

**(Effective until April 1, 2025)**

**WAC 246-272A-0170 Product development permits.** (1) A local health officer may issue a product development permit (PDP) for any proprietary treatment component or sequence. In order to protect public health during the development period, a complete system meeting the requirements of this chapter and the site must be installed. The product under development may then be added to the treatment system allowing the product developer to gather data about the product's performance in the field. The PDP allows product developers to explore and develop new technologies prior to product testing and registration under WAC 246-272A-0110 and 246-272A-0120. The PDP is not an alternative to testing and registration.

(2) An application for a PDP shall include all of the following:

(a) Proof of an existing conforming system in compliance with all local requirements, or a permit for a conforming system. The conforming system must be installed in its entirety before the PDP becomes valid;

(b) A description of the product under development including performance goals and a description of how the system will be used to treat sewage;

(c) Documentation of financial assurance that will cover the correction of any potential public health threats or environmental damage resulting from the use of the product under development. Instruments of financial assurance include:

(i) An irrevocable letter of credit in the amount required by the local health officer issued by an entity authorized to issue letters of credit in Washington state;

(ii) Cash or security deposit payable to the local health jurisdiction in the amount required by the local health officer; or

(iii) Any other financial assurance that satisfies the local health officer.

(d) Documentation signed by the owner of the proposed product development site allowing access to the local health officer for inspection of the site; and

(e) Any other information required by the local health officer.

(3) The local health officer may stipulate additional requirements for a PDP necessary to assure the performance of the conforming system, including providing performance data to the local health officer.

(4) A PDP is a site-specific permit. Product development at multiple sites requires a PDP for each site.

(5) During the term of the PDP, product development, testing and sampling are under the full control of the product developer and all data collected is considered proprietary information.

(6) A PDP is valid for one year and may be renewed by the local health officer.

(7) The product development period is over when the original PDP or any subsequently renewed permits have expired. At this time the product developer:

(a) Shall, at the direction of the local health officer, remove the product under development from the site, reestablishing all appropriate plumbing and power connections for the conforming system.

(b) May subject the product to performance testing described in WAC 246-272A-0110 in order to allow the product to be eligible for registration with the department.

(8) The local health officer may revoke or amend a PDP:

(a) If the continued operation or presence of the product under development:

(i) Presents a risk to the public health or the environment;

(ii) Causes adverse effects on the proper function of the conforming system on the site; or

(iii) Leaks or discharges sewage on the surface of the ground.

(b) If the developer fails to comply with any requirements stipulated on the permit by the local health officer.

(9) The local health officer may charge fees adequate to administer the PDP program.

[Statutory Authority: RCW 43.20.050. WSR 05-15-119, § 246-272A-0170, filed 7/18/05, effective 7/1/07.]

**(Effective April 1, 2025)**

**WAC 246-272A-0170 Product development permits.** (1) A local health officer may issue a PDP for any proprietary treatment component or sequence to be used during a development period. To protect public health during the development period, a complete OSS meeting the requirements of this chapter and the site must already be installed. The component or sequence under development may then be added to the treatment system allowing the developer to gather data about performance in the field. The PDP allows developers to explore new technologies prior to product testing and registration under WAC 246-272A-0110 and 246-272A-0120. The PDP is not an alternative to testing and registration.

(2) An applicant for a PDP must submit an application to the local health officer including all of the following:

(a) Proof of an existing conforming OSS in compliance with all local requirements, or a permit for a conforming OSS. The conforming OSS must be installed in its entirety before the PDP becomes valid;

(b) A description of the product under development including performance goals and a description of how the system will be used to treat sewage;

(c) Financial assurance covering the correction of any potential public health threats or environmental damage resulting from the use of the product under development. Instruments of financial assurance include:

(i) An irrevocable letter of credit in the amount required by the local health officer issued by an entity authorized to issue letters of credit in Washington state;

(ii) Cash or security deposit payable to the local health jurisdiction in the amount required by the local health officer; or

(iii) Any other financial assurance that satisfies the local health officer.

(d) Documentation signed by the owner of the proposed product development site allowing access to the local health officer for inspection of the site; and

(e) Any other information required by the local health officer.

(3) The local health officer may impose additional requirements for a PDP necessary to safeguard the performance of the conforming OSS, including providing performance data to the local health officer.

(4) A PDP is a site-specific permit. Product development at multiple sites requires a PDP for each site.

(5) During the term of the PDP, product development, testing and sampling are under the full control of the product developer and all data collected is considered proprietary information.

(6) A PDP is valid for one year and may be renewed by the local health officer.

(7) The product development period is over when the original PDP or any subsequently renewed permits have expired. At this time, the product developer:

(a) Shall, at the direction of the local health officer, remove the product under development from the site, reestablishing all appropriate plumbing and power connections for the conforming OSS.

(b) May subject the product to performance testing described in WAC 246-272A-0110 to allow the product to be eligible for registration with the department.

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(a) If the continued operation or presence of the product under development:

(i) Presents a risk to public health or the environment;

(ii) Causes adverse effects on the proper function of the conforming OSS on the site; or

(iii) Leaks or discharges sewage on the surface of the ground.

(b) If the developer fails to comply with any requirements stipulated on the permit by the local health officer.

(9) The local health officer may charge fees adequate to administer the PDP program.

[Statutory Authority: RCW 43.20.050(3), 43.20.065, chapters 70A.105 and 70A.110 RCW. WSR 24-06-046, § 246-272A-0170, filed 3/1/24, effective 4/1/25. Statutory Authority: RCW 43.20.050. WSR 05-15-119, § 246-272A-0170, filed 7/18/05, effective 7/1/07.]