

On-Site Rule Revision Issue: Definitions: Failure

Problem Statement

Definition of failure in WAC 246-272A may need clarifications. LHJs have reported that clarity is needed regarding when a failure entails repairing a failed component vs when it entails an entire system replacement. Citizens groups have reported that the current definition has created enforcement issues and leaves some areas open to different interpretation by the public and the courts.

Options

Added clarity to or change to definition of failure.

Pros/Cons

Pros

Added clarity may help LHJs, designers, and others understand the definition and its implications. A change may facilitate clearer interpretation, avoiding court cases and other enforcement issues.

Cons

Too narrow of language in definitions may limit liberal interpretability and could force unintended requirements/rigidity. Definitions which allow public health threats to persist violate the mandate of statute and science-based approach to regulation.

Recommendation to Consider

Failure

The Policy and Technical Subcommittees voted to keep existing WAC definition (which is consistent with the 2006 RCW definition).

"Failure" means a condition of an on-site sewage system or component that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

- (a) Sewage on the surface of the ground;
- (b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;
- (c) Sewage leaking from a sewage tank or collection system;
- (d) Cesspools or seepage pits where evidence of ground water or surface water quality degradation exists;
- (e) Inadequately treated effluent contaminating ground water or surface water; or
- (f) Noncompliance with standards stipulated on the permit.

Supporting Information

RCW 70.118A.020 (2006)

[...]

3) "Failing" means a condition of an existing on-site sewage disposal system or component that threatens the public health by inadequately treating sewage, or by creating a potential for direct or indirect contact between sewage and the public. Examples of a failing on-site sewage disposal system include:

- (a) Sewage on the surface of the ground;
- (b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;
- (c) Sewage leaking from a sewage tank or collection system;
- (d) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;
- (e) Inadequately treated effluent contaminating groundwater or surface water; or
- (f) Noncompliance with standards stipulated on the permit.

RCW 70.118.020 (1993)

[...]

(3) "Failure" means: (a) Effluent has been discharged on the surface of the ground prior to approved treatment; or (b) effluent has percolated to the surface of the ground; or (c) effluent has contaminated or threatens to contaminate a groundwater supply.