

Chapter 70A.105 RCW
ON-SITE SEWAGE DISPOSAL SYSTEMS

Sections

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Reviser's note: Powers and duties of the department of social and health services and the secretary of social and health services transferred to the department of health and the secretary of health. See RCW 43.70.060.

Local health officer authority to grant waiver from on-site sewage system requirements: RCW 70.05.072.

RCW 70A.105.010 Legislative declaration. The legislature finds that over one million, two hundred thousand persons in the state are not served by sanitary sewers and that they must rely on septic tank systems. The failure of large numbers of such systems has resulted in significant health hazards, loss of property values, and water quality degradation. The legislature further finds that failure of such systems could be reduced by utilization of nonwater-carried sewage disposal systems, or other alternative methods of effluent disposal, as a correctional measure. Wastewater volume diminution and disposal of most of the high bacterial waste through composting or other alternative methods of effluent disposal would result in restorative improvement or correction of existing substandard systems. [1977 ex.s. c 133 § 1. Formerly RCW 70.118.010.]

RCW 70A.105.020 Definitions. As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly indicates otherwise.

(1) "Nonwater-carried sewage disposal devices" means any device that stores and treats nonwater-carried human urine and feces.

(2) "Alternative methods of effluent disposal" means systems approved by the department of health, including at least, mound systems, alternating drainfields, anaerobic filters, evapotranspiration systems, and aerobic systems.

(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.

(4) "Additive" means any commercial product intended to affect the performance or aesthetics of an on-site sewage disposal system.

(5) "Department" means the department of health.

(6) "On-site sewage disposal system" means any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on nearby property under the control of the user where the system is not connected to a public sewer system. For purposes of this chapter, an on-site sewage disposal system does not include indoor plumbing and associated fixtures.

(7) "Chemical additive" means those additives containing acids, bases, or other chemicals deemed unsafe by the department for use in an on-site sewage disposal system.

(8) "Additive manufacturer" means any person who manufactures, formulates, blends, packages, or repackages an additive product for sale, use, or distribution within the state. [1994 c 281 § 2; 1993 c 321 § 2; 1991 c 3 § 367; 1977 ex.s. c 133 § 2. Formerly RCW 70.118.020.]

Finding—Purpose—1994 c 281: "The legislature finds that chemical additives do, and that other types of additives may, contribute to septic system failure and groundwater contamination. In order to determine which ingredients of nonchemically based additive products have adverse effects on public health or the environment, it is necessary to submit such products to a review procedure.

The purpose of this act is: (1) To establish a timely and orderly procedure for review and approval of on-site sewage disposal system additives; (2) to prohibit the use, sale, or distribution of additives having an adverse effect on public health or the water quality of the state; (3) to require the disclosure of the contents of additives that are advertised, sold, or distributed in the state; and (4) to provide for consumer protection." [1994 c 281 § 1.]

Effective date—1994 c 281: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 281 § 7.]

Intent—1993 c 321: See note following RCW 70A.105.060.

RCW 70A.105.030 Local boards of health—Administrative search warrant—Administrative plan—Corrections. (1) Local boards of health shall identify failing septic tank drainfield systems in the normal manner and will use reasonable effort to determine new failures. The local health officer, environmental health director, or equivalent officer may apply for an administrative search warrant to a court official authorized to issue a criminal search warrant. The warrant may only be applied for after the local health officer or the health officer's designee has requested inspection of the person's property under the specific administrative plan required in this section, and the person has refused the health officer or the health officer's designee access to the person's property. Timely notice must be given to any affected person that a warrant is being requested and that the person may be present at any court proceeding to consider the requested search warrant. The court official may issue the warrant

upon probable cause. A request for a search warrant must show [that] the inspection, examination, test, or sampling is in response to pollution in commercial or recreational shellfish harvesting areas or pollution in fresh water. A specific administrative plan must be developed expressly in response to the pollution. The local health officer, environmental health director, or equivalent officer shall submit the plan to the court as part of the justification for the warrant, along with specific evidence showing that it is reasonable to believe pollution is coming from the septic system on the property to be accessed for inspection. The plan must include each of the following elements:

- (a) The overall goal of the inspection;
 - (b) The location and identification by address of the properties being authorized for inspection;
 - (c) Requirements for giving the person owning the property and the person occupying the property if it is someone other than the owner, notice of the plan, its provisions, and times of any inspections;
 - (d) The survey procedures to be used in the inspection;
 - (e) The criteria that would be used to define an on-site sewage system failure; and
 - (f) The follow-up actions that would be pursued once an on-site sewage system failure has been identified and confirmed.
- (2) Discretionary judgment will be made in implementing corrections by specifying nonwater-carried sewage disposal devices or other alternative methods of treatment and effluent disposal as a measure of ameliorating existing substandard conditions. Local regulations shall be consistent with the intent and purposes stated in this section. [1998 c 152 § 1; 1977 ex.s. c 133 § 3. Formerly RCW 70.118.030.]

RCW 70A.105.040 Local boards of health—Authority to waive sections of local plumbing and/or building codes. With the advice of the secretary of the department of health, local boards of health are hereby authorized to waive applicable sections of local plumbing and/or building codes that might prohibit the use of an alternative method for correcting a failure. [1991 c 3 § 368; 1977 ex.s. c 133 § 4. Formerly RCW 70.118.040.]

RCW 70A.105.050 Adoption of more restrictive standards. If the legislative authority of a county or city finds that more restrictive standards than those contained in *section 2 of this act or those adopted by the state board of health for systems allowed under *section 2 of this act or limitations on expansion of a residence are necessary to ensure protection of the public health, attainment of state water quality standards, and the protection of shellfish and other public resources, the legislative authority may adopt ordinances or resolutions setting standards as they may find necessary for implementing their findings. The legislative authority may identify the geographic areas where it is necessary to implement the more restrictive standards. In addition, the legislative authority may adopt standards for the design, construction, maintenance, and monitoring of sewage disposal systems. [1989 c 349 § 3. Formerly RCW 70.118.050.]

***Reviser's note:** "Section 2 of this act" did not become law. See effective date note following.

Effective date—1989 c 349: "(1) Except as provided in subsection (2) of this section, this act shall take effect November 1, 1989.

(2) *Section 2 of this act shall not take effect if the state board of health adopts standards for the replacement and repair of existing on-site sewage disposal systems located on property adjacent to marine waters by October 31, 1989." [1989 c 349 § 4.]

***Reviser's note:** Section 2 of this act did not take effect. See chapter 248-96 WAC.

RCW 70A.105.060 Additive regulation. (1) After July 1, 1994, a person may not use, sell, or distribute a chemical additive to on-site sewage disposal systems.

(2) After January 1, 1996, no person shall use, sell, or distribute any on-site sewage disposal additive whose ingredients have not been approved by the department.

(3) Each manufacturer of an on-site sewage disposal system additive that is sold, advertised, or distributed in the state shall submit the following information to the department: (a) The name and address of the company; (b) the name of the product; (c) the complete product formulation; (d) the location where the product is manufactured; (e) the intended method of product application; and (f) a request that the product be reviewed.

(4) The department shall adopt rules providing the criteria, review, and decision-making procedures to be used in reviewing on-site sewage disposal additives for use, sale, or distribution in the state. The criteria shall be designed to determine whether the additive has an adverse effect on public health or water quality. The department may charge a fee sufficient to cover the costs of evaluating the additive, including the development of criteria and review procedures. The fee schedule shall be established by rule.

(5) The department shall issue a decision as to whether a product registered pursuant to subsection (3) of this section is approved or denied within forty-five days of receiving a complete evaluation as required pursuant to subsection (4) of this section.

(6) Manufacturers shall reregister their product as provided in subsection (3) of this section each time their product formulation changes. The department may require a new approval for products registered under this subsection prior to allowing the use, sale, or distribution within the state.

(7) The department may contract with private laboratories for the performance of any duties necessary to carry out the purpose of this section.

(8) The attorney general or appropriate city or county prosecuting attorney is authorized to bring an appropriate action to enjoin any violation of the prohibition on the sale or distribution of additives, or to enjoin any violation of the conditions in RCW 70A.105.080.

(9) The department is responsible for providing written notification to additives manufacturers of the provisions of this section and RCW 70A.105.070 and 70A.105.080. The notification shall be provided no later than thirty days after April 1, 1994. Within thirty

days of notification from the department, manufacturers shall provide the same notification to their distributors, wholesalers, and retail customers. [2020 c 20 § 1330; 1994 c 281 § 3; 1993 c 321 § 3. Formerly RCW 70.118.060.]

Finding—Purpose—Effective date—1994 c 281: See notes following RCW 70A.105.020.

Intent—1993 c 321: "The legislature finds that most additives do not have a positive effect on the operation of on-site systems and can contaminate groundwater aquifers, render septic drainfields dysfunctional, and result in costly repairs to homeowners. It is therefore the intent of the legislature to ban the use, sale, and distribution of additives within the state unless an additive has been specifically approved by the department of health." [1993 c 321 § 1.]

RCW 70A.105.070 Additives—Confidentiality. The department shall hold confidential any information obtained pursuant to RCW 70A.105.060 when shown by any manufacturer that such information, if made public, would divulge confidential business information, methods, or processes entitled to protection as trade secrets of the manufacturer. [2020 c 20 § 1331; 1994 c 281 § 4. Formerly RCW 70.118.070.]

Finding—Purpose—Effective date—1994 c 281: See notes following RCW 70A.105.020.

RCW 70A.105.080 Additives—Unfair practices. (1) Each manufacturer of a certified and approved additive product advertised, sold, or distributed in the state shall:

- (a) Make no claims relating to the elimination of the need for septic tank pumping or proper septic tank maintenance;
- (b) List the components of additive products on the product label, along with information regarding instructions for use and precautions;
- (c) Make no false statements, design, or graphic representation relative to an additive product that is inconsistent with RCW 70A.105.060, 70A.105.070, or this section; and
- (d) Make no claims, either direct or implied, about the performance of the product based on state approval of its ingredients.

(2) A violation of this section is an unfair act or practice in violation of the consumer protection act, chapter 19.86 RCW. [2020 c 20 § 1332; 1994 c 281 § 5. Formerly RCW 70.118.080.]

Finding—Purpose—Effective date—1994 c 281: See notes following RCW 70A.105.020.

RCW 70A.105.090 Funding. The department may not use funds appropriated to implement an element of the action agenda developed by the Puget Sound partnership under RCW 90.71.310 to conduct any activity required under chapter 281, Laws of 1994. [2007 c 341 § 61; 1994 c 281 § 6. Formerly RCW 70.118.090.]

Effective date—2007 c 341: See RCW 90.71.907.

Finding—Purpose—Effective date—1994 c 281: See notes following RCW 70A.105.020.

RCW 70A.105.100 Alternative systems—State guidelines and standards. In order to assure that technical guidelines and standards keep pace with advancing technologies, the department of health in collaboration with local health departments and other interested parties, must review and update as appropriate, the state guidelines and standards for alternative on-site sewage disposal every three years. The first review and update must be completed by January 1, 1999. [2010 1st sp.s. c 7 § 80; 1997 c 447 § 5. Formerly RCW 70.118.110.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Finding—Purpose—1997 c 447: See note following RCW 70.05.074.

RCW 70A.105.110 Inspectors—Certificate of competency. (1) The local board of health shall ensure that individuals who conduct inspections of on-site wastewater treatment systems or who otherwise conduct reviews of such systems are qualified in the technology and application of on-site sewage treatment principles. A certificate of competency issued by the state board of registration for professional engineers and land surveyors is adequate demonstration that an individual is competent in the engineering aspects of on-site wastewater treatment system technology.

(2) A local board of health may allow noncertified individuals to review designs of, and conduct inspections of, on-site wastewater treatment systems for a maximum of two years after the date of hire, if a certified individual reviews or supervises the work during that time. [2019 c 442 § 20; 1999 c 263 § 22. Formerly RCW 70.118.120.]

RCW 70A.105.120 Civil penalties. A local health officer who is responsible for administering and enforcing regulations regarding on-site sewage disposal systems is authorized to issue civil penalties for violations of those regulations under the same limitations and requirements imposed on the department under RCW 70A.115.050, except that the amount of a penalty shall not exceed one thousand dollars per day for every violation, and judgments shall be entered in the name of the local health jurisdiction and penalties shall be placed into the general fund or funds of the entity or entities operating the local health jurisdiction. [2020 c 20 § 1333; 2007 c 343 § 9. Formerly RCW 70.118.130.]