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**Natural Resources, Ecology &  
Parks Committee**

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**HB 1458**

**Brief Description:** Concerning the management of on-site sewage systems in marine areas.

**Sponsors:** Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott.

**Brief Summary of Bill**

- Authorizes the Department of Ecology or the local board of health to designate marine areas of special concern in areas where on-site sewage systems (OSS) are a significant factor contributing to the downgrading of shellfish growing areas, waters being listed under the federal Clean Water Act, or marine waters experiencing low dissolved oxygen levels.
- Directs local boards of health to establish enhanced on-site sewage certification programs within 18 months of a marine area of special concern designation.
- Requires owners of OSSs in counties adjacent to Puget Sound to evaluate their conventional systems every 3 years and complex systems annually.

**Hearing Date:** 2/10/05

**Staff:** Jeff Olsen (786-7157).

**Background:**

The State Board of Health provides a forum for the development of public health policy in Washington. The State Board of Health has adopted rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, including on-site sewage systems (OSS). Permits are required for the installation, alteration, extension, or relocation of OSSs. Local boards of health issue OSS permits, enforce the standards, and may adopt more stringent local standards.

In October 2000, the Department of Health (DOH) convened the On-Site Wastewater Advisory Committee to advise the DOH on policy matters relating to the Wastewater Management Program. The committee developed 55 policy recommendations, which were prioritized in three areas: operation and maintenance of OSSs; rule development initiatives; and, funding initiatives. A rule development committee was formed in February 2002 to assist the DOH initiate the OSS rule

revision process. A draft rule has been developed and is under the official comment period until February 18, 2005.

The DOH's Commercial Shellfish Licensing and Certification Program issues licenses to commercial shellfish operations and certifies their harvest sites. The commercial harvest of shellfish must be from a growing area that is classified as approved or conditionally approved according to provisions of the National Shellfish Sanitation Program Model Ordinance. The DOH's Growing Area Classification program assesses shellfish growing areas and classifies them as either approved, conditionally approved, restricted, or prohibited.

The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA sets effluent limitations for discharges of pollutants to navigable waters, and the DOE is delegated federal CWA authority by the United States Environmental Protection Agency (EPA) and also is the agency authorized by state law to implement state water quality programs. Section 303(d) of the federal CWA requires states to prepare a list every two years of the specific water bodies or water body segments that do not meet the state water quality standards, also known as the 303(d) list.

The county legislative authority of each county having shellfish tidelands may establish a shellfish protection district to include areas in which nonpoint pollution threatens the water quality of a shellfish growing area. Shellfish protection districts may implement protection programs to address nonpoint pollution including monitoring, inspection and repair of OSSs. Several other local governmental entities have authority relating to OSSs including public utility districts, water-sewer districts, sewerage improvement districts, and aquifer protection areas.

### **Summary of Bill:**

The Department of Ecology (DOE) must designate marine areas of special concern in counties where on-site sewage systems (OSS) are a significant factor contributing to public health and environmental concerns and shellfish growing areas have been downgraded, state waters are listed under the federal Clean Water Act, or marine waters are experiencing low dissolved oxygen levels. The DOE must notify the local board of health of the designation, including a description of the marine area of special concern and the information used for making the determination. When making a designation the DOE must ensure an opportunity for consultation, review and comment in accordance with the Administrative Procedures Act. A local board of health may also designate a marine area of special concern.

If an area has been designated a marine area of special concern, the local board of health must submit an enhanced on-site sewage system certification program (EOSSCP) to the DOH within 18 months of a marine area of special concern designation. The certification program must include:

1. Designation of the geographic area with sufficient coverage to correct the problem;
2. Requirements for OSS owners to obtain operational certificates;
3. Additional requirements for OSS operation, maintenance, and monitoring that are commensurate with the risk posed by the OSS in the area;
4. A database of OSS and the status of operational certificates; and

5. An education and awareness program.

The local board of health is encouraged to use existing local authorities to implement the EOSSCP including shellfish protection districts, public utility districts, and other local authorities. Shellfish protection districts, public utility districts, water-sewer districts, aquifer protection districts, or sewerage protection districts are authorized to implement the enhanced on-site sewage system certification program.

The DOH must review EOSSCPs to determine if the program is sufficient or recommend any changes. If the local board of health does not establish an approved program within 24 months of a marine area of special concern designation, the DOH shall develop and implement the program to protect public health and the environment.

Owners and operators of OSS within an area designated by the local board of health for an EOSSCP may not operate their OSS without first obtaining an operational certificate from a operations and maintenance specialist approved by the local board of health. Certificates are valid for 3 years for conventional systems and 1 year for complex systems. Inspections must certify that the system functions properly, and results of the inspection must be documented and provided to the owner of the system and the local board of health. The local board of health shall conduct quality assurance of the EOSSCP including inspection of at least 10% of certificated systems and follow-up inspections of all new systems within 1 year.

In areas with shorelines adjacent to Puget Sound where an EOSSCP is not required, OSS owners shall inspect conventional systems at least once every 3 years, and complex systems annually.

The State Board of Health must adopt rules to address environmental impacts associated with low dissolved oxygen levels. By July 1, 2006, the State Board of Health must propose rules for implementing the EOSSCP.

**Appropriation:** None.

**Fiscal Note:** Requested on 2/1/05.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.