

2 **ESSB 6203** - H COMM AMD **ADOPTED 3/3/98**  
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 70.95.020 and 1985 c 345 s 2 are each amended to read  
8 as follows:

9 The purpose of this chapter is to establish a comprehensive state-  
10 wide program for solid waste handling, and solid waste recovery and/or  
11 recycling which will prevent land, air, and water pollution and  
12 conserve the natural, economic, and energy resources of this state. To  
13 this end it is the purpose of this chapter:

14 (1) To assign primary responsibility for adequate solid waste  
15 handling to local government, reserving to the state, however, those  
16 functions necessary to assure effective programs throughout the state;

17 (2) To provide for adequate planning for solid waste handling by  
18 local government;

19 (3) To provide for the adoption and enforcement of basic minimum  
20 performance standards for solid waste handling;

21 (4) To provide technical and financial assistance to local  
22 governments in the planning, development, and conduct of solid waste  
23 handling programs;

24 (5) To encourage storage, proper disposal, and recycling of  
25 discarded vehicle tires and to stimulate private recycling programs  
26 throughout the state; and

27 (6) To encourage the development and operation of waste recycling  
28 facilities and activities needed to accomplish the management priority  
29 of waste recycling and to promote consistency in the permitting  
30 requirements for such facilities and activities throughout the state.

31 It is the intent of the legislature that local governments be  
32 encouraged to use the expertise of private industry and to contract  
33 with private industry to the fullest extent possible to carry out solid  
34 waste recovery and/or recycling programs.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 70.95 RCW  
2 to read as follows:

3        (1) The department may by rule exempt a solid waste from the  
4 permitting requirements of this chapter for one or more beneficial  
5 uses. In adopting such rules, the department shall specify both the  
6 solid waste that is exempted from the permitting requirements and the  
7 beneficial use or uses for which the solid waste is so exempted. The  
8 department shall consider:    (a) Whether the material will be  
9 beneficially used or reused; and (b) whether the beneficial use or  
10 reuse of the material will present threats to human health or the  
11 environment.

12        (2) The department may also exempt a solid waste from the  
13 permitting requirements of this chapter for one or more beneficial uses  
14 by approving an application for such an exemption. The department  
15 shall establish by rule procedures under which a person may apply to  
16 the department for such an exemption. The rules shall establish  
17 criteria for providing such an exemption, which shall include, but not  
18 be limited to: (a) The material will be beneficially used or reused;  
19 and (b) the beneficial use or reuse of the material will not present  
20 threats to human health or the environment. Rules adopted under this  
21 subsection shall identify the information that an application shall  
22 contain. Persons seeking such an exemption shall apply to the  
23 department under the procedures established by the rules adopted under  
24 this subsection.

25        (3) After receipt of an application filed under rules adopted under  
26 subsection (2) of this section, the department shall review the  
27 application to determine whether it is complete, and forward a copy of  
28 the completed application to all jurisdictional health departments for  
29 review and comment. Within forty-five days, the jurisdictional health  
30 departments shall forward to the department their comments and any  
31 other information they deem relevant to the department's decision to  
32 approve or disapprove the application. Every complete application  
33 shall be approved or disapproved by the department within ninety days  
34 of receipt. If the application is approved by the department, the  
35 solid waste is exempt from the permitting requirements of this chapter  
36 when used anywhere in the state in the manner approved by the  
37 department. If the composition, use, or reuse of the solid waste is  
38 not consistent with the terms and conditions of the department's

1 approval of the application, the use of the solid waste remains subject  
2 to the permitting requirements of this chapter.

3 (4) The department shall establish procedures by rule for providing  
4 to the public and the solid waste industry notice of and an opportunity  
5 to comment on each application for an exemption under subsection (2) of  
6 this section.

7 (5) Any jurisdictional health department or applicant may appeal  
8 the decision of the department to approve or disapprove an application  
9 under subsection (3) of this section. The appeal shall be made to the  
10 pollution control hearings board by filing with the hearings board a  
11 notice of appeal within thirty days of the decision of the department.  
12 The hearings board's review of the decision shall be made in accordance  
13 with chapter 43.21B RCW and any subsequent appeal of a decision of the  
14 board shall be made in accordance with RCW 43.21B.180.

15 (6) This section shall not be deemed to invalidate the exemptions  
16 or determinations of nonapplicability in the department's solid waste  
17 rules as they exist on the effective date of this section, which  
18 exemptions and determinations are recognized and confirmed subject to  
19 the department's continuing authority to modify or revoke those  
20 exemptions or determinations by rule.

21 **Sec. 3.** RCW 70.95.170 and 1997 c 213 s 2 are each amended to read  
22 as follows:

23 Except as provided otherwise in section 5 or 6 of this act, after  
24 approval of the comprehensive solid waste plan by the department no  
25 solid waste handling facility or facilities shall be maintained,  
26 established, or modified until the county, city, or other person  
27 operating such site has obtained a permit (~~(from the jurisdictional~~  
28 ~~health department)) pursuant to ((~~the provisions of~~)) RCW 70.95.180 or  
29 70.95.190.~~

30 **Sec. 4.** RCW 70.95.190 and 1997 c 213 s 4 are each amended to read  
31 as follows:

32 (1) Every permit for an existing solid waste handling facility  
33 issued pursuant to RCW 70.95.180 shall be renewed at least every five  
34 years on a date established by the jurisdictional health department  
35 having jurisdiction of the site and as specified in the permit. If a  
36 permit is to be renewed for longer than one year, the local  
37 jurisdictional health department may hold a public hearing before

1 making such a decision. Prior to renewing a permit, the health  
2 department shall conduct a review as it deems necessary to assure that  
3 the solid waste handling facility or facilities located on the site  
4 continues to meet minimum functional standards of the department,  
5 applicable local regulations, and are not in conflict with the approved  
6 solid waste management plan. A jurisdictional health department shall  
7 approve or disapprove a permit renewal within forty-five days of  
8 conducting its review. The department shall review and may appeal the  
9 renewal as set forth for the approval of permits in RCW 70.95.185.

10 (2) The jurisdictional board of health may establish reasonable  
11 fees for permits reviewed under this section. All permit fees  
12 collected by the health department shall be deposited in the treasury  
13 and to the account from which the health department's operating  
14 expenses are paid.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.95 RCW  
16 to read as follows:

17 (1) Notwithstanding any other provision of this chapter, the  
18 department may by rule exempt from the requirements to obtain a solid  
19 waste handling permit any category of solid waste handling facility  
20 that it determines to:

21 (a) Present little or no environmental risk; and

22 (b) Meet the environmental protection and performance requirements  
23 required for other similar solid waste facilities.

24 (2) This section does not apply to any facility or category of  
25 facilities that:

26 (a) Receives municipal solid waste destined for final disposal,  
27 including but not limited to transfer stations, landfills, and  
28 incinerators;

29 (b) Applies putrescible solid waste on land for final disposal  
30 purposes;

31 (c) Handles mixed solid wastes that have not been processed to  
32 segregate solid waste materials destined for disposal from other solid  
33 waste materials destined for a beneficial use;

34 (d) Receives or processes organic waste materials into compost in  
35 volumes that generally far exceed those handled by municipal park  
36 departments, master gardening programs, and households; or

1 (e) Receives solid waste destined for recycling or reuse, the  
2 operation of which is determined by the department to present risks to  
3 human health and the environment.

4 (3) Rules adopted under this section shall contain such terms and  
5 conditions as the department deems necessary to ensure compliance with  
6 applicable statutes and rules. If a facility does not operate in  
7 compliance with the terms and conditions established for an exemption  
8 under subsection (1) of this section, the facility is subject to the  
9 permitting requirements for solid waste handling under this chapter.

10 (4) This section shall not be deemed to invalidate the exemptions  
11 or determinations of nonapplicability in the department's solid waste  
12 rules as they exist on the effective date of this section, which  
13 exemptions and determinations are recognized and confirmed subject to  
14 the department's continuing authority to modify or revoke those  
15 exemptions or determinations by rule.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95 RCW  
17 to read as follows:

18 (1) Notwithstanding any other provisions of this chapter, the  
19 department shall adopt rules:

20 (a) Describing when a jurisdictional health department may, at its  
21 discretion, waive the requirement that a permit be issued for a  
22 facility under this chapter if other air, water, or environmental  
23 permits are issued for the same facility. As used in this section, a  
24 jurisdictional health department's waiving the requirement that a  
25 permit be issued for a facility under this chapter based on the  
26 issuance of such other permits for the facility is the health  
27 department's "deferring" to the other permits; and

28 (b) Allowing deferral only if the applicant and the jurisdictional  
29 health department demonstrate that other permits for the facility will  
30 provide a comparable level of protection for human health and the  
31 environment that would be provided by a solid waste handling permit.

32 (2) This section does not apply to any transfer station, landfill,  
33 or incinerator that receives municipal solid waste destined for final  
34 disposal.

35 (3) If, before the effective date of this section, either the  
36 department or a jurisdictional health department has deferred solid  
37 waste permitting or regulation of a solid waste facility to permitting  
38 or regulation under other environmental permits for the same facility,

1 such deferral is valid and shall not be affected by the rules developed  
2 under subsection (1) of this section.

3 (4) Rules adopted under this section shall contain such terms and  
4 conditions as the department deems necessary to ensure compliance with  
5 applicable statutes and rules.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.95 RCW  
7 to read as follows:

8 The department may assess a civil penalty in an amount not to  
9 exceed one thousand dollars per day per violation to any person exempt  
10 from solid waste permitting in accordance with section 2 or 5 of this  
11 act who fails to comply with the terms and conditions of the exemption.  
12 Each such violation shall be a separate and distinct offense, and in  
13 the case of a continuing violation, each day's continuance shall be a  
14 separate and distinct violation.

15 **Sec. 8.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to  
16 read as follows:

17 (1) The hearings board shall only have jurisdiction to hear and  
18 decide appeals from the following decisions of the department, the  
19 director, the administrator of the office of marine safety, and the air  
20 pollution control boards or authorities as established pursuant to  
21 chapter 70.94 RCW, or local health departments:

22 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
23 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and  
24 90.56.330.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
26 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
27 90.14.130, and 90.48.120.

28 (c) The issuance, modification, or termination of any permit,  
29 certificate, or license by the department or any air authority in the  
30 exercise of its jurisdiction, including the issuance or termination of  
31 a waste disposal permit, the denial of an application for a waste  
32 disposal permit, ~~((or))~~ the modification of the conditions or the terms  
33 of a waste disposal permit, or a decision to approve or deny an  
34 application for a solid waste permit exemption under section 2 of this  
35 act.

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

1 (e) Decisions of local health departments regarding the issuance  
2 and enforcement of permits to use or dispose of biosolids under RCW  
3 70.95J.080.

4 (f) Any other decision by the department, the administrator of the  
5 office of marine safety, or an air authority which pursuant to law must  
6 be decided as an adjudicative proceeding under chapter 34.05 RCW.

7 (2) The following hearings shall not be conducted by the hearings  
8 board:

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

11 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
12 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.95 RCW  
21 to read as follows:

22 Nothing in chapter . . . , Laws of 1998 (this act) may be construed  
23 to affect chapter 81.77 RCW and the authority of the utilities and  
24 transportation commission."

25 Correct the title.

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