
ENGROSSED SUBSTITUTE HOUSE BILL 2640

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Environmental Affairs (originally sponsored by Representatives R. Johnson, Rust, Kremen, Roland, Heavey, Rasmussen and Spanel)

Read first time 02/05/92.

1 AN ACT Relating to municipal sewage sludge; amending RCW
2 43.19A.010, 43.21B.110, 47.28.220, 70.95.255, 70.95.030, and 90.48.465;
3 adding a new chapter to Title 70 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Municipal sewage sludge is an unavoidable byproduct of the
7 wastewater treatment process;

8 (b) Population increases and technological improvements in
9 wastewater treatment processes will double the amount of sludge
10 generated within the next ten years;

11 (c) Sludge management is often a financial burden to municipalities
12 and to ratepayers;

1 (d) Properly managed municipal sewage sludge is a valuable
2 commodity and can be beneficially used in agriculture, silviculture,
3 and in landscapes as a soil conditioner; and

4 (e) Municipal sewage sludge can contain metals and microorganisms
5 that, under certain circumstances, may pose a risk to public health.

6 (2) The legislature declares that a program shall be established to
7 manage municipal sewage sludge and that the program shall, to the
8 maximum extent possible, ensure that municipal sewage sludge is reused
9 as a beneficial commodity and is managed in a manner that minimizes
10 risk to public health and the environment.

11 NEW SECTION. **Sec. 2.** The purpose of this chapter is to
12 provide the department of ecology and local governments with the
13 authority and direction to meet federal regulatory requirements for
14 municipal sewage sludge.

15 NEW SECTION. **Sec. 3.** Unless the context clearly requires
16 otherwise, the definitions in this section apply throughout this
17 chapter.

18 (1) "Biosolids" means municipal sewage sludge that meets all
19 requirements under this chapter.

20 (2) "Department" means the department of ecology.

21 (3) "Local health department" has the same meaning as
22 "jurisdictional health department" in RCW 70.95.030.

23 (4) "Municipal sewage sludge" means a semisolid substance
24 consisting of settled sewage solids combined with varying amounts of
25 water and dissolved materials generated from a publicly owned
26 wastewater treatment plant.

1 NEW SECTION. **Sec. 4.** (1) The department shall adopt rules to
2 implement a biosolid management program within twelve months of the
3 adoption of federal rules, 40 C.F.R. Sec. 503, relating to technical
4 standards for the use and disposal of sewage sludge. The biosolid
5 management program shall, at a minimum, conform with all applicable
6 federal rules adopted pursuant to the federal clean water act as it
7 existed on February 4, 1987.

8 (2) In addition to any federal requirements, the state biosolid
9 management program may include, but not be limited to, an education
10 program to provide relevant legal and scientific information to local
11 governments and citizen groups.

12 (3) Rules adopted by the department under this section shall
13 provide for public input and involvement for all state and local
14 permits.

15 NEW SECTION. **Sec. 5.** The department may work with all
16 appropriate state agencies, local governments, and private entities to
17 establish beneficial uses for biosolids.

18 NEW SECTION. **Sec. 6.** If a person violates any provision of
19 this chapter, or a permit issued or rule adopted pursuant to this
20 chapter, the department may issue an appropriate order to assure
21 compliance with the chapter, permit, or rule.

22 NEW SECTION. **Sec. 7.** The department, with the assistance of
23 the attorney general, may bring an action at law or in equity,
24 including an action for injunctive relief, to enforce this chapter or
25 a permit issued or rule adopted by the department pursuant to this
26 chapter.

1 NEW SECTION. **Sec. 8.** A person who willfully violates, without
2 sufficient cause, any of the provisions of this chapter, or a permit or
3 order issued pursuant to this chapter, is guilty of a gross
4 misdemeanor. Willful violation of this chapter, or a permit or order
5 issued pursuant to this chapter is a gross misdemeanor punishable by a
6 fine of up to ten thousand dollars and costs of prosecution, or by
7 imprisonment for up to one year, or by both. Each day of violation may
8 be deemed a separate violation.

9 NEW SECTION. **Sec. 9.** In addition to any other penalty
10 provided by law, a person who violates this chapter or rules or orders
11 adopted or issued pursuant to it shall be subject to a penalty in an
12 amount of up to five thousand dollars a day for each violation. Each
13 violation shall be a separate violation. In the case of a continuing
14 violation, each day of violation is a separate violation. An act of
15 commission or omission that procures, aids, or abets in the violation
16 shall be considered a violation under this section.

17 NEW SECTION. **Sec. 10.** The department may delegate to a local
18 health department the powers necessary to issue and enforce permits to
19 use or dispose of biosolids. A delegation may be withdrawn if the
20 department finds that a local health department is not effectively
21 administering the permit program.

22 NEW SECTION. **Sec. 11.** (1) Any permit issued by a local health
23 department under section 10 of this act may be reviewed by the
24 department to ensure that the proposed site or facility conforms with
25 all applicable laws, rules, and standards under this chapter.

26 (2) If the department does not approve or disapprove a permit
27 within sixty days, the permit shall be considered approved.

1 (3) A local health department may appeal the department's decision
2 to disapprove a permit to the pollution control hearings board, as
3 provided in chapter 43.21B RCW.

4 **Sec. 12.** RCW 43.19A.010 and 1991 c 297 s 2 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Compost products" means mulch, soil amendments, ground cover,
9 or other landscaping material derived from the biological or mechanical
10 conversion of biosolids or cellulose-containing waste materials.

11 (2) "Department" means the department of general administration.

12 (3) "Director" means the director of the department of general
13 administration.

14 (4) "Local government" means a city, town, county, special purpose
15 district, school district, or other municipal corporation.

16 (5) "Lubricating oil" means petroleum-based oils for reducing
17 friction in engine parts and other mechanical parts.

18 (6) "Mixed waste paper" means assorted low-value grades of paper
19 that have not been separated into individual grades of paper at the
20 point of collection.

21 (7) "Municipal sewage sludge" means a semisolid substance
22 consisting of settled sewage solids combined with varying amounts of
23 water and dissolved materials generated from a publicly owned
24 wastewater treatment plant.

25 (8) "Biosolids" means municipal sewage sludge that meets the
26 requirements of chapter 70.-- RCW (sections 1 through 11 of this act).

27 (9) "Paper and paper products" means all items manufactured from
28 paper or paperboard.

1 (~~(8)~~) (10) "Postconsumer waste" means a material or product that
2 has served its intended use and has been discarded for disposal or
3 recovery by a final consumer.

4 (~~(9)~~) (11) "Procurement officer" means the person that has the
5 primary responsibility for procurement of materials or products.

6 (~~(10)~~) (12) "State agency" means all units of state government,
7 including divisions of the governor's office, the legislature, the
8 judiciary, state agencies and departments, correctional institutions,
9 vocational technical institutions, and universities and colleges.

10 (~~(11)~~) (13) "Recycled content product" or "recycled product"
11 means a product containing recycled materials.

12 (~~(12)~~) (14) "Recycled materials" means waste materials and by-
13 products that have been recovered or diverted from solid waste and that
14 can be utilized in place of a raw or virgin material in manufacturing
15 a product and consists of materials derived from postconsumer waste,
16 manufacturing waste, industrial scrap, agricultural wastes, and other
17 items, all of which can be used in the manufacture of new or recycled
18 products.

19 (~~(13)~~) (15) "Re-refined oils" means used lubricating oils from
20 which the physical and chemical contaminants acquired through previous
21 use have been removed through a refining process. Re-refining may
22 include distillation, hydrotreating, or treatments employing acid,
23 caustic, solvent, clay, or other chemicals, or other physical
24 treatments other than those used in reclaiming.

25 (~~(14)~~) (16) "USEPA product standards" means the product standards
26 of the United States environmental protection agency for recycled
27 content published in the code of federal regulations.

28 **Sec. 13.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to
29 read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and
2 decide appeals from the following decisions of the department, the
3 director, and the air pollution control boards or authorities as
4 established pursuant to chapter 70.94 RCW, or local health departments:

5 (a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080,
6 70.107.050, 90.03.600, 90.48.144, and (~~90.48.350~~) 90.56.330.

7 (b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332,
8 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

9 (c) The issuance, modification, or termination of any permit,
10 certificate, or license by the department or any air authority in the
11 exercise of its jurisdiction, including the issuance or termination of
12 a waste disposal permit, the denial of an application for a waste
13 disposal permit, or the modification of the conditions or the terms of
14 a waste disposal permit.

15 (d) Decisions of local health departments regarding the grant or
16 denial of solid waste permits pursuant to chapter 70.95 RCW.

17 (e) Decisions of local health departments regarding the issuance
18 and enforcement of permits to use or dispose of biosolids under section
19 10 of this act.

20 (f) Any other decision by the department or an air authority which
21 pursuant to law must be decided as an adjudicative proceeding under
22 chapter 34.05 RCW.

23 (2) The following hearings shall not be conducted by the hearings
24 board:

25 (a) Hearings required by law to be conducted by the shorelines
26 hearings board pursuant to chapter 90.58 RCW.

27 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
28 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

29 (c) Proceedings by the department relating to general adjudications
30 of water rights pursuant to chapter 90.03 or 90.44 RCW.

1 (d) Hearings conducted by the department to adopt, modify, or
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board
4 shall be subject to review in accordance with the provisions of the
5 Administrative Procedure Act, chapter 34.05 RCW.

6 **Sec. 14.** RCW 47.28.220 and 1991 c 297 s 14 are each amended to
7 read as follows:

8 (1) A contract awarded in whole or in part for the purchase of
9 compost products as a soil cover or soil amendment to state highway
10 rights of way shall specify that compost products be purchased in
11 accordance with the following schedule:

12 (a) For the period July 1, 1991, through June 30, 1993, twenty-five
13 percent of the total dollar amount purchased;

14 (b) For the period July 1, 1993, through June 30, 1995, fifty
15 percent of the total dollar amount purchased. The percentages in this
16 subsection apply only to the materials' value, and do not include
17 services or other materials.

18 (2) In order to carry out the provisions of this section, the
19 department of transportation shall develop and adopt bid specifications
20 for compost products used in state highway construction projects.

21 (3)(a) For purposes of this section, "compost products" means
22 mulch, soil amendments, ground cover, or other landscaping material
23 derived from the biological or mechanical conversion of biosolids or
24 cellulose-containing waste materials.

25 (b) For purposes of this section, "biosolids" means municipal
26 sewage sludge that meets the requirements of chapter 70.-- RCW
27 (sections 1 through 11 of this act).

1 **Sec. 15.** RCW 70.95.255 and 1986 c 297 s 1 are each amended to read
2 as follows:

3 After January 1, 1988, the department of ecology may prohibit
4 disposal of (~~municipal~~) sewage sludge or septic tank sludge (septage)
5 in landfills for final disposal, except on a temporary, emergency
6 basis, if the jurisdictional health department determines that a
7 potentially unhealthful circumstance exists. Beneficial uses of sludge
8 in landfill reclamation is acceptable utilization and not considered
9 disposal.

10 The department of ecology shall adopt rules that provide exemptions
11 from this section on a case-by-case basis. Exemptions shall be based
12 on the economic infeasibility of using or disposing of the sludge
13 material other than in a landfill.

14 (~~The department of ecology, after consulting with representatives
15 from cities, counties, special purpose districts, and operators of
16 septic tank pump-out services, shall adopt rules for the
17 environmentally safe use of municipal sewage sludge and septage in this
18 state.~~)

19 The department of ecology, after consulting with representatives
20 from the pulp and paper industry and the food processing industry, may
21 adopt rules for the environmentally safe use of appropriate industrial
22 sludges, such as pulp and paper sludges or food processing wastes, used
23 to improve the texture or nutrient content of soils.

24 The department of ecology, in conjunction with the department of
25 social and health services and the department of agriculture, shall
26 adopt rules establishing labeling and notification requirements for
27 sludge material sold commercially or given away to the public. The
28 department shall specify mandatory wording for labels and notification
29 to warn the public against improper use of the material.

1 **Sec. 16.** RCW 70.95.030 and 1991 c 298 s 2 are each amended to read
2 as follows:

3 As used in this chapter, unless the context indicates otherwise:

4 (1) "City" means every incorporated city and town.

5 (2) "Commission" means the utilities and transportation commission.

6 (3) "Committee" means the state solid waste advisory committee.

7 (4) "Department" means the department of ecology.

8 (5) "Director" means the director of the department of ecology.

9 (6) "Disposal site" means the location where any final treatment,
10 utilization, processing, or deposit of solid waste occurs.

11 (7) "Energy recovery" means a process operating under federal and
12 state environmental laws and regulations for converting solid waste
13 into usable energy and for reducing the volume of solid waste.

14 (8) "Functional standards" means criteria for solid waste handling
15 expressed in terms of expected performance or solid waste handling
16 functions.

17 (9) "Incineration" means a process of reducing the volume of solid
18 waste operating under federal and state environmental laws and
19 regulations by use of an enclosed device using controlled flame
20 combustion.

21 (10) "Jurisdictional health department" means city, county, city-
22 county, or district public health department.

23 (11) "Landfill" means a disposal facility or part of a facility at
24 which solid waste is placed in or on land and which is not a land
25 treatment facility.

26 (12) "Local government" means a city, town, or county.

27 (13) "Multiple family residence" means any structure housing two or
28 more dwelling units.

1 (14) "Person" means individual, firm, association, copartnership,
2 political subdivision, government agency, municipality, industry,
3 public or private corporation, or any other entity whatsoever.

4 (15) "Recyclable materials" means those solid wastes that are
5 separated for recycling or reuse, such as papers, metals, and glass,
6 that are identified as recyclable material pursuant to a local
7 comprehensive solid waste plan. Prior to the adoption of the local
8 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),
9 local governments may identify recyclable materials by ordinance from
10 July 23, 1989.

11 (16) "Recycling" means transforming or remanufacturing waste
12 materials into usable or marketable materials for use other than
13 landfill disposal or incineration.

14 (17) "Residence" means the regular dwelling place of an individual
15 or individuals.

16 (18) "Sewage sludge" means a semisolid substance consisting of
17 settled sewage solids combined with varying amounts of water and
18 dissolved materials, generated from a wastewater treatment system, that
19 does not meet the requirements of chapter 70.-- RCW (sections 1 through
20 11 of this act).

21 (19) "Solid waste" or "wastes" means all putrescible and
22 nonputrescible solid and semisolid wastes including, but not limited
23 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
24 demolition and construction wastes, abandoned vehicles or parts
25 thereof, and recyclable materials.

26 (~~(19)~~) (20) "Solid waste handling" means the management, storage,
27 collection, transportation, treatment, utilization, processing, and
28 final disposal of solid wastes, including the recovery and recycling of
29 materials from solid wastes, the recovery of energy resources from

1 solid wastes or the conversion of the energy in solid wastes to more
2 useful forms or combinations thereof.

3 ~~((+20+))~~ (21) "Source separation" means the separation of different
4 kinds of solid waste at the place where the waste originates.

5 ~~((+21+))~~ (22) "Vehicle" includes every device physically capable of
6 being moved upon a public or private highway, road, street, or
7 watercourse and in, upon, or by which any person or property is or may
8 be transported or drawn upon a public or private highway, road, street,
9 or watercourse, except devices moved by human or animal power or used
10 exclusively upon stationary rails or tracks.

11 ~~((+22+))~~ (23) "Waste reduction" means reducing the amount or
12 toxicity of waste generated or reusing materials.

13 **Sec. 17.** RCW 90.48.465 and 1991 c 307 s 1 are each amended to read
14 as follows:

15 (1) The department shall establish annual fees to collect expenses
16 for issuing and administering each class of permits under RCW
17 90.48.160, 90.48.162, ~~((and))~~ 90.48.260, and section 10 of this act.
18 An initial fee schedule shall be established by rule within one year of
19 March 1, 1989, and thereafter the fee schedule shall be adjusted no
20 more often than once every two years. This fee schedule shall apply to
21 all permits, regardless of date of issuance, and fees shall be assessed
22 prospectively. All fees charged shall be based on factors relating to
23 the complexity of permit issuance and compliance and may be based on
24 pollutant loading and toxicity and be designed to encourage recycling
25 and the reduction of the quantity of pollutants. Fees shall be
26 established in amounts to fully recover and not to exceed expenses
27 incurred by the department in processing permit applications and
28 modifications, monitoring and evaluating compliance with permits,
29 conducting inspections, securing laboratory analysis of samples taken

1 during inspections, reviewing plans and documents directly related to
2 operations of permittees, overseeing performance of delegated
3 pretreatment programs, and supporting the overhead expenses that are
4 directly related to these activities.

5 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.
6 Sec. 1362, for all domestic wastewater facility permits issued under
7 RCW 90.48.162 (~~and~~), 90.48.260, and section 10 of this act shall not
8 exceed the total of a maximum of fifteen cents per month per residence
9 or residential equivalent contributing to the municipality's wastewater
10 system. The department shall adopt by rule a schedule of credits for
11 any municipality engaging in a comprehensive monitoring program beyond
12 the requirements imposed by the department, with the credits available
13 for five years from March 1, 1989, and with the total amount of all
14 credits not to exceed fifty thousand dollars in the five-year period.

15 (3) The department shall ensure that indirect dischargers do not
16 pay twice for the administrative expense of a permit. Accordingly,
17 administrative expenses for permits issued by a municipality under RCW
18 90.48.165 are not recoverable by the department.

19 (4) In establishing fees, the department shall consider the
20 economic impact of fees on small dischargers and the economic impact of
21 fees on public entities required to obtain permits for storm water
22 runoff and shall provide appropriate adjustments.

23 (5) All fees collected under this section shall be deposited in the
24 water quality permit account hereby created in the state treasury.
25 Moneys in the account may be appropriated only for purposes of
26 administering permits under RCW 90.48.160, 90.48.162, (~~and~~)
27 90.48.260, and section 10 of this act.

28 (6) The department shall submit an annual report to the legislature
29 showing detailed information on fees collected, actual expenses

1 incurred, and anticipated expenses for the current and following fiscal
2 years.

3 (7) The legislative budget committee in 1993 shall review the fees
4 established under this section and report its findings to the
5 legislature in January 1994.

6 NEW SECTION. **Sec. 18.** Sections 1 through 11 of this act shall
7 constitute a new chapter in Title 70 RCW.