

Clallam County On-Site Septic System (OSS) Work Group Tasks

Clallam County is required to prepare a plan to implement new State requirements (see Chapter 70-118A RCW and Chapter 246-272A WAC). The plan must be completed by July 1, 2007. To prepare this plan, the County would like input and recommendations from the Work Group on the following topics:

- ✓ Identification of sensitive areas and marine recovery areas where on-site septic systems pose an increased public health risk. Development of supplemental O&M requirements in these areas may also be necessary (see WAC 246-272A-0015 and RCW 70.118A.040).
- ✓ A system to identify all on-site septic systems in the County (see WAC 246-272A-0015 and RCW 70.118A.060) and requirements that OSS maintenance specialists, pumpers, and/or inspectors submit reports of O&M inspection results and failing on-site septic systems to the County (See RCW 70.118A.060).
- ✓ A process for inspecting systems consisting of a septic tank and a gravity "Subsurface Soil Absorption System" (SSAS) at least once every 3 years and annual inspections of all other systems (see WAC 246-272A-0270).
- ✓ Enforcement provisions for all of the above requirements; and
- ✓ Funding provisions to finance the County's programs as well as to offer financial assistance to owners of on-site septic systems. This will include assessing existing capacity.

WAC 246-272A-0270 Operation, monitoring, and maintenance--Owner responsibilities. (Effective July 1, 2007)

- (1) The OSS owner is responsible for operating, monitoring, and maintaining the OSS to minimize the risk of failure, and to accomplish this purpose, shall:
 - (a) Obtain approval from the local health officer before repairing, altering or expanding an OSS;
 - (b) Secure and renew contracts for periodic maintenance where required by the local health jurisdiction;
 - (c) Obtain and renew operation permits if required by the local health jurisdiction;
 - (d) Assure a complete evaluation of the system components and/or property to determine functionality, maintenance needs and compliance with regulations and any permits:
 - (i) At least once every three years for all systems consisting solely of a septic tank and gravity SSAS;
 - (ii) Annually for all other systems unless more frequent inspections are specified by the local health officer;
 - (e) Employ an approved pumper to remove the septage from the tank when the level of solids and scum indicates that removal is necessary;
 - (f) Provide maintenance and needed repairs to promptly return the system to a proper operating condition;
 - (g) Protect the OSS area and the reserve area from:
 - (i) Cover by structures or impervious material;
 - (ii) Surface drainage, and direct drains, such as footing or roof drains. The drainage must be directed away from the area where the OSS is located;
 - (iii) Soil compaction, for example by vehicular traffic or livestock; and
 - (iv) Damage by soil removal and grade alteration;
 - (h) Keep the flow of sewage to the OSS at or below the approved operating capacity and sewage quality;
 - (i) Operate and maintain systems as directed by the local health officer;
 - (j) Request assistance from the local health officer upon occurrence of a system failure or suspected system failure; and
 - (k) At the time of property transfer, provide to the buyer, maintenance records, if available, in addition to the completed seller disclosure statement in accordance with chapter 64.06 RCW for residential real property transfers.
- (2) Persons shall not:
 - (a) Use or introduce strong bases, acids or chlorinated organic solvents into an OSS for the purpose of system cleaning;
 - (b) Use a sewage system additive unless it is specifically approved by the department; or
 - (c) Use an OSS to dispose of waste components atypical of sewage from a residential source.

Appendix A – WAC 246-272A-0015 Local Management and Regulation

- 1) By July 1, 2007, the local health officers of health jurisdictions in the twelve counties bordering Puget Sound shall develop a written plan that will provide guidance to the local health jurisdiction regarding development and management activities for all OSS within the jurisdiction. The plan must specify how the local health jurisdiction will:
 - a) Progressively develop and maintain an inventory of all known OSS in operation within the jurisdiction
 - b) Identify any areas where OSS could pose an increased public health risk. The following areas shall be given priority in this activity:
 - i. Shellfish protection districts or shellfish growing areas;
 - ii. Sole source aquifers designated by the U.S. EPA;
 - iii. Areas in which aquifers used for potable water as designated under the Washington State Growth Management Act, Chapter 36.70A RCW are critically impacted by recharge;
 - iv. Designated wellhead protection areas for Group A public water systems;
 - v. Up-gradient areas directly influencing water recreation facilities designated for swimming in natural waters with artificial boundaries within the waters as described by the Water Recreation Facilities Act, Chapter 70.90 RCW;
 - vi. Areas designated by the department of ecology as special protection areas under WAC 173-200-090, Water quality standards for ground waters of the state of Washington;
 - vii. Wetland areas under production of crops for human consumption;
 - viii. Frequently flooded areas including areas delineated by the Federal Emergency Management Agency and or as designated under the Washington State Growth Management Act, Chapter 36.70A RCW;
 - ix. Areas where nitrogen has been identified as a contaminant of concern; and
 - x. Other areas designated by the local health officer.
 - c) Identify operation, maintenance and monitoring requirements commensurate with risks posed by OSS within the geographic areas identified in (b) of this subsection;
 - d) Facilitate education of homeowners regarding their responsibilities under this chapter and provide operation and maintenance information for all types of systems in use within the jurisdiction;
 - e) Remind and encourage homeowners to complete the operation and maintenance inspections required by WAC 246-272A-0270;
 - f) Maintain records required under this chapter, including of all operation and maintenance activities as identified; and

- g) Enforce OSS owner permit application, operation, monitoring and maintenance and failure repair requirements defined in WAC 246-272A-0200(1), 246-272A-0270, 246-272A-0275, and 246-272A-0280 (1) and (2);
 - h) Describe the capacity of the local health jurisdiction to adequately fund the local OSS plan, including the ability to find failing and unknown systems; and
 - i) Assure that the Plan was developed to coordinate with the comprehensive land use plan of the entities governing development in the health officer's jurisdiction.
- 2) After being approved by the local board of health following a public hearing, the local health officers required to develop a written plan under subsection (1) of this section shall:
 - a) Supply a copy of the Plan to the department;
 - b) Supply a copy of the Plan to the entities responsible for land use planning and development regulations in the health officer's jurisdiction; and
 - c) Implement the Plan described in subsection (1) of this section
- 3) The plans of local health jurisdictions required to develop a written plan under subsection (1) of this section shall be submitted to the department by July 1, 2007, and shall be reviewed to ensure the elements described in subsection (1) of this section have been addressed. The department shall provide in writing to the local board of health its review of the completeness of the Plan.
- 4) For purposes of this chapter, the local health jurisdictions in marine counties are Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston and Whatcom.
- 5) The local health officers for all other jurisdictions not required to develop a written plan under subsection (1) of this section shall develop a written plan that will provide guidance to the local jurisdiction regarding development and management activities for all OSS within the jurisdiction. At a minimum the Plan shall include:
 - a) A description of the capacity of the local health jurisdiction to provide education and operation and maintenance information for all types of systems in use within the jurisdiction;
 - b) A description of how the local health officer will remind and encourage homeowners to complete the operation and maintenance inspection required by WAC 246-272A-0270; and
 - c) A description of the capacity of the local health jurisdiction to adequately fund the local OSS plan.
- 6) In order to implement the Plan described in subsections (1) and (5) of this section, the local health officer shall require the owner of the OSS to:
 - a) Comply with additional requirements identified in the Plan for the location, design, or performance; and
 - b) Comply with the conditions of the operational permit if one is required.

- 7) In order to implement the Plan described in subsections (1) and (5) of this section, the local health officer may require the owner of the OSS to:
 - a) Ensure additional maintenance and monitoring of the OSS;
 - b) Provide dedicated easements for inspections, maintenance, and potential future expansion of the OSS;
 - c) Place a notice to title identifying any additional requirements for OSS operation, maintenance and monitoring; and
 - d) Have an inspection of the OSS at the time of property transfer including the preparation of a "record drawing" if necessary.
- 8) No later than July 1, 2006, the department shall develop guidance on local management programs to assist marine local health jurisdictions in plan development.
- 9) Until such time as the local board of health decides to adopt its own rules, the local health officer shall enforce this chapter. Local boards of health may adopt and enforce local rules and regulations governing on-site sewage systems when the local regulations are:
 - a) Consistent with, and at least as stringent as, this chapter; and
 - b) Approved by the department prior to the effective date of local regulations.
- 10) A local board of health shall apply for departmental approval of local regulations by initiating the following procedure:
 - a) The local board shall submit the proposed local regulations to the department.
 - b) Within ninety days of receipt, the department shall:
 - i. Approve the regulation in writing; or
 - ii. Signify automatic tacit approval with the local regulations and permitting local implementation by failing to act; or
 - iii. Deny approval of the regulations. If the department determines local regulations are not consistent with this chapter, the department shall provide specific reasons for denial.
- 11) Upon receipt of departmental approval or after ninety days without notification, whichever comes first, the local board may implement adopted regulations. The local board shall provide a copy of the adopted local regulations to the department.
- 12) If the department denies approval of local regulations, the local board of health may:
 - a) Resubmit revised regulations for departmental consideration; or
 - b) Submit a written request for a review of the departmental denial within one hundred twenty days from the date the local board of health receives the written reasons for the denial.
- 13) Upon receipt of written request for review of the departmental denial, the department shall:
 - a) Acknowledge the receipt of the request in writing; and
 - b) Form a mutually acceptable advisory panel consisting of:
 - i. One departmental employee;

- ii. One employee from a local health jurisdiction other than that which requested the review; and
 - iii. One member of the technical advisory committee.
- 14) If good faith efforts to reach agreement are unsuccessful, the local board of health may appeal the denial to the Washington State Board of Health for resolution.
- 15) Nothing in this chapter shall prohibit the adoption and enforcement of more stringent regulations by local health departments.
- 16) In the Plan required in subsection (1) of this section and in local regulations, the local health officer may address water conservation and include options for the non-potable reuse of gray water. Any treatment and dispersal of gray water outside the residence or structure must comply with this chapter.

[Statutory Authority: RCW 43.20.050, 05-15-119, § 246-272A-0015, filed 7/18/05, effective 9/15/05.]

Appendix B – Third Substitute House Bill 1458 – Marine Areas

AN ACT Relating to managing on-site sewage disposal systems in marine areas; adding a new section to chapter 90.48 RCW; adding a new chapter to Title 70 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1

The legislature finds that:

- (1) Hood Canal and other marine waters in Puget Sound are at risk of severe loss of marine life from low-dissolved oxygen. The increased input of human-influenced nutrients, especially nitrogen, is a factor causing this low-dissolved oxygen condition in some of Puget Sound's waters, in addition to such natural factors as poor overall water circulation and stratification that discourages mixing of surface-to-deeper waters;
- (2) A significant portion of the state's residents live in homes served by on-site sewage disposal systems, and many new residences will be served by these systems;
- (3) Properly functioning on-site sewage disposal systems largely protect water quality. However, improperly functioning on-site sewage disposal systems in marine recovery areas may contaminate surface water, causing public health problems;
- (4) Local programs designed to identify and correct failing on-site sewage disposal systems have proven effective in reducing and eliminating public health hazards, improving water quality, and reopening previously closed shellfish areas; and
- (5) State water quality monitoring data and analysis can help to focus these enhanced local programs on specific geographic areas that are sources of pollutants degrading Puget Sound waters. Therefore, it is the purpose of this chapter to authorize enhanced local programs in marine recovery areas to inventory existing on-site sewage disposal systems, to identify the location of all on-site sewage disposal systems in marine recovery areas, to require inspection of on-site sewage disposal systems and repairs to failing systems, to develop electronic data systems capable of sharing information regarding on-site sewage disposal systems, and to monitor these programs to ensure that they are working to protect public health and Puget Sound water quality.

Section 2

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Board" means the Washington State Board of Health.
- (2) "Department" means the department of health.
- (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 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.
- (4) "Local health officer" or "local health jurisdiction" means the local health officers and local health jurisdictions in the following counties bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.
- (5) "Marine recovery area" means an area of definite boundaries where the local health officer, or the department in consultation with the health officer, determines that additional requirements for existing on-site sewage disposal systems may be necessary to reduce potential failing systems or minimize negative impacts of on-site sewage disposal systems.
- (6) "Marine recovery area on-site strategy" or "on-site strategy" means a local health jurisdiction's on-site sewage disposal system strategy required under section 5 of this act. This strategy is a component of the on-site program management plan required under section 3 of this act.
- (7) "On-site sewage disposal system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage disposal system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. For purposes of this chapter, the term "on-site sewage disposal system" does not include any system regulated by a water quality discharge permit issued under chapter 90.48 RCW.
- (8) "Unknown system" means an on-site sewage disposal system that was installed without the knowledge or approval of the local health jurisdiction, including those that were installed before such approval was required.

Section 3

By July 1, 2007, the local health officers of health jurisdictions in the twelve counties bordering Puget Sound shall develop a written on-site program management plan to provide guidance to the local health jurisdiction.

Section 4

- (1) In developing on-site program management plans required under section 3 of this act, the local health officer shall propose a marine recovery area for those land areas where existing on-site sewage disposal systems are a significant factor contributing to concerns associated with:
 - (a) Shellfish growing areas that have been threatened or downgraded by the department under chapter 69.30 RCW;
 - (b) Marine waters that are listed by the department of ecology under section 303(d) of the federal clean water act (33 U.S.C. Sec.1251 et seq.) for low-dissolved oxygen or fecal coliform; or
 - (c) Marine waters where nitrogen has been identified as a contaminant of concern by the local health officer.
- (2) In determining the boundaries for a marine recovery area, the local health officer shall assess and include those land areas where existing on-site sewage disposal systems may affect water quality in the marine recovery area.
- (3) Determinations made by the local health officer under this section, including identification of nitrogen as a contaminant of concern, will be based on published guidance developed by the department. The guidance must be designed to ensure the proper use of available scientific and technical data. The health officer shall document the basis for these determinations when plans are submitted to the department.
- (4) After July 1, 2007, the local health officer may designate additional marine recovery areas meeting the criteria of this section, according to new information. Where the department

recommends the designation of a marine recovery area or expansion of a designated marine recovery area, the local health officer shall notify the department of its decision concerning the recommendation within ninety days of receipt of the recommendation.

Section 5

(1) The local health officer of a local health jurisdiction where a marine recovery area has been proposed under section 4 of this act shall develop and approve a marine recovery area on-site strategy that includes designation of marine recovery areas to guide the local health jurisdiction in developing and managing all existing on-site sewage disposal systems within marine recovery areas within its jurisdiction. The on-site strategy must be a component of the program management plan required under section 3 of this act. The department may grant an extension of twelve months where a local health jurisdiction has demonstrated substantial progress toward completing its on-site strategy.

(2) An on-site strategy for a marine recovery area must specify how the local health jurisdiction will by July 1, 2012, and thereafter, find:

- (a) Existing failing systems and ensure that system owners make necessary repairs; and
- (b) Unknown systems and ensure that they are inspected as required to ensure that they are functioning properly, and repaired, if necessary.

Section 6

In a marine recovery area, each local health officer shall:

(1) Require that on-site sewage disposal system maintenance specialists, septic tank pumpers, or others performing on-site sewage disposal system inspections submit reports or inspection results to the local health jurisdiction regarding any failing system; and

(2) Develop and maintain an electronic data system of all on-site sewage disposal systems within a marine recovery area to enable the local health jurisdiction to actively manage on-site sewage disposal systems. In assisting development of electronic data systems, the department shall work with local health jurisdictions with marine recovery areas and the on-site sewage disposal system industry to develop common forms and protocols to facilitate sharing of data. A marine recovery area on-site sewage disposal electronic data system must be compatible with all on-site sewage disposal electronic data systems used throughout a local health jurisdiction.

Section 7

(1) The on-site program management plans of local health jurisdictions required under section 3 of this act must be submitted to the department by July 1, 2007, and be reviewed to determine if they contain all necessary elements. The department shall provide in writing to the local board of health its review of the completeness of the Plan. The local board may adopt additional criteria by rule for approving plans.

(2) In reviewing the on-site strategy component of the Plan, the department shall ensure that all required elements, including designation of any marine recovery area, have been addressed.

(3) Within thirty days of receiving an on-site strategy, the department shall either approve the on-site strategy or provide in writing the reasons for not approving the strategy and recommend changes. If the department does not approve the on-site strategy, the local health officer must amend and resubmit the Plan to the department for approval.

(4) Upon receipt of department approval or after thirty days without notification, whichever comes first, the local health officer shall implement the on-site strategy.

(5) If the department denies approval of an on-site strategy, the local health officer may appeal the denial to the local board. The local board must make a final determination concerning the denial.

(6) The department shall assist local health jurisdictions in:

- (a) Developing written on-site program management plans required by section 3 of this act;
- (b) Identifying reasonable methods for finding unknown systems; and
- (c) Developing or enhancing electronic data systems that will enable each local health jurisdiction to actively manage all on-site sewage disposal systems within their jurisdictions, with priority given to those on-site sewage disposal systems that are located in or which could affect designated marine recovery areas.

Section 8

(1) The department shall enter into a contract with each local health jurisdiction subject to the requirements of this chapter to implement plans developed under this chapter, and to develop or enhance electronic data systems required by this chapter. The contract must include state funding assistance to the local health jurisdiction from funds appropriated to the department for this purpose.

(2) The contract must require, at a minimum, that within a marine recovery area, the local health jurisdiction:

- (a) Show progressive improvement in finding failing systems;
- (b) Show progressive improvement in working with on-site sewage disposal system owners to make needed system repairs;
- (c) Is actively taking steps to find previously unknown systems and ensuring that they are inspected as required and repaired if necessary;
- (d) Show progressive improvement in the percentage of on-site sewage disposal systems that are included in an electronic data system; and
- (e) Of those on-site sewage disposal systems in the electronic data system, show progressive improvement in the percentage that have had required inspections.

(3) The contract must also include provisions for state assistance in updating the Plan. Beginning July 1, 2012, the contract may adopt revised compliance dates, including those in section 5 of this act, where the local health jurisdiction has demonstrated substantial progress in updating the on-site strategy.

(4) The department shall convene a work group for the purpose of making recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists. The work group shall make its recommendation with consideration given to the 1998 report to the legislature entitled "On-Site Wastewater Certification Work Group" as it pertains to maintenance specialists. The work group may give priority to appropriate levels of certification or licensure of maintenance specialists who work in the Puget Sound basin.

Section 9

The provisions of this chapter are supplemental to all other authorities governing on-site sewage disposal systems, including chapter 70.118 RCW and rules adopted under that chapter.

Section 10

A new section is added to chapter 90.48 RCW to read as follows:

The department shall offer financial and technical assistance to local governments and tribal entities in Puget Sound counties to establish or expand on-site sewage disposal system repair and replacement through local loan and grant programs. The programs must give priority to low-income and financially distressed homeowners.

Section 11

- (1) The department of health shall report to the appropriate committees of the senate and house of representatives by December 31, 2008, on progress in designating marine recovery areas and developing and implementing on-site strategies for such marine recovery areas.
- (2) The report shall include information on:
- (a) The status of on-site strategies in each county covered by sections 2 through 9 of this act;
 - (b) The status of on-site sewage disposal system location, identification, and inclusion within electronic data systems in each county, including estimates of remaining on-site sewage disposal systems within marine recovery areas that have not been identified or included within electronic data systems;
 - (c) Areas for which shoreline surveys have been completed by the department;
 - (d) The progress of and capacity of local health jurisdictions to identify on-site sewage disposal systems within marine recovery areas and to ensure that failing systems are repaired and all systems are operated and maintained in compliance with local board of health standards;
 - (e) Regulatory, statutory, and financial barriers to implementing the on-site strategy; and
 - (f) Recommendations that will assist local health jurisdictions to successfully implement plans.
- (3) Local health jurisdictions shall provide information and data requested by the department of health in developing the report, and the department shall append all reports or information that the local health jurisdictions request to be included in the report.

Section 12

Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

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