

**Fact Sheet**  
**Enforcement Process for**  
**Large On-site Sewage Systems (LOSS)**



**Chapter 70.118B RCW and 246-272B WAC**  
*December 2023*

The Department of Health Large On-site Sewage System (LOSS) Program devotes a lot of effort to educating owners, operators, and managers on the requirements of operating their large on-site system, and helping them address problems. When a system doesn't comply with state rules, we take enforcement action, in this order:

1. Notify the system owner of the violation, offer technical assistance, and allow additional time to comply, if appropriate.
2. Issue a formal notice of correction.
3. Issue a formal violation warning.
4. Issue a formal notice of violation.
5. Issue fines and/or an injunction.

## **Operating Permits**

State law requires large on-site sewage systems (LOSS) to obtain and renew an annual operating permit. The operating permit has standards conditions, which are common to all permits. We may also incorporate specific conditions such as effluent water quality sampling in some permits. Longer-term actions stemming from our review of annual maintenance and monitoring reports or enforcement actions may be added as special conditions.

Failure to renew an operating permit and failure to comply with permit conditions are violations.

## **Rule Violations**

The LOSS rule (chapter 246-272B WAC) also identifies treatment and system component failures, which we consider immediate threats to public health and the environment. Examples include:

1. Sewage or partially treated sewage on the ground.
2. Sewage backing up in a customer's home or building.
3. Plant growth above the drainfield that shows problems with the drainfield.

We treat these situations as priorities and give them our immediate attention. Our notice of violation will contain a list of immediate actions, follow-up actions, and proof of actions that the owner must follow. Immediate actions are discussed with the owner, manager, or operator before the written notice is issued.

## Enforcement Actions

**Notice of Correction (NOC)** is a written notice to the LOSS owner, that lists the violation(s), what the owner must do to comply, and by when. Most violations are related to failure to renew the permit, lack of submittals of flow data, and other requirements such as engineering inspection and evaluation. Most are satisfied at this step, without formal action or penalties. We may extend deadlines or modify requirements for cause.

### Formal enforcement

If the NOC fails to bring response, compliance, or timely resolution of an immediate threat, we issue a **Violation Warning (VW)** which restates the directions in the NOC for the LOSS owner to return to compliance within a set timeframe. Failure to comply with the VW leads to a departmental order. Calculations of fines, if imposed, begin with receipt of the NOV.

When we issue a **Notice of Violation (NOV)** it is considered an initial order and allows the owner to request an adjudicative proceeding (stops the penalty clock temporarily). It advises the owner of our penalty authority (up to \$10,000 per day per violation) and contains an injunction to stop operating the LOSS. The initial order becomes final if not complied within 28 days, or if confirmed through the appeal process.

### Enforcement Authority

The legislature granted us enforcement authority through chapter 70.118B RCW. Its provisions are included in WAC 246-272B-08100, which was effective July 1, 2011.

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