

# Concise Explanatory Statement

## WAC 246-272A-0110, Table I, Category 2 Products for On-site Sewage Systems



**Table 1: General support**

Comment Received	Department of Health Determination
Supports the NSF/ANSI 40 test being added.	<b>No change to proposed rule.</b> The Department appreciates the feedback and support for the rule change.
Believes the NSF/ANSI 40 testing for category 2 products is a starting point.	<b>No change to proposed rule.</b> The Department appreciates the feedback. Currently, NSF Standard 40 is the most appropriate NSF standard. The Department intends to actively monitor the development of testing standards, methods, and protocols for a more appropriate standard.

**Table 2: General concerns**

Comment Received	Department of Health Determination
<p>The NSF standard 40 testing requirements for category 2 products may be confusing and inadequate.</p> <ul style="list-style-type: none"> <li>• CBOD<sub>5</sub> and TSS should be included in the criteria for a high strength waste treatment system. NSF standard 40 does discuss residential wastewater and not high strength wastewater so standard 40 alone may not be enough without additional clarification of how the test records that would be submitted to</li> </ul>	<p><b>No change to proposed rule.</b> The Department appreciates the feedback.</p> <ul style="list-style-type: none"> <li>• The Department currently requires NSF Standard 40 certification for Category 1 product registration and has received no complaints.</li> <li>• Alternative certification methods are</li> </ul>

<p>the department would be used to provide a prediction of a high strength waste for a product and how the systems are loaded for the higher CBOD<sub>5</sub>.</p> <ul style="list-style-type: none"> <li>• Suggestion to have some kind of scale up review of a treatment system tested to the NSF standard when dealing with higher CBOD<sub>5</sub> results in a larger model size and multiple treatment units being used in parallel, for example.</li> <li>• NSF standard 40 does not address high strength waste treatment issues, however it is a starting point to demonstrate a product removes CBOD<sub>5</sub> and TSS.</li> <li>• Suggestion for the EPA methodology be reinstated or language to clarify the actual process for testing high strength waste.</li> </ul>	<p>outside the scope of this rulemaking. The Department intends to actively monitor the development of testing standards, methods, and protocols for a more appropriate standard.</p> <ul style="list-style-type: none"> <li>• There is no alternative NSF test. Currently, NSF Standard 40 is the most appropriate NSF standard.</li> <li>• The EPA Environmental Technology Verification (ETV) standard has been archived, and laboratories no longer test to it.</li> </ul>
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**Table 3: Outside the scope of rulemaking**

<b>Comment Received</b>	<b>Department of Health Determination</b>
<p>Expressed concerns with removing the EPA original protocol and replacing with EPA methodologies. Oversight with their intended application. Replacing an EPA Protocol with an EPA method isn't sensible as these two are not equivalent or interchangeable. An "EPA method" refers to a specific, detailed, standardized procedure for measuring a parameter, while an "EPA protocol" is a broader guideline outlining the steps and criteria for validating compliance with specific requirements.</p>	<p><b>No change to proposed rule.</b> The EPA ETV protocol has been archived by EPA and is no longer offered at laboratories. The NSF standard 40 methodology provides a clear pathway to have products tested for TSS and CBOD<sub>5</sub>. EPA Method 1664 (Revision B, 2010) was added as part of the previous rulemaking.</p>
<p>Suggestion to offer an alternative way to register products like a provisional approval program with in-state testing.</p>	<p><b>No change to proposed rule.</b> This is outside the scope of rulemaking. The suggestion would significantly change the registration process for proprietary treatment products in Washington state. The Department will retain this suggestion for the consideration of the State Board of Health and the rule revision committee in future rulemaking efforts.</p>

<p>There needs to be additional information provided for the design/designing of the systems. There is a requirement there is additional in-field sampling of existing systems.</p>	<p><b>No change to proposed rule.</b> The Proprietary Products Department Standards and Guidance document includes guidance on designing OSS with proprietary products. The rule also includes specific requirements for treatment and distribution products.</p>
<p>There are reasons to not require samples to be analyzed at a lab close to the equipment. These samples have hold times and depending on the parameters there is limited time such as six hours to get the sample to a lab. The lab must be in Washington and if the entity does not have equipment in the state, there is a problem getting samples that meet the time standard as well as transport issues.</p>	<p><b>No change to proposed rule.</b> Sampling processes are outside the scope of the rulemaking. There are several certified (allowable) laboratories outside of Washington.</p>
<p>Suggestion to use National Environmental laboratory Accreditation Program (NELAP). This is a national group that tests other laboratories.</p>	<p><b>No change to proposed rule.</b> Laboratory certifications are outside the scope of the rulemaking. The responsibility for certifying laboratories in Washington State lies with the Department of Ecology, not the Department of Health. Therefore, this recommendation would be better directed to Ecology.</p>
<p>DOH has stated they will accept samples from other states outside Washington. Although the rules require samples to be analyzed by a lab certified by the WA state Department of Ecology and this is a concern. Labs throughout the country follow a similar certification process to Department of Ecology and there should be an allowance to use them. For example, a sample is collected from a commercial system in Massachusetts and those samples that have been collected and analyzed can be done with a similar protocol in a lab for certification as the Department of Ecology follows that WA samples be qualified as well. The concern is that there is an economic impact to these labs because they need to pay for Ecology staff to travel to the lab and conduct the inspection for certification.</p> <p>DOH has stated they will accept in-field samples from other states but must be from a certified lab from DOH certified lab. There are other labs</p>	<p><b>No change to proposed rule.</b> Laboratory certifications are outside the scope of the rule. The responsibility for certifying laboratories in Washington State lies with the Department of Ecology, not the Department of Health. Therefore, this recommendation would be better directed to Ecology. There are several certified (allowable) laboratories outside of Washington.</p>

through the US that have similar certifications to DOH and Department of Ecology and these should be accepted.

**Table 4: Questions**

Questions Received	Department of Health Determination
<p>NSF standard 40 the influent requirements are about 300-350 TSS and BOD<sub>5</sub>, respectfully. Because of the high waste strength for Category 2, will the numbers fall within the standard's requirements?</p>	<p><b>No change to proposed rule.</b> The Department confirmed with NSF that there is no national test to determine if a product can treat high strength waste. The NSF Standard 40 test is the best test available to confirm that a product can meet at least residential strength CBOD<sub>5</sub> and TSS.</p>
<p>Does it mean to pass the Standard 40 test that the results must be under TLE?</p>	<p><b>No change to proposed rule.</b> Yes, Category 2 systems must treat high strength waste down to at least TLE (WAC 246-272A-0110 Table II, Category 2 performance requirements). The sewage would then go into a drainfield that meets the site conditions (potentially additional treatment units).</p>
<p>Even though we will be using Standard 40 protocol, the Department is not requiring Category 2 systems to meet either TLA or B, just TLE?</p>	<p><b>No change to proposed rule.</b> Correct, Category 2 systems just need to meet TLE. NSF Standard 40 is the test that gives us those parameters, and the Method 1164b protocol gives us the Oil and Grease value.</p>



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