
SUBSTITUTE HOUSE BILL 3312

State of Washington **60th Legislature** **2008 Regular Session**

By House Select Committee on Environmental Health (originally sponsored by Representative Chase)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to an exemption for manufacturers of biological
2 remediation technologies for use in on-site sewage disposal systems;
3 amending RCW 70.118.020; adding a new section to chapter 70.118 RCW;
4 creating new sections; providing an expiration date; and providing a
5 contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that discharges from
8 failing on-site sewage systems are a serious cause of pollution in
9 Washington's waterways, including Hood Canal, and a continuing threat
10 to public health and the shellfish industry. The financial cost for
11 many homeowners to fix failing or outdated on-site sewage systems may
12 be prohibitive.

13 The legislature recognizes new technologies may have the potential
14 to assist homeowners who wish to repair or upgrade their on-site sewage
15 disposal systems. However, regulatory barriers may inhibit homeowner's
16 access to these new technologies.

17 It is the intent of the legislature to assist homeowners to
18 voluntarily upgrade or repair their failing on-site sewage disposal

1 systems by removing regulatory barriers to access of new technologies
2 for on-site sewage systems.

3 **Sec. 2.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read
4 as follows:

5 (~~(As used)~~) The definitions in this section apply throughout this
6 chapter(~~(, the terms defined in this section shall have the meanings~~
7 ~~indicated)~~) unless the context clearly (~~(indicates)~~) requires
8 otherwise.

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

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

15 (3) "Failure" means: (a) Effluent has been discharged on the
16 surface of the ground prior to approved treatment; or (b) effluent has
17 percolated to the surface of the ground; or (c) effluent has
18 contaminated or threatens to contaminate a groundwater supply.

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

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

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

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

32 (8) "Additive manufacturer" means any person who manufactures,
33 formulates, blends, packages, or repackages an additive product for
34 sale, use, or distribution within the state.

35 (9) "Repair" means relocation, replacement, or reconstruction of a
36 failed on-site sewage disposal system.

1 (10) "Biological remediation" includes: (a) A process that uses
2 microorganisms to return a contaminated environment, including a
3 drainfield or soil dispersal component, to a state of nonfailure; or
4 (b) a process that uses microorganisms to sufficiently increase the
5 infiltration rate through and into the soil below the infiltrative
6 surface of a clogged infiltrative surface on-site sewage disposal
7 system.

8 NEW SECTION. Sec. 3. (1) Manufacturers of biological remediation
9 technologies for use in the recovery of failed drainfields of on-site
10 sewage disposal systems must provide documentation of verified product
11 performance as required in (a) and (b) of this subsection to the local
12 health jurisdiction where the product will be installed. Manufacturers
13 of biological remediation technologies for use in the recovery of
14 failed drainfields of on-site sewage disposal systems are not required
15 to register their proprietary treatment products with the department if
16 the following conditions are met:

17 (a) Product performance is verified through:

18 (i) Product testing using international association of plumbing and
19 mechanical officials guide criteria standard 180-2003, or an equivalent
20 standard, which relates to aerobic bacterial generators for insert into
21 septic tanks, grease interceptors, and grease traps; or

22 (ii) Third-party field testing from within or outside the state,
23 accredited by the American national standards institute, university
24 testing data, or a department-approved entity, showing remediation of
25 a failed drainfield within ninety days;

26 (b) Product performance is verified through product testing
27 conducted by a testing facility conforming with the American national
28 standards institute requirements;

29 (c) The biological component of the product meets the conditions of
30 RCW 70.118.060 relating to additive regulation; and

31 (d) The biological remediation technology is used solely for the
32 purpose of remedying or fixing a clogged infiltrative surface in a
33 failed on-site sewage disposal system.

34 (2) The definitions in RCW 70.118.020 apply throughout this
35 section.

36 (3) This section expires on the earlier of either July 1, 2010, or

1 the effective date of rules adopted by the state board of health for
2 the use and performance criteria of biological remediation technologies
3 for on-site sewage disposal systems.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.118 RCW
5 to read as follows:

6 (1) Biological remediation technology may be used in on-site sewage
7 disposal systems not in a state of failure for the purpose of
8 preventing clogged infiltrative surfaces.

9 (2) On-site wastewater treatment system designers licensed under
10 chapter 18.210 RCW, installers approved by the local health officer to
11 install on-site sewage disposal systems or components, professional
12 engineers licensed under chapter 18.43 RCW, or licensed on-site
13 wastewater treatment system operation and maintenance professionals may
14 install biological remediation products for use in on-site sewage
15 disposal systems not in a state of failure.

16 (3) A permit is not required for the installation or use of
17 biological remediation devices when an on-site sewage disposal system
18 is not in a state of failure. However, a local health jurisdiction may
19 require no fee registration for tracking purposes.

20 (4) Purchasers of biological remediation devices for use in on-site
21 sewage disposal systems not in a state of failure are required to
22 maintain an operation and maintenance contract with a licensed on-site
23 professional as described in subsection (2) of this section. A local
24 health jurisdiction may require yearly reporting of data collected from
25 an operation and maintenance inspection by a licensed on-site
26 professional.

27 (5) Biological remediation products used for installation in
28 on-site sewage disposal systems not in a state of failure must qualify
29 under the requirements established in section 3 of this act. Upon
30 adoption of rules by the department on July 1, 2010, products used
31 under this section must be on the state list of approved biological
32 remediation products for use in the state under the standards of the
33 rules adopted by the department. Biological remediation products that
34 are approved for use in the state after July 1, 2010, are still subject
35 to the provisions of this section and may be installed without a permit
36 in systems not in a state of failure.

1 NEW SECTION. **Sec. 5.** (1) The state board of health shall adopt
2 rules by July 1, 2010, for verification of biological remediation
3 products performance and use of products with verified performance for
4 use in failing on-site sewage disposal systems.

5 (2) The rules must require monitoring of on-site sewage disposal
6 systems using biological remediation technology and at least annual
7 inspection of failing on-site sewage disposal systems that have
8 biological remediation technologies installed to return any component
9 of the on-site sewage disposal system to a state of nonfailure.

10 (3) The definitions in RCW 70.118A.020 apply throughout this
11 section.

12 NEW SECTION. **Sec. 6.** (1) A local health jurisdiction may issue a
13 no fee permit for biological remediation products for use in failing
14 on-site sewage disposal systems. Prior to issuing a no fee permit for
15 a biological remediation product, the local health officer or on-site
16 wastewater treatment system designer licensed under chapter 18.210 RCW
17 must perform an assessment, considering site and effluent specific
18 characteristics, of the on-site sewage disposal system to determine if
19 biological remediation technology is appropriate to bring the system
20 into a state of nonfailure and that the biological remediation
21 technology will not adversely impact the environment or public health
22 by increased wastewater flows through the on-site sewage disposal
23 system and soil.

24 (2) The no fee permit must state inspection, monitoring, and
25 maintenance requirements.

26 (3) The local health jurisdiction must require system repairs to
27 meet on-site sewage disposal system requirements as found in chapter
28 246-272A WAC if an on-site sewage disposal system with a biological
29 remediation product does not remedy a clogged infiltrative surface
30 within three months.

31 (4) Each no fee permit must include:

32 (a) A plan with a time frame for correcting any public health
33 concern associated with the failing on-site sewage disposal system and
34 the means to protect public health until the concern is addressed;

35 (b) A plan for operation and maintenance that is filed with the
36 local health jurisdiction;

1 (c) A schedule for maintenance and operation reports detailing the
2 status of the on-site sewage disposal system with the local health
3 jurisdiction where the on-site sewage disposal system is located;

4 (d) A contract with the owner of the on-site sewage disposal system
5 with a biological remediation product for inspection and monitoring by
6 an inspector certified under RCW 70.118.120 or a no fee contract with
7 the local health officer;

8 (e) Information for the owner of an on-site sewage disposal system
9 with a biological remediation product that includes: (i) Instructions
10 for appropriate maintenance and operation of an on-site sewage system;
11 and (ii) a statement that if the on-site sewage disposal system remains
12 in a state of failure after three months, the owner will be required to
13 repair the on-site sewage disposal system as required by chapter 246-
14 272A WAC, and an estimate of those costs; and

15 (f) A signed document from the homeowner allowing the local health
16 officer to enter the property for the purpose of determining if a
17 biological remediation product has remedied a failed drainfield after
18 ninety days of installation. Failure to allow access for the
19 inspection voids the permit and the local health jurisdiction may
20 prohibit the use of the system until the inspection occurs.

21 (5) If a biological remediation product fails to make significant
22 improvements in the condition of a failed drainfield within ninety days
23 of installation and it is determined by the local health officer that
24 a repair must be made to correct the failure and the purchaser of the
25 biological remediation device requests in writing removal of the
26 biological remediation device and reimbursement, the on-site
27 professional who installed the biological remediation device shall
28 reimburse the purchaser for the direct cost of the product and
29 installation.

30 (6) The definitions in RCW 70.118.020 apply throughout this
31 section.

32 NEW SECTION. **Sec. 7.** (1) Only on-site wastewater treatment system
33 designers licensed under chapter 18.210 RCW, installers approved by the
34 local health officer to install on-site sewage disposal systems or
35 components, or professional engineers licensed under chapter 18.43 RCW
36 are permitted to install biological remediation products for use in
37 failing on-site sewage disposal systems.

1 (2) The definitions in RCW 70.118.020 apply throughout this
2 section.

3 NEW SECTION. **Sec. 8.** Sections 5 through 7 of this act expire July
4 1, 2010.

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