

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6605

64th Legislature
2016 Regular Session

Passed by the Senate March 7, 2016
Yeas 47 Nays 0

President of the Senate

Passed by the House March 4, 2016
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6605** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6605

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Becker, Brown, and Honeyford)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to ensuring that solid waste management
2 requirements prevent the spread of disease, plant pathogens, and
3 pests; amending RCW 70.95.060, 70.95.165, 70.95.180, 70.95.200,
4 70.95.300, 70.95.205, and 70.95.315; and adding a new section to
5 chapter 70.95 RCW.

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

7 **Sec. 1.** RCW 70.95.060 and 1999 c 116 s 1 are each amended to
8 read as follows:

9 (1) The department shall adopt rules establishing minimum
10 functional standards for solid waste handling, consistent with the
11 standards specified in this section. The department may classify
12 areas of the state with respect to population density, climate,
13 geology, status under a quarantine as defined in RCW 17.24.007, and
14 other relevant factors bearing on solid waste disposal standards.

15 (2) In addition to the minimum functional standards adopted by
16 the department under subsection (1) of this section, each landfill
17 facility whose area at its design capacity will exceed one hundred
18 acres and whose horizontal height at design capacity will average one
19 hundred feet or more above existing site elevations shall comply with
20 the standards of this subsection. This subsection applies only to

1 wholly new solid waste landfill facilities, no part or unit of which
2 has had construction commence before April 27, 1999.

3 (a) No landfill specified in this subsection may be located:

4 (i) So that the active area is closer than five miles to any
5 national park or a public or private nonprofit zoological park
6 displaying native animals in their native habitats; or

7 (ii) Over a sole source aquifer designated under the federal safe
8 drinking water act, if such designation was effective before January
9 1, 1999.

10 (b) Each landfill specified in this subsection (2) shall be
11 constructed with an impermeable berm around the entire perimeter of
12 the active area of the landfill of such height, thickness, and design
13 as will be sufficient to contain all material disposed in the event
14 of a complete failure of the structural integrity of the landfill.

15 **Sec. 2.** RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 are each
16 amended to read as follows:

17 (1) Each county or city siting a solid waste disposal facility
18 shall review each potential site for conformance with the standards
19 as set by the department for:

20 (a) Geology;

21 (b) Groundwater;

22 (c) Soil;

23 (d) Flooding;

24 (e) Surface water;

25 (f) Slope;

26 (g) Cover material;

27 (h) Capacity;

28 (i) Climatic factors;

29 (j) Land use;

30 (k) Toxic air emissions; and

31 (l) Other factors as determined by the department.

32 (2) The standards in subsection (1) of this section shall be
33 designed to use the best available technology to protect the
34 environment and human health, and shall be revised periodically to
35 reflect new technology and information.

36 (3) Each county shall establish a local solid waste advisory
37 committee to assist in the development of programs and policies
38 concerning solid waste handling and disposal and to review and
39 comment upon proposed rules, policies, or ordinances prior to their

1 adoption. Such committees shall consist of a minimum of nine members
2 and shall represent a balance of interests including, but not limited
3 to, citizens, public interest groups, business, the waste management
4 industry, agriculture, and local elected public officials. The
5 members shall be appointed by the county legislative authority. A
6 county or city shall not apply for funds from the state and local
7 improvements revolving account, Waste Disposal Facilities, 1980,
8 under RCW 43.83.350, for the preparation, update, or major amendment
9 of a comprehensive solid waste management plan unless the plan or
10 revision has been prepared with the active assistance and
11 participation of a local solid waste advisory committee.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.95
13 RCW to read as follows:

14 Upon receipt by the department of a preliminary draft plan as
15 provided in RCW 70.95.094, the department shall immediately provide a
16 copy of the preliminary draft plan to the department of agriculture.
17 Within forty-five days after receiving the preliminary draft plan,
18 the department of agriculture shall review the preliminary draft plan
19 for compliance with chapter 17.24 RCW and the rules adopted under
20 that chapter. The department of agriculture shall advise the local
21 government submitting the preliminary draft plan and the department
22 of the result of the review.

23 **Sec. 4.** RCW 70.95.180 and 1997 c 213 s 3 are each amended to
24 read as follows:

25 (1) Applications for permits to operate a new or modified solid
26 waste handling facility shall be on forms prescribed by the
27 department and shall contain a description of the proposed facilities
28 and operations at the site, plans and specifications for any new or
29 additional facilities to be constructed, and such other information
30 as the jurisdictional health department may deem necessary in order
31 to determine whether the site and solid waste disposal facilities
32 located thereon will comply with local regulations and state
33 (~~regulations~~) rules.

34 (2) Upon receipt of an application for a permit to establish or
35 modify a solid waste handling facility, the jurisdictional health
36 department shall refer one copy of the application to the department
37 which shall report its findings to the jurisdictional health
38 department. When the application is for a permit to establish or

1 modify a solid waste handling facility located in an area that is not
2 under a quarantine, as defined in RCW 17.24.007, and when the
3 facility will receive material for composting from an area under a
4 quarantine, the jurisdictional health department shall also provide a
5 copy of the application to the department of agriculture. The
6 department of agriculture shall review the application to determine
7 whether it contains information demonstrating that the proposed
8 facility presents a risk of spreading disease, plant pathogens, or
9 pests to areas that are not under a quarantine. For the purposes of
10 this subsection, "composting" means the biological degradation and
11 transformation of organic solid waste under controlled conditions
12 designed to promote aerobic decomposition.

13 (3) The jurisdictional health department shall investigate every
14 application as may be necessary to determine whether a proposed or
15 modified site and facilities meet all solid waste, air, and other
16 applicable laws and regulations, and conforms with the approved
17 comprehensive solid waste handling plan, and complies with all zoning
18 requirements.

19 (4) When the jurisdictional health department finds that the
20 permit should be issued, it shall issue such permit. Every
21 application shall be approved or disapproved within ninety days after
22 its receipt by the jurisdictional health department.

23 (5) The jurisdictional board of health may establish reasonable
24 fees for permits and renewal of permits. All permit fees collected by
25 the health department shall be deposited in the treasury and to the
26 account from which the health department's operating expenses are
27 paid.

28 **Sec. 5.** RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended
29 to read as follows:

30 Any permit for a solid waste disposal site issued as provided
31 herein shall be subject to suspension at any time the jurisdictional
32 health department determines that the site or the solid waste
33 disposal facilities located on the site are being operated in
34 violation of this chapter, (~~(or)~~) the regulations of the department,
35 the rules of the department of agriculture, or local laws and
36 regulations.

37 **Sec. 6.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to
38 read as follows:

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

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

23 (3) After receipt of an application filed under rules adopted
24 under subsection (2) of this section, the department shall review the
25 application to determine whether it is complete, and forward a copy
26 of the completed application to all jurisdictional health departments
27 and the department of agriculture for review and comment. Within
28 forty-five days, the jurisdictional health departments and the
29 department of agriculture shall forward to the department their
30 comments and any other information they deem relevant to the
31 department's decision to approve or disapprove the application. The
32 department of agriculture's comments must be limited to addressing
33 whether approving the application risks spreading disease, plant
34 pathogens, or pests to areas that are not under a quarantine, as
35 defined in RCW 17.24.007. Every complete application shall be
36 approved or disapproved by the department within ninety days of
37 receipt. If the application is approved by the department, the solid
38 waste is exempt from the permitting requirements of this chapter when
39 used anywhere in the state in the manner approved by the department.
40 If the composition, use, or reuse of the solid waste is not

1 consistent with the terms and conditions of the department's approval
2 of the application, the use of the solid waste remains subject to the
3 permitting requirements of this chapter.

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

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

17 (6) This section shall not be deemed to invalidate the exemptions
18 or determinations of nonapplicability in the department's solid waste
19 rules as they exist on June 11, 1998, which exemptions and
20 determinations are recognized and confirmed subject to the
21 department's continuing authority to modify or revoke those
22 exemptions or determinations by rule.

23 **Sec. 7.** RCW 70.95.205 and 1998 c 36 s 18 are each amended to
24 read as follows:

25 (1) Waste-derived soil amendments that meet the standards and
26 criteria in this section may apply for exemption from solid waste
27 permitting as required under RCW 70.95.170. The application shall be
28 submitted to the department in a format determined by the department
29 or an equivalent format. The application shall include:

30 (a) Analytical data showing that the waste-derived soil
31 amendments meet standards established under RCW 15.54.800; and

32 (b) Other information deemed appropriate by the department to
33 protect human health and the environment.

34 (2) After receipt of an application, the department shall review
35 it to determine whether the application is complete, and forward a
36 copy of the complete application to all interested jurisdictional
37 health departments and the department of agriculture for review and
38 comment. Within forty-five days, the jurisdictional health
39 departments and the department of agriculture shall forward their

1 comments and any other information they deem relevant to the
2 department, which shall then give final approval or disapproval of
3 the application. The department of agriculture's comments must be
4 limited to addressing whether approving the application risks
5 spreading disease, plant pathogens, or pests to areas that are not
6 under a quarantine, as defined in RCW 17.24.007. Every complete
7 application shall be approved or disapproved by the department within
8 ninety days after receipt.

9 (3) The department, after providing opportunity for comments from
10 the jurisdictional health departments and the department of
11 agriculture, may at any time revoke an exemption granted under this
12 section if the quality or use of the waste-derived soil amendment
13 changes or the management, storage, or end use of the waste-derived
14 soil amendment constitutes a threat to human health or the
15 environment.

16 (4) Any aggrieved party may appeal the determination by the
17 department in subsection (2) or (3) of this section to the pollution
18 control hearings board.

19 **Sec. 8.** RCW 70.95.315 and 2009 c 178 s 5 are each amended to
20 read as follows:

21 (1) The department may assess a civil penalty in an amount not to
22 exceed one thousand dollars per day per violation to any person
23 exempt from solid waste permitting in accordance with RCW 70.95.205,
24 70.95.300, 70.95.305, 70.95.306, or 70.95.330 who fails to comply
25 with the terms and conditions of the exemption. Each such violation
26 shall be a separate and distinct offense, and in the case of a
27 continuing violation, each day's continuance shall be a separate and
28 distinct violation. The penalty provided in this section shall be
29 imposed pursuant to RCW 43.21B.300.

30 (2) If a person violates a provision of any of the sections
31 referenced in subsection (1) of this section, the department may
32 issue an appropriate order to ensure compliance with the conditions
33 of the exemption. The order may be appealed pursuant to RCW
34 43.21B.310.

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