description of the proposed [new ONWS](#NewONWS) project including:
	1. Legal owner.
	2. Project site.
	3. The expected operator qualifications, skills, and experience needed to operate and maintain the *ONWS* in compliance with this chapter.
	4. Proposed *source waters*.
	5. Proposed treatment unit processes.
	6. Proposed end uses.
	7. Consideration of financial and staffing requirements for the proposed ONWS.
	8. Identification of all local permits and requirements affecting the project.
	9. Other data and information deemed necessary by the department to show the feasibility of the proposed project.

New Section

# WAC 246-275-210 Engineering report and construction document submittal.

1. **Engineering report.** Before the *department* will review construction documents, purveyors shall submit engineering reports consistent with the standards in Part 3 of this chapter, compatible with component replacement, long-term operation and maintenance, and potential abandonment of the ONWS.
2. **Engineering report submittal and review**. ONWS engineering reports are required for all *unapproved legacy ONWS*, new ONWS, or *major modifications* to any ONWS. Engineering reports required under this section will not be reviewed unless fees have been paid to the *department* as described in [WAC 246-275-990.](#_WAC_246-275-990_800)
3. **Engineering report contents.** All ONWS engineering reports must specify necessary operating conditions and identify *surrogate parameters* requiring *continuous monitoring*. Engineering reports must show required *log reduction credits* are achieved by treatment processes and are consistent with [WAC 246-275-305](#_WAC_246-275-305_Log), [Table 2](#TBL2). The engineering report must include, but is not limited to:
	1. General overview including facility information and responsible party.
	2. Basis of design for ONWS, including water flow rates and water quality.
	3. Treatment process design criteria, including:
		1. Process flow diagram.
		2. Consideration for dual or parallel treatment processes to help prevent total system shutdown and to allow continued treatment of source water during partial occupancy periods or when environmental or other limiting factors would impact treatment performance.
		3. Pathogen *log reduction credit* under [WAC 246-275-305](#_WAC_246-275-305_Log).
		4. Treatment process flow summary.
		5. Treatment unit process design criteria.
		6. Secondary *disinfection*.
		7. Chemical use and handling.
		8. Solids handling.
	4. Operations and maintenance considerations.
		1. Wastewater source control for biological treatment systems including prevention of hazardous waste disposal that kill treatment microbes.
		2. Treatment prescreening to capture and remove hair, ‘flushable’ wipes, and similar non-degradable contaminants. Incorporation of daily, easy, and safe access for operators to service prescreens.
		3. Consideration for treatment equipment repair and replacement access including full access to storage tank hatches.
		4. Workspace odor control and air quality safety.
	5. Monitoring and alarms.
		1. System control strategy.
		2. Online monitoring.
		3. Grab sampling.
		4. Alarms and diversions.
	6. Makeup water supply and cross-connection control under [WAC 246-275-415](#_WAC_246-275-415_Cross-connection).
	7. Public exposure and impacts.
	8. Detailed *conditional startup mode* testing and monitoring plan demonstrating the ONWS will function as intended, reliably and consistently achieve the LRTs and water quality limits established in this chapter, and include:
		1. Hydraulic load during the test.
		2. Location and schedule for all sampling or measurements.
		3. Methods used to analyze samples or make measurements.
		4. *Persons* responsible for conducting the test and processing samples.
		5. Indicators of steady-state operation.
		6. Method used to verify required pathogen *log reduction targets* are achieved.
		7. Test plan for the monitoring, alarm, alarm response, and control systems.
		8. If required, a field verification study for *log reduction targets*, including the surrogate parameters for field verification to determine log reduction performance and a process for accounting for variability in the *ONWS* during field verification. Field verification must consist of at least three test runs during which either the water quality, influent flow rate to the treatment process, or both, is the most challenging for treatment process efficacy or for the subsequent treatment unit process.
		9. Consideration of partial occupancy periods and environmental or other limitations that will impact the quantity of available source water or otherwise impact the timing and the duration of the performance period.
	9. Environmental documentation, including, but not limited to a final state environmental impact statement, a determination of nonsignificance, or a mitigated determination of nonsignificance under [chapter 43.21C RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=43.21c&full=true) and [chapter 197-11 WAC](https://apps.leg.wa.gov/wac/default.aspx?cite=197-11) or water rights impairment documentation if required under [WAC 246-275-145](#_WAC_246-275-060_Variances)(1)(b)(iv).
	10. Other data and information deemed necessary to show a complete engineering report.
4. ***Unapproved legacy ONWS*.** In addition to the requirements of subsection (3) of this section, the engineering report for *unapproved legacy ONWS* must describe the existing facilities and all modifications needed to comply with this chapter.
5. **Construction documents submittal.** *Purveyors* of ONWS shall submit construction documents for review and approval.
	1. **Unapproved legacy ONWS**. Before the department will review construction documents, the *engineering report* requirements in subsections (3) and (4) of this section must be met. Purveyors shall submit *record drawings* and other construction documents to the *department* for review and written approval before beginning ONWS major modifications, or requesting a notice to proceed to conditional startup mode under [WAC 246-275-400](#_WAC_246-275-360_400)(3).
	2. **New ONWS and major modifications**. Before the department will review construction documents for new ONWS or ONWS major modifications, the feasibility study and *engineering report* requirements in this chapter must be met. *Purveyors* of newONWS or ONWS major modifications shall submit construction documents to the *department* and get written approval before construction of any new ONWS or major modifications.
6. **Construction documents contents.** All ONWS construction documents must show how the project was or will be modified or constructed to satisfy the requirements and conditions in the approved engineering report. Construction documents must be consistent with the design requirements in Part 3 of this chapter and must include, but are not limited to:
	1. **Drawings.** Include detailed drawings of each project part.
	2. **Material specifications.** List detailed material specifications for each project part.
	3. **Construction specifications.** List detailed construction specifications and assembly techniques for conducting the project.
	4. **Testing**. Identify testing criteria and procedures for each applicable portion of the project.
	5. **Disinfection**. *Disinfection* procedures that conform with American Water Works Association (AWWA) standards or other standards acceptable to the *department* must be listed.
	6. **Inspection**. Identify provisions for inspection of the installation of each project component.
7. **Construction reporting**. Provide construction reports as required under [WAC 246-275-140](#_WAC_246-275-050_Engineering) and [246-275-215](#_WAC_246-275-140_Plan).
8. **Change orders.** *Purveyors* shall submit all *major modifications* to the *department* for review and approval.

 New Section

# WAC 246-275-215 Construction completion report.

P*urveyors* shall submit a construction completion report and *record drawings* to the *department* after construction is completed and these must bear the seal, date, and signature of a professional engineer stating the ONWS was constructed in accordance with the approved *engineering report* and construction documents. P*urveyors* shall submit a *facility inventory* with the construction completion report.

[Part 3 Design, Log reduction targets and Credits, and Water Quality limits](https://youtu.be/b7i63ViuUMk%22%20%5Co%20%22Link%20to%20YouTube%20video%20of%20Part%203%20overview)

new section

# WAC 246-275-300 Pathogen log reduction targets (LRT)

1. **Design.** *ONWS* must have a treatment process design to achieve the *log reduction targets* in [Table 1](#TBL1) of this section. In case of a conflict between this chapter and the department of ecology’s *Stormwater Management Manual for Eastern or Western Washington*, the requirements more protective of public health and the environment must be required.
2. **Diversion.** *Inadequately treated nonpotable water* not meeting *log reduction targets* in [Table 1](#TBL1) of this section must divert to sanitary or storm sewer as described under [WAC 246-275-315(3)](#DivertOver315).

# Table 1: Pathogen Log10 Reduction Targets (LRT)

|  |  |  |  |
| --- | --- | --- | --- |
| **Source Waters** | **Enteric Virus** | **Parasitic Protozoa** | **Bacteria** |
| *Roof runoff* | N/A | 1.5 log10 | 3.5 log10 |
| *Stormwater* | 3.5 log10 | 3.5 log10 | 3.0 log10 |
| *Foundation drainage* | 3.5 log10 | 3.5 log10 | 3.0 log10 |
| *AC condensate* | N/A | N/A | 3.0 log10 |
| *Graywater* | 6.0 log10 | 4.5 log10 | 3.5 log10 |
| *Blackwater* | 8.5 log10 | 7.0 log10 | 6.0 log10 |
| S*ource waters* granted a variance under [WAC 246-275-145](#_WAC_246-275-060_Variances)(1) and permitted under [WAC 246-275-120](#_WAC_246-275-020_Allowed)(1). | As reasonably determined by the *department* consistent with data available pursuant to [WAC 246-275-145](#_WAC_246-275-060_Variances)(1)(a) and documented in the approved *engineering report.* |

new section

# WAC 246-275-305 Log reduction credits.

1. **LRC assignment.** *Log reduction credits (LRC)* are assigned by the *department* based on the ability of each treatment unit process to achieve an assigned or validated *log reduction credit*. [Table 2](#TBL2) of this section summarizes the *log reduction credits* assigned for each treatment unit process and includes examples of required supporting information and *surrogate parameters*.
2. **Alternate treatment unit process LRC validation.** Other treatment unit processes not included in [Table 2](#TBL2) of this section may receive *log reduction credit* if verifiable evidence is provided in an approved *validation engineering report*. The *validation engineering report* must characterize and quantify ONWS treatment performance under a specified set of conditions, include evidence the treatment unit process can reliably and consistently achieve a specific *log reduction target*, and provide information on the required operating conditions and *surrogate parameters* that require *continuous monitoring*.
3. **Site-specific LRC validation.** Projects may seek higher *log reduction credit* with site-specific validation, surrogate parameters, or other approved methods. The treatment unit processes listed in [Table 2](#TBL2) of this section are a few potential options for treatment unit processes that may be considered.
4. **Membrane biological reactor.** Membrane Biological Reactor (*MBR*) operating envelope must be fully defined in the *engineering report*. The LRCs listed for *MBR* in [Table 2](#TBL2) of this section are based on compliance with the Tier 1 operating envelope defined in the *National Validation Guidelines for Water Recycling: Membrane Bioreactors,* Australian Water Recycling Center of Excellence (AWRCE), Brisbane, Queensland (November 2015).
5. **Ultraviolet (UV).** UV log *reduction credits* are reactor-specific and dose dependent. UV reactors validated under NSF/ANSI 55 Class A standard are acceptable. A professional engineer must prepare all other UV validation reports. The UV validation report must document results. Validation testing must be based on one of the following:
	1. United States Environmental Protection Agency (US EPA) UV Disinfection Guidance Manual (US EPA 2006).
	2. NWRI UV Disinfection: Guidelines for Drinking Water and Water Reuse, third edition (NWRI 2012).
	3. NSF/ANSI 55 Standard for UV Water Treatment Systems.
	4. DVGW W294 (Deutsche Vereinigung des Gas und Wasserfaches).
	5. ÖNORM M5873-1 or ÖNORM M5873-2 protocol (Österreichisches Normungsinstitut -Austrian Standards Institute).
	6. A protocol acceptable to the *department*.
6. **Ozone.** Bacteria credit may be obtained for ozone according to the Tier 1 framework in the AWRCE Ozone WaterVal Validation protocol.

# Table 2: Treatment Unit Process Log10 Reduction Credits

| **Treatment Unit Process** | **Allowable Log10 Reduction Credits** | **Treatment-specific Information to include in Engineering Report** | **Examples of Continuous Monitoring Surrogate Parameters** |
| --- | --- | --- | --- |
| **Virus** | **Protozoa** | **Bacteria** |  |  |
| Microfiltration or ultrafiltration | 0.0 log10 | 4.0 log10 | Case-by-case | Description and calculation of how the system defines an acceptable pressure decay test value per the US EPA's Membrane Filtration Guidance Manual (US EPA 815-R-06-009). | • Daily pressure decay test.• Filtered water turbidity.• Daily pressure differential. |
| MBR | 1.5 log10 | 2.0 log10 | 4.0 log10 | * Operation with the Tier 1 operating envelope.
* Nominal pore sizes of 0.04-0.10 μm.
 | Filtered water turbidity. |
| Reverse osmosis | 2.0 log10 | 2.0 log10 | 2.0 log10 | * Manufacturer's information indicating ability to reject sodium chloride and description.
* Rationale for surrogate parameter used to calculate log removal credits.
 | • Input and output total organic carbon.• Input and output electrical conductivity. |
| Surrogate parameter dependent |  |  |
| UV light disinfection | 6.0 log10 | 6.0 log10 | 6.0 log10 | * UV reactor’s validation documentation.
* Minimum reactor dose (mJ/cm2) and expected LRT for the validated dose.
 | • UV intensity.• UV transmittance.• Flow rate. |
| Dose dependent |  |  |
| Chlorine disinfection | 4.0 log10 | Case-by-case  | Case-by-case | * LRT credit supporting documentation.
* Specifics on how concentration and contact time will be determined.
 | • Free chlorine residual.• Flow rate. |
| CT dependent |  |  |
| Ozone disinfection | 4.0 log10 | 3.0 log10 | 4.0 log10 | Specifics on how concentration and contact time will be determined. | • Ozone residual.• Flow rate. |
| CT dependent |  |  |

New section

# WAC 246-275-310 Water quality limits.

*ONWS* must have a treatment process design to continuously achieve the water quality limits in [Table 3](#TBL3) of this section and the diversion requirements in [WAC 246-275-300](#_WAC_246-275-300_Pathogen)(2) and WAC 246-275-315(3).

# Table 3: Water Quality Limits

|  |  |  |
| --- | --- | --- |
| **Parameter** | **Limit** | **Immediate Diversion** |
| *Log*10 *reduction targets* (LRT) | See [WAC 246-275-300](#_WAC_246-275-300_Pathogen) [Table 1](#TBL1) | Yes |
| Free Chlorine Residual for secondary *disinfection* minimum, when required by [WAC 246-275-315(7)](#_WAC_246-275-315_Design) | 0.5 mg/L (at entry to distribution)0.2 mg/L (at end of distribution) | No |
| pH | 6.0 – 9.0 | No |
| Turbidity (95% maximum) | 0.2 NTU | No |
| Turbidity (absolute maximum) | 0.5 NTU | Yes |
| Biological Oxygen Demand (*BOD*) | 25 mg/L | No |
| Total Suspended Solids (*TSS*) | 30 mg/L | No |

New section

# WAC 246-275-315 Design requirements for all ONWS.

All *ONWS* must:

1. **Human contact**. Be designed to avoid unintentional human contact.
2. **Automatic shutdown**. Be designed and equipped with features that result in a controlled and nonhazardous automatic shutdown of the treatment process in case of a treatment or physical malfunction or failure.
3. **Divert or overflow**. Include diversion and overflow connections to the sanitary or stormwater system, when appropriate, with an approved *air gap* or other approved backflow prevention assembly. *ONWS* that treat *blackwater* or graywater must divert to sanitary sewers. If permitted by the *authority having jurisdiction*, *ONWS* that do not treat blackwater or graywater may divert to stormwater systems. The ONWS must always be capable of diverting when:
	1. The required *log reduction targets* under [WAC 246-275-300](#_WAC_246-275-300_Pathogen), [Table 1](#TBL1) or applicable water quality limits in [WAC 246-275-310](#_WAC_246-275-310_Water), [Table 3](#TBL3) are not met.
	2. There is a *ONWS* malfunction or failure.
4. **Signage**. Include signage on all properties collecting, treating, receiving, or distributing water from an ONWS. Signage must be in a language that is understood by the population served, maintained in good condition, and free from damage or removal.
5. **Flow meters**. Be designed with and have:
	1. Appropriate flow meters to verify and control flow rates and contact times required to meet the LRTs.
	2. Totalizing flow meters to separately measure the volume of:
		1. Treated water for permitted end uses.
		2. Makeup water for permitted end uses.
6. **Water quality sample taps**. Have sample taps installed before and after each treatment unit process.
7. **Free chlorine residual for secondary disinfection**. Except for *ONWS* permitted solely for *subsurface irrigation* as an end use or when using makeup water, the ONWS must include a treatment unit process to achieve a free chlorine concentration in the *treated nonpotable water*. The free chlorine concentration must be a minimum of:
	1. 0.5 mg/L at the entry to the distribution system.
	2. 0.2 mg/L at a representative location at the end of the distribution system.
8. **Air quality**. Be designed and operated to control odors and comply with applicable local, state, and federal indoor air quality standards.
9. **Screens**. Screen all air vents for ONWS water tanks or collection tanks with a durable, non-corrosive, fine mesh screen.
10. **Seals**. Include seals for all gaps around pipes feeding the water tank with a durable, waterproof, nonporous material. A durable gasket with no gaps must be installed around the door openings to the tank.
11. **Cross-connection control**. Prevent cross-connections with potable and *reclaimed water* supplies.
12. ***Continuous monitoring***. Be designed to continuously monitor:
	1. LRT *surrogate parameters* at locations identified in the approved engineering report.
	2. Free chlorine residual at entry to the distribution system when a free chlorine residual is required under subsection (7) of this section. A reduced monitoring frequency may be allowable when justified in the approved engineering report under [WAC 246-275-210](#_WAC_246-275-120_210).
	3. pH at entry to distribution.
	4. Turbidity in filter output.
13. **Makeup water.** Excluding irrigation-only systems, *ONWS* must include a source of makeup water. Makeup water must be provided via an approved *air gap*. The makeup water source must be either:
	1. A public water system approved by the *department* under [chapters 246-290](https://app.leg.wa.gov/wac/default.aspx?cite=246-290) or [246-291 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=246-291).
	2. A *reclaimed water* facility permitted under [chapter 173-219 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=173-219) for the end uses supplied by the ONWS.

new section

# WAC 246-275-320 Design requirements based on source water.

ONWS must include design features specific to each approved *source water* as described in this section.

1. **Blackwater and graywater.** All *ONWS* treating *blackwater* or *graywater* must:
	1. Be designed to include at a minimum the following treatment unit processes:
		1. Biological treatment resulting in stabilized, non-putrescible nonpotable water that contains dissolved oxygen.
		2. Filtration.
	2. Be designed to properly vent storage tanks as required under [chapter 51-56 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=51-56).
2. ***Roof runoff* and *stormwater*.** ONWS treating *roof runoff* or *stormwater* must include a *first flush diverter* or debris excluder as required under [chapter 51-56 WAC](https://apps.leg.wa.gov/wac/default.aspx?cite=51-56).
3. **AC condensate.** ONWS treating *AC condensate* must address corrosivity of the *treated nonpotable water* on end use plumbing and fixtures.

new section

# WAC 246-275-325 Design requirements based on use. Irrigation.

ONWS supplying *treated nonpotable water* for irrigation must include design featuresso the*treated nonpotable water* does not:

1. Leave the approved irrigation area as spray or surface flow or runoff, including when soils are saturated.
2. Enter a dwelling or food handling facility.
3. Contact a drinking water fountain without a shielding device.

new section

# WAC 246-275-330 Design requirements based on implementation scale. District-scale.

ONWS collecting, treating, receiving, or distributing water, or a combination of these, for a district-scale project, must include lockable valves which can be activated to control the flow of water from any source originating from another property and lockable valves which can be activated to control the flow of water to any property.

[Part 4 Operations](https://youtu.be/Fk2dr0tDB6o%22%20%5Co%20%22Link%20to%20YouTube%20video%20overview%20of%20Part%204%20Operations)

new section

# WAC 246-275-400 Conditional startup mode operations.

1. **Cross-connection control.** Before conditionally operating the *ONWS*, cross-connection testing must confirm the *ONWS* is not cross-connected in any manner with the potable water system under [WAC 246-275-415](#_WAC_246-275-415_Cross-connection).
2. **Conditional startup mode.** All *ONWS* must operate in a *conditional startup mode* during which the system’s operation and performance must be verified in accordance with [WAC 246-275-210(3)(g)](#engDesCondStartup).
3. **Notice to proceed.** After satisfactory completion of subsection (1) of this section and upon request by the *purveyor*, the *department* shall issue a dated notice to proceed to *conditional startup mode*.
4. **Diversion required.** Prior to permitting, distribution, or use, during *conditional startup mode,* and consistently for a minimum of 30 days, all new ONWS must be diverted as described in [WAC 246-275-315(3)](#_WAC_246-275-220_300).
	1. All fixtures must be operated using makeup water until the LRTs in [WAC 246-275-300](#_WAC_246-275-300_Pathogen) [Table 1](#TBL1) and water quality limits in [WAC 246-275-310](#_WAC_246-275-310_Water) [Table 3](#TBL3) are met.
	2. The *department* may reduce the duration of the required *diversion* in this subsection for *unapproved legacy ONWS* on a case-by-case basis.
5. **Performance period.** Purveyors must meet the *conditional startup mode* requirements in this section within two years of the issuance of the notice to proceed to *conditional startup mode* unless a *department*-issued extension is obtained. *Conditional startup mode* must begin after construction or major *modification* is completed but before obtaining an *operating permit*.

(a) The ONWS must operate in *conditional startup mode* for 12 months.

(b) The *department* may reduce the duration of the required *conditional startup mode* performance period in this subsection for *unapproved legacy ONWS* on a case-by-case basis*.*

1. **Completing conditional startup mode.** Purveyors must submit a *conditional startup mode* final report to the *department* for review and approval at the end of the *conditional startup mode* performance period. The report:
	1. Must summarize the LRT and water quality compliance required under [WAC 246-275-300](#_WAC_246-275-300_Pathogen) [Table 1](#TBL1) and [WAC 246-275-310](#_WAC_246-275-310_Water) [Table 3](#TBL3).
	2. Must be signed and stamped by the project’s professional engineer under [WAC 246-275-140](#_WAC_246-275-050_Engineering).
	3. Must be submitted once *conditional startup mode* requirements approved under [WAC 246-275-210](#_WAC_246-275-120_210)(3)(g) are met. For new and unapproved legacy ONWS the report must be submitted along with the approved O&M manual.
	4. May not be approved if the *conditional startup mode* requirements are not met.
		1. If the conditional startup mode requirements are not met the purveyor shall submit to the department for review and approval the necessary changes to fully address LRT, water quality, and other performance deficiencies.
		2. Until the requirements of this section are met, an operating permit may not be sought or issued.
		3. The department may extend the duration of the required diversion, the conditional startup mode performance period, or both if necessary to fulfill the purpose of this section.

New section

# WAC 246-275-405 Operating permit.

1. **Operating permit required.** Except for *purveyors* authorized by the *department* to operate in *conditional startup mode*, the owner of ONWS shall obtain an *operating permit* to operate an ONWS. To remain valid, the purveyor shall continuously meet the permit terms and conditions.
2. **Permit application.** The *department* shall not issue an operating permit to operate ONWS until the owner has complied with the requirements of this chapter, including payment of fees and the submittal, review, and approval of the required documentation:
	1. **Evidence of a qualified operator.** A *department* provided affidavit of qualifications form signed by the *qualified operator* in responsible charge and the ONWS owner stating the operator’s expertise is commensurate for the complexity of the operation and maintenance of the permitted ONWS.
	2. **Facility inventory.** A department provided, current *facility inventory* signed by the qualified operator in responsible charge or the ONWS owner.
	3. **Annual report.** Except for a new ONWS, a completed, department provided *annual report* form from the previous permit cycle as required under [WAC 246-275-510](#_WAC_246-275-510_Annual).
	4. **Evidence of conditional startup mode performance.** For new and *unapproved legacy ONWS* and those having completed *major modifications*:
		1. For ONWS in the *conditional startup mode* performance period due to *major modifications* at the time of *operating permit* application, the notice to proceed to *conditional startup mode*.
		2. For new and unapproved ONWS having successfully completed a *conditional startup mode* performance period, an approved *conditional startup mode* final report under [WAC 246-275-400(6)](#_WAC_246-275-360_400) and *O&M manual* satisfying the requirements of [WAC 246-275-440](#_WAC_246-275-440_O&M).
	5. **User notification.** For ONWS granted a waiver of compliance or an extension of compliance under [WAC 246-275-145](#_WAC_246-275-060_Variances), a copy of the notice sent to all *users* satisfying the requirements of [WAC 246-275-145(4)](#_WAC_246-275-060_Variances) and dated within the previous 12 months.
3. **Permit terms and conditions.** The *operating permit* must identify terms and conditions determined to be necessary by the *department* for the protection of public health, the environment, and to implement this chapter. The permit must address, at a minimum:
	1. Site entry and access.
	2. Duty to provide information and cooperate with regulators.
	3. Reporting planned changes.
	4. Water quality limits, including, sample type, method, point of compliance.
	5. Limit the distribution and use of *treated nonpotable water* to those end uses and locations established in the operating permit.
	6. Prohibit the release or distribution of *inadequately treated nonpotable* water, including water quality limits that qualify *treated nonpotable water* for diversion or shutoff in case of ONWS malfunction or failure.
	7. Approved design capacity.
	8. Use-specific permit conditions may include specific conditions authorizing and controlling the storage, treatment, distribution, and permitted end uses of *treated nonpotable water* in accordance with this chapter and in a manner that protects public health and the environment.
	9. Cross-connection control.
	10. *Qualified operator* and operations and maintenance requirements.
	11. Monitoring, reporting, and recordkeeping.
4. **Permit renewal.** *Purveyors*, including *purveyors* with ONWS in *conditional startup mode* due to *major modifications*, shall renew the *ONWS* *operating permit* annually and pay the required fees. If the purveyor fails to renew the *operating permit* or pay the required fees, the *operating permit* is no longer valid, and the *purveyor* shall:
	1. Cease ONWS operations.
	2. Notify the *department.*

new section

# WAC 246-275-410 Qualified operator in responsible charge.

The owner shall directly employ or maintain a service contract with a *qualified operator* who will be in responsible charge of the daily and ongoing operations and maintenance of the ONWS prior to operating in conditional startup mode.

1. **Notification.** The owner shall notify the *department* in writing within thirty days of replacement of the qualified operator in responsible charge.
2. **Operator qualifications.** The operator in responsible charge must be duly qualified to conduct the operations, maintenance, and monitoring required to assure continuous compliance with the requirements of this chapter. To determine the qualifications, the qualified operator in responsible charge must have expertise commensurate with the complexity of the operation and maintenance of the ONWS. This may include, but is not limited to:
	1. For ONWS that use *blackwater* and *graywater* as a source water, any of the following:
		1. Relevant experience with each treatment unit process of the ONWS.
		2. A wastewater, *reclaimed water*, or on-site nonpotable reuse system certification issued by a U.S. state agency.
		3. National ONWS operator certification or certificate for *blackwater* and graywater systems.
	2. For ONWS that do not use *blackwater* or *graywater* as a source water, any of the following:
		1. Relevant experience with each treatment unit process of the ONWS.
		2. A wastewater, *reclaimed water*, or on-site nonpotable reuse system certification issued by a U.S. state agency.
		3. National ONWS operator certification or certificate.
3. **Duties of a qualified operator in responsible charge.**
	1. A *qualified operator* in responsible charge shall:
		1. Operate the ONWS with due care and diligence to protect public health and the environment in compliance with the ONWS operating permit, this chapter, and applicable local ordinances and codes, and state and federal laws, rules, and regulations.
		2. Perform only the duties consistent with the operator’s experience, skills, abilities, or level of certification.
		3. Inform the ownerif a required action or correction is inconsistent with the operator’s experience, skills, abilities, or level of certification.
	2. A qualified operator designated by the owner to be in responsible charge shall perform or manage the ONWS operational and maintenance activities in this chapter and according to acceptable public health practices and industry standards.
	3. A qualified operator in responsible charge or designee must be available on-site or able to be contacted by telephone or other electronic communication twenty-four hours per day and able to initiate appropriate action within 2 hours. Appropriate action may include, but is not limited to:
		1. Making necessary repairs or resolving problems.
		2. Directing staff or contractors to make necessary repairs or resolve problems.
	4. The duties of a qualified operator in responsible charge or designee include, but are not limited to:
		1. Conducting water quality monitoring, maintaining adequate records, and taking follow-up action, if necessary, to comply with local, state, and federal ONWS regulations.
		2. Implementing preventive maintenance programs, inspecting treatment, collection systems, distribution systems, and other ONWS components for malfunctions, maintaining adequate records, and making needed repairs.
		3. Analyzing, reviewing, and maintaining records of instrument readings and laboratory test results, determining the location and causes of any malfunctions, adjusting various treatment unit processes or other components.
		4. Implementing a cross-connection control program under [WAC 246-275-415](#_WAC_246-275-415_Cross-connection).
		5. Determining and implementing remedial actions in an emergency and, if applicable, following departmental directives.
		6. Cooperating during an inspection under [WAC 246-275-150](#_WAC_246-275-150_Inspection.).
		7. Providing required records and reports to the *department* or its representative upon request.
		8. Reporting system issues, non-functioning ONWS components, and any other condition that jeopardizes public health, the environment or operating permit compliance.
		9. Providing written notification to the *department* within thirty days of either:
			1. Starting operations of a ONWS.
			2. Ending operations of a ONWS in accordance with [WAC 246-275-430](#_WAC_246-275-450_Abandonment.).
	5. The duties of a qualified operator in responsible charge required in this chapter do not relieve the owner or *purveyor* of the responsibility to comply with the requirements of this chapter.

new section

# WAC 246-275-415 Cross-connection control and makeup water supply.

1. **Cross-connection control required.** All potable water connections to potable drinking water systems serving premises with *treated nonpotable water* must have either an:
	1. Approved *air gap* installed for *premises isolation*.
	2. Approved RPBA or RPDA installed for *premises isolation* in combination with an approved *air gap* at the nonpotable water storage tank.
2. **Cross-connection testing.** Cross-connection testing must be completed in accordance with [WAC 51-56-1500 and 51-56-1600](https://apps.leg.wa.gov/wac/default.aspx?cite=51-56).
3. **Makeup water requirements.** Excluding irrigation-only systems, ONWS must include a source of makeup water.
	1. Makeup water must be provided via an approved *air gap*.
	2. ONWS are not required to maintain a chlorine residual when temporarily operating with makeup water.

new section

# WAC 246-275-420 Operations and maintenance.

The *purveyor* shall operate and maintain *ONWS*, distribution systems, and other systems of control installed by the *purveyor* to achieve compliance with this chapter and the terms and conditions of the operating permit.

1. **Nuisance.** The treatment, collection, storage, or distribution of source waters, the diversion of *inadequately treated nonpotable water*, or the use of *treated nonpotable water* must not create a nuisance.
2. **Water quality.** *Treated nonpotable water* must continuously achieve the *log reduction targets* under [WAC 246-275-300](#_WAC_246-275-300_Pathogen), [Table 1](#TBL1) and meet water quality standards under [WAC 246-275-310](#_WAC_246-275-310_Water), [Table 3](#TBL3). *Inadequately treated nonpotable water* that does not meet *log reduction targets* must be diverted as specified in [WAC 246-275-315](#DivertOver315)(3).
3. **O&M manual**. *Purveyors* shall operate the system based on the site-specific *O&M manual* for the ONWS under [WAC 246-275-440](#_WAC_246-275-440_O&M).
4. **Periodic inspection.** The qualified operator shall conduct periodic inspections of all facilities to monitor and assure compliance with conditions of the *operating permit*, the *O&M manual*, [chapter 51-56 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=51-56), this chapter, and, for *district-scale projects*, the *legal agreement*.

new section

# WAC 246-275-425 Change of ownership.

Within 30 days of a change of ownership of an *ONWS*, the new owner must report the change to the *department* by submitting completed ONWS change of ownership, affidavit of qualification, and facility inventory forms.

new section

# WAC 246-275-430 Abandonment.

Purveyors shall have an abandonment plan in accordance with chapter 51-56 WAC included, reviewed, and approved as an element of the O&M manual under [WAC 246-275-440](#_WAC_246-275-440_O&M).

New Section

# WAC 246-275-435 Legal agreement.

P*urveyors* of a *district-scale project* shall enter an executed, enforceable, *legal agreement* defining the roles and responsibilities of each property owner or entity in relation to the maintenance and use of the system. The legal agreement shall require that only the purveyor and authorized qualified operators are allowed to alter or maintain the ONWS. The *purveyor* shall include the legal agreement in the *O&M manual* under [WAC 246-275-440](#_WAC_246-275-440_O&M).

New Section

# WAC 246-275-440 O&M manual.

1. **O&M manual requirements.** *Purveyors* shall develop and implement a site-specific O&M manual for the ONWS. The *O&M manual* must be:
	1. Submitted to the *department* for review and approval before beginning final use operations.
	2. Reviewed annually and updated as is appropriate.
	3. Kept onsite the premises in one or more locations specified in the *O&M manual*.
2. **Contents of the O&M manual.** *O&M manual* content and details must be consistent with the size, complexity, past performance, implementation scale, source waters, and end uses of the ONWS and include:
	1. **Physical system.** Detailed diagram of the entire system and the location of ONWS components, including, but not limited to:
		1. General facility information, including:
			1. Location of approved *air gaps*, other approved backflow prevention assemblies, flow meters, and sample ports.
			2. Exact locations where the *O&M manual* and copies will be kept.
		2. Makeup water source under [WAC 246-275-415](#_WAC_246-275-415_Cross-connection).
		3. Public access restrictions in place to minimize human contact with *treated nonpotable water*.
	2. **ONWS operations.** Instructions for operating and maintaining the system, including, but not limited to:
		1. ONWS operations, including treatment process operations, instruments and alarms, and any chemicals used.
		2. Equipment and instrument product manufacturer literature that specifically addresses product installation, recommendations, and maintenance.
		3. Cooling tower water management plan.
	3. **Water Quality.** Details on maintaining the required water quality as determined by the department, including, but not limited to:
		1. *Conditional startup mode* final report.
		2. Compliance monitoring plan including treatment system monitoring, pathogen reduction compliance, and water quality sampling.
		3. Provisions for monitoring and managing failure of treatment unit processes.
	4. **Deactivation.** Details on deactivating the system for maintenance, repair, or other purposes, including, at a minimum, an abandonment plan in compliance with [WAC 246-275-430.](#_WAC_246-275-450_Abandonment.)
	5. **Maintenance schedule.** Applicable testing, inspection, and maintenance frequencies for treatment and monitoring equipment, approved air gaps, and approved backflow prevention assemblies.
	6. **Contact information.**
		1. A method of contacting the manufacturers of ONWS components.
		2. Training and personnel, including names and contact information for key personnel, schedules, and qualified operator information.
	7. **System records.** Including, but not limited to:
		1. Current, signed *facility inventory*.
		2. *Operating permit*.
		3. *Annual reports* from the past five years.
		4. Current, signed affidavit of qualification on a form provided by the department.
		5. Manufacturer’s product manuals and instructions for equipment and instrument installation requirements and operations and maintenance recommendations.
		6. For ONWS that serve *district-scale projects*, the *legal agreement* under [WAC 246-275-435](#_WAC_246-275-435_Legal).
		7. For systems granted a waiver of compliance or extension of compliance under [WAC 246-275-145](#_WAC_246-275-060_Variances), a copy of the waiver and the most recent notice satisfying [WAC 246-275-145](#_WAC_246-275-060_Variances)(4).
3. **Additional required documentation.** The *department* may require additional information or changes to an O&M manual or its components as necessary to protect public health and the environment.

[Part 5 Monitoring, Reporting, Notification, and Recordkeeping](https://youtu.be/J-4MdjQ_i9Y%22%20%5Co%20%22Link%20to%20YouTube%20video%20overview%20of%20Part%205%20)

new section

# WAC 246-275-500 Monitoring and sampling.

1. **Parameters, locations, and frequencies**. *Purveyors* shall monitor water quality parameters at the locations and at the frequencies in [Table 4](#TBL4) of this section during the conditional startup mode performance period and in [Table](#TBL5) 5 of this section during final use mode.
2. **Quality assurance**.Sample collection, transportation, and analysis must meet quality assurance and quality control procedures of an *accredited laboratory*, including maintenance of required hold times and temperatures. The *purveyor* shall allow the *department* to be present during required water quality sample collections.
3. **Proper use of equipment**. Equipment and instruments used to comply with the treatment and monitoring requirements under this chapter must be calibrated, maintained, and operated consistent with manufacturer’s installation, operating and maintenance instructions and recommendations.
4. **Laboratory accreditation and standard methods**. All parameters must be analyzed by an *accredited laboratory* in accordance with an approved standard method, acceptable to the *department*, or through department approved continuous monitoring devices as detailed in the engineering report required under [WAC 246-275-210](#_WAC_246-275-120_210).
5. **Signature requirements**.Laboratory reports must be signed and dated by the laboratory director or a designee.

# Table 4: Conditional Startup Mode Monitoring Frequencies and Locations

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Parameter** | ***Roof runoff*, *stormwater*, *foundation drainage*, *AC condensate*** | ***Graywater*** | ***Blackwater*** | **Other** |
| **LRTs** | Continuously using *surrogate parameters* at locations identified in the approved engineering report (See [WAC 246-275-305](#_WAC_246-275-305_Log)). |
| **Secondary Free Chlorine Residual** | If required by [WAC 246-275-315(7)](#_WAC_246-275-220_300), at the entry of the distribution system either daily or continuously—as approved in engineering report, and weekly at a representative location at the end of the distribution system. |
| ***HPC*** | Two samples monthly for 12 months, one sample at entry to distribution and one sample at the end of distribution system. (Same location as secondary chlorine residual if [WAC 246‑275‑315(7)](#_WAC_246-275-220_300) requires a residual). | Two samples monthly for 12 months, one sample at entry to distribution and one sample at the end of distribution system. | As reasonably determined by the *department*. |
| **pH** | Continuously at entry to distribution. |
| **Turbidity – media or membrane filter** | Continuously in filter output. |
| **BOD and TSS** | N/A | Weekly at a location after treatment and prior to entry to distribution. | As reasonably determined by the *department*. |

# ****Table 5: Final Use Mode Monitoring Frequencies and Locations****

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Parameter** | ***Roof runoff*, *stormwater*, *foundation drainage*, *AC condensate*** | ***Graywater*** | ***Blackwater*** | **Other** |
| LRTs | Continuously using *surrogate parameters* at locations identified in the approved engineering report (See [WAC 246-275-305](#_WAC_246-275-305_Log)). |
| Secondary Disinfection - Free Chlorine Residual | If required by [WAC 246-275-315(7)](#_WAC_246-275-220_300), at the entry of the distribution system either daily or continuously—as approved in engineering report—and weekly at a representative location at the end of the distribution system. |
| *HPC* | Two samples monthly, one sample at entry to distribution and one sample at the end of distribution system. (Same location as secondary chlorine residual if [WAC 246-275-315(7)](#_WAC_246-275-220_300)). |
| pH | Continuously at entry to distribution. |
| Turbidity – media or membrane filter | Continuously in filter output. |
| *BOD* & *TSS* | N/A  | Monthly at a location after treatment and prior to entry to distribution. |

New section

# WAC 246-275-505 Routine water quality reporting.

1. **Conditional Startup Mode.** On or before the 10th day of each month during conditional startup, the *purveyor* shall report all required water quality laboratory results and *surrogate parameters* instrumentation summaries from the previous month. The data must be reported to the *department* on a signed *DMR* form provided by the department and include descriptions of any breakdowns, treatment upsets or disruptions, bypasses, odors, complaints, or other system operation anomalies.
2. **Final Use Mode**. During final use mode, *purveyors* shall report the following:
	1. Purveyors must submit an [annual report](#Annual) to the department under [WAC 246-275-510](#_WAC_246-275-510_Annual) in addition to notification requirements in [WAC 246-275-515](#_WAC_246-275-530_Malfunction).
	2. Purveyors who operate ONWS that use [blackwater](#Blackwater) as a source water shall submit a quarterly DMR to the department.

New Section

# WAC 246-275-510 Annual reporting.

P*urveyors* shall submit an *annual report* each calendar year to the *department* by a date specified by the department. The *annual report* form may be provided by the department and must contain, at a minimum:

1. **Compliance.** A description of compliance with this chapter and the terms and conditions established in the *operating permit*.
2. **Events.** A list of operational changes, spills, overflows, and unanticipated bypasses.
3. **Complaints.** A summary of complaints received from users and responses.
4. **Malfunctions.** A complete list of malfunctions requiring diversion, including:
	1. The date of each malfunction.
	2. A description of the malfunction.
	3. Actions taken to resolve the malfunction.
	4. Whether the malfunction has been resolved and the date.
5. **Water quality.** A water quality summary, including:
	1. Required *HPC*, BOD, and *TSS* sample results.
	2. Monthly maximum and minimum values from LRT surrogate parameters, free chlorine residual, pH, and turbidity monitoring.
	3. Number of days treatment operations were diverted.
	4. Monitoring results outside of applicable water quality limits in [WAC 246-275-310](#_WAC_246-275-310_Water) [Table 3](#TBL3) that did not require immediate diversion and how the treatment or monitoring inadequate performance was resolved.
	5. *HPC* results compared to *conditional startup mode* HPC results.
6. **Population.** Population served, including maximum:
	1. Number of occupied full-time domestic units.
	2. Daily employee population.
	3. Daily transient population.
7. **Volume.** Annual volume of:
	1. Potable water from the public water systems.
	2. *Treated nonpotable water* for approved end uses.
	3. Makeup water for approved end uses.
8. **Signatures.** Signatures of the qualified operator in responsible charge, the purveyor, and the ONWS owner if different from the purveyor.

New section

# WAC 246-275-515 Malfunction notification and reporting.

1. **Failure to divert.** The *purveyor* shall notify the *department* by email and phone within 24 hours when a source water or *inadequately treated nonpotable water* enters the *treated nonpotable water* distribution system, whether in conditional startup or final use mode.
2. **Departmental notification.** Initial notification to the department by email and phone must take place within 24 hours of when the *purveyor* becomes aware of the malfunction and include, as applicable:
	1. A description of the malfunction, including a location description.
	2. A description of any component involved in the malfunction.
	3. A description of the suspected causes.
	4. Planned diagnostic and mitigation steps.
	5. The estimated date and time when the malfunction or the effects of the malfunction start and stop or will be stopped.
3. **Other regulatory action.** The purveyor shall notify the department by email and phone within 10 business days of any corrective action, violation, penalty, or a failure to obtain required permits from an authority having jurisdiction other than the department.
4. **Public notification.** P*urveyors* shall notify all *users* by mail or email within 15 business days of notifying the department and upon request. All communication with *users* must use clear, concise, and simple language and be provided in languages commonly understood by the populations served to describe in an accurate and understandable manner the circumstances for which the *purveyor* is required to notify the *department* under (1) of this section. This includes but is not limited to subsection (2)(a) through (e) of this section.
5. **Reporting.** Malfunctions must be reported in *DMR* and *annual report* submittals.

New section

# WAC 246-275-520 Recordkeeping.

1. **Records.** The owner and *qualified operator* in responsible charge shall keep system records on-site, including, but not limited to:
	1. Current ONWS operating permit.
	2. Signed results delivered by the *accredited laboratory* and evidence of chain of custody.
	3. *DMR*.
	4. *Annual report*.
	5. Notifications as described in [WAC 246-275-515](#_WAC_246-275-530_Malfunction).
	6. A log of all calibrations, maintenance, and major changes in operation.
	7. A log of all system auto-generated alarms, causes, and corrective actions.
	8. Record drawings.
2. **Retention.** Purveyors must indefinitely retain engineering documents describing any part of the ONWS, including *engineering reports*, construction documents, *validation engineering reports*, and conditional startup mode final reports. Other ONWS records must be kept for at least five years.
3. **Inspection.** ONWS records must be made available for inspection by the *department*.

New Section

# WAC 246-275-525 User confidence.

1. **Signage.** Signage must be provided and maintained as required by [chapter 51-56 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=51-56).
2. **Notification.** Public notification of a malfunction must be provided under [WAC 246-275-515](#_WAC_246-275-515_Malfunction)(3).
3. **Complaints.** The *purveyor* shall maintain a complete list of user complaints and responses. The *purveyor* shall address *user* complaints in a timely manner and provide a written response to the user if user contact information is provided.
4. **Annual report.** P*urveyors* shall provide a copy of the most recent *annual report* satisfying [WAC 246-275-510](#_WAC_246-275-510_Annual) to any ONWS user upon request.

[Part 6 Compliance and Enforcement](https://youtu.be/-JUoNcC7WIg%22%20%5Co%20%22Link%20to%20YouTube%20video%20overview%20of%20Part%206%20and%20Part%209)

new section

# WAC 246-275-600 Modification, suspension, and revocation of permits.

1. **Operating permit required.** The generation, distribution, or use of *treated nonpotable water* from an ONWS without an *operating permit*, or in a manner that violates this chapter, the terms and conditions of an *operating permit*, order, or directive issued under this chapter, is prohibited.
2. **Immediate revocation or suspension allowed.** The *department* may immediately revoke or suspend *an operating permit* issued under this chapter if there is an immediate and unacceptable risk to public or environmental health.
3. **Cause.** Any *operating permit* issued for an ONWS may be modified, revoked, or suspended by the *department*, if the *department* determines continued operation of the system poses unacceptable risk to public health or the environmental for any reason, including, but not limited to:
	1. There is a change in any condition that requires the ONWS to temporarily or permanently limit or stop operating.
	2. A ONWS failure or the need for a repair or replacement of a ONWS component that is the result of neglect or poor management practices.
	3. The *operating permit* was obtained by fraud or with any material misrepresentation.
	4. The ONWS was built without applicable building and plumbing permits issued by the *department* or local authorities within its’ jurisdiction. This includes permits issued by local authorities with jurisdiction for systems that serve *district-scale projects* with collection or distribution pipes within the public right-of-way.
	5. It is necessary or becomes necessary to comply with applicable water quality standards under [chapter 90.48 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=90.48).
	6. The owner has not paid the *operating permit* fee under [WAC 246-275-990](#_WAC_246-275-990_800).
	7. *Purveyors* or any employee of a *purveyor* has violated any federal or state laws, regulations, or rules, or local ordinances or codes while operating ONWS and the *purveyor* had, or should have had, actual or constructive knowledge the illegal conduct was occurring.
	8. The ONWS is being managed, conducted, or maintained without regard for public health or the environment.
	9. The *purveyor,* any employee of the *purveyor,* or any entity identified in a *legal agreement* with the *purveyor* refused to allow the *department* to inspect the premises or the operations of the ONWS.

new section

# WAC 246-275-605 Notice of violations, enforcement actions, and penalties.

The *department* shall enforce this chapter in accordance with [RCW 90.46.250 through 90.46.290](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46&full=true#90.46.290) and [chapter 246-10 WAC](https://apps.leg.wa.gov/WAC/default.aspx?cite=246-10).

1. **Noncompliance**. When any *person* is out of compliance with a law or rule regulating an ONWS, the *department* may:
	1. Initiate enforcement actions, regardless of any prior approvals issued.
	2. Initiate enforcement action against the *purveyor* to bring the system into compliance. Enforcement actions may include, but are not limited to, any one or a combination of the following:
		1. A conference between the *department* and the owner to explore facts and resolve problems.
		2. An extension of compliance as provided under [WAC 246-275-145](#_WAC_246-275-060_Variances)(3).
		3. Issuing a notice of violation instructing or requiring corrective measures, which may include, but is not limited to:
			1. *Operating permit* conditions, approval conditions, and compliance schedules.
			2. A *department*al order:
				1. Requiring submission of project reports, construction documents, and construction report forms.
				2. Requiring specific actions or ceasing unacceptable activities within a designated period.
				3. To stop work and to refrain from using any ONWS or portion of the ONWS or make improvements to the ONWS in the event of a public health emergency or until all required permits, certifications, approvals, and determinations to proceed are obtained.
				4. To stop work on ONWS construction activities occurring or scheduled to occur before receiving *department* approval, determination to proceed, or an *operating permit*.
	3. Enjoin other actions as needed to protect public health and the environment.
		* 1. The *department of health* may enjoin a violation or threatened violation of this chapter or [chapter 90.46 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46) in the superior court in the county in which the system is located or in Thurston County.
			2. Local jurisdictions may enjoin a violation or threatened violation of this chapter or [chapter 90.46 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=90.46) under their existing authorities and in the superior court in the county in which the system is located.
	4. Impose civil penalties in accordance with existing state and local authorities.
	5. Initiate other authorized proceedings to ensure public health, safety, and environmental protections.
2. **Legal action**. The state attorney general or local prosecutor may take criminal or civil legal action.

new section

# WAC 246-275-610 Appeals and adjudicative proceedings.

1. **Purveyor rights.** P*urveyors* have the right to an adjudicative proceeding to contest the decision of the *department*.
2. **Department of Health.** A *person* upon whom the *department of health* imposes a civil penalty has the right to an adjudicative proceeding.
3. **Local authority.** A *person* upon whom a local *authority with jurisdiction* imposes a civil penalty has the right to an adjudicative proceeding.
4. **Application.** A *person* upon whom the *department* imposes a civil penalty or issues a notice of denial, suspension, modification, or revocation of a permit; approval; or determination to proceed may contest a *department* decision within 28 calendar days of receipt of the decision by filing a written application for an adjudicative proceeding by a method showing proof of receipt with the administrative hearing’s unit, department of health. Include in or with the application the following:
	1. A specific statement of the issue or issues and law involved.
	2. The grounds for contesting the *department* decision.
	3. A copy of the contested *department* decision.
5. **Scope.** This chapter, [chapter 246-10 WAC](https://app.leg.wa.gov/wac/default.aspx?cite=246-10), and [chapter 34.05 RCW](https://app.leg.wa.gov/rcw/default.aspx?cite=34.05) govern adjudicative proceedings.

[Part 9 Fees](https://youtu.be/-JUoNcC7WIg%22%20%5Co%20%22Link%20to%20YouTube%20video%20overview%20of%20Part%206%20and%20Part%209)

New Section

# WAC 246-275-990 Fees.

1. **Local fees.** A local health jurisdiction or health officer may charge service fees and *operating permit* fees as authorized under [RCW 70.05.060](https://app.leg.wa.gov/rcw/default.aspx?cite=70.05.060) or [RCW 70.46.120](https://app.leg.wa.gov/rcw/default.aspx?cite=70.46.120) to either partially or fully administer, enforce, and carryout the responsibilities of this chapter when:
	1. A JPR has been established between the department of health and a local health jurisdiction or health officer under [WAC 246-275-135](#_WAC_246-275-030_135)(2) to either partially or fully administer, enforce, and carryout the responsibilities of this chapter.
	2. A joint or shared services agreement is established between local health jurisdictions or health officers, or both, under [WAC 246-275-135](#_WAC_246-275-030_135)(3) to either partially or fully administer, enforce, and carryout the responsibilities under this chapter on behalf of other local health jurisdictions or health officers, or both.
2. **Department of health fees.**
	1. **Initial review.** *Department of health* fees pursuant to [RCW 43.20B.020](https://app.leg.wa.gov/rcw/default.aspx?cite=43.20B.020) for the initial review of documents consist of a base fee plus $102.00 per hour if the application requires more than the base hours of review time in [Table 6](#TBL6) of this section:

# ****Table 6: Department of Health Initial Document Review Fees for Service****

|  |  |  |  |
| --- | --- | --- | --- |
| [WAC 246-275-145(1)](#_WAC_246-275-060_Variances" \o "Link to section 145 in this document) | Application for variance |  |  |
| [WAC 246-275-145(3)](#_WAC_246-275-060_Variances) | Application for extension of compliance |  |  |
| [WAC 246-275-205](#_WAC_246-275-110_Feasibility) | Feasibility study |  |  |
| [WAC 246-275-210](#_WAC_246-275-120_210)(1) | Engineering report |  |  |
| [WAC 246-275-210](#_WAC_246-275-120_210)(5) | Construction documents |  |  |
| [WAC 246-275-210](#_WAC_246-275-120_210)(8) | Change order |  |  |
| [WAC 246-275-305](#_WAC_246-275-305_Log) | Validation engineering reports |  |  |
| [WAC 246-275-400](#_WAC_246-275-360_400)(6) | Conditional startup mode final report |  |  |
| [WAC 246-275-425](#_WAC_246-275-425_Change) | Notice of change of ownership |  |  |

* 1. **Subsequent review.** If document resubmittals are required after initial review under (2)(a) of this section, the department of health fee for review of documents pursuant to [RCW 43.20B.020](https://app.leg.wa.gov/rcw/default.aspx?cite=43.20B.020) is $102.00 per hour.
	2. **Operating permit fees.** If an *operating permit* is not issued by a *local health jurisdiction*, annual fees pursuant to [RCW 43.70.250](https://app.leg.wa.gov/rcw/default.aspx?cite=43.70.250) for operating permits issued by the department of health consist of a base fee plus a late fee when an operating permit application is received by the department after the application due date in [Table 7](#TBL7) of this section.

# **Table 7: Department of Health Operating Permit Fees**

|  |  |  |
| --- | --- | --- |
| **Annual Fees** | **Base Fee** | **Late Fee** |
| Operating Permit Fee | $102.00 | $35.00 |

1. **Refunds and transfers.** Fees are not refundable or transferable.
2. **Payment due.** The base fee is required at the time of application. All fees must be paid in full before any departmental review, approval, or operating permit is issued.