

# SENATE BILL REPORT

## SB 5245

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As of February 3, 2023

**Title:** An act relating to biosolids.

**Brief Description:** Concerning biosolids.

**Sponsors:** Senators Wilson, J., Holy, Muzzall and Schoesler.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 2/03/23.

**Brief Summary of Bill**

- Directs the Department of Ecology to establish pollutant limits for perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals in biosolids, based on the results of the United States Environmental Protection Agency's risk assessment for PFAS chemicals in biosolids, by July 1, 2025.
- Establishes documentation and notice requirements for transportation and land application of bulk biosolids.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Gregory Vogel (786-7413)

**Background:** Biosolids. Biosolids are nutrient-rich organic materials resulting from processing domestic sewage in a treatment facility. When treated and processed, these residuals can be recycled and applied as fertilizer to improve and maintain productive soils and stimulate plant growth.

Under federal law, there are different rules for different classes of biosolids. Class A biosolids contain no detectable levels of pathogens. When used in bulk, Class A biosolids are subject to buffer requirements, but not to crop-harvesting restrictions.

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The Department of Ecology (Ecology) implements the state's Biosolid Management Program. The rules for the program address how and when biosolids can be applied to land as a fertilizer. These rules also deal with matters such as total pollution concentration limits, pathogen reduction rates, and vector attraction reduction requirements.

Perfluoroalkyl and Polyfluoroalkyl Chemicals. Perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals are characterized by their resistance to oil, stains, grease, and water, as well as their durability, heat resistance, and anti-corrosive properties. Ecology has identified PFAS chemicals as persistent, bioaccumulative, and toxic. They are added to carpets, cookware, food packaging, clothing, cosmetics, and other common consumer products. PFAS chemicals have many industrial applications and are used to make certain types of firefighting foams.

Washington State has enacted laws and adopted regulations relating to PFAS levels in drinking water, firefighting foam and equipment, food packaging, and consumer products.

In 2021, the United States Environmental Protection Agency (EPA) announced the agency's PFAS Strategic Roadmap, laying out the agency's approach to addressing PFAS chemicals. The roadmap sets timelines by which EPA plans to take specific actions and commits to new policies to safeguard public health, protect the environment, and hold polluters accountable. As part of the roadmap work, EPA is conducting a biosolids risk assessment for two PFAS compounds, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), in biosolids. EPA plans to complete the risk assessment for PFOA and PFOS by December 2024.

**Summary of Bill:** Ecology must adopt rules to require written notice be provided to owners of properties adjacent to a land application site before land application of bulk biosolids may be approved.

"Bulk biosolids" means biosolids that are not sold or given away in a bag or other container holding less than one metric ton for application to land.

The state Biosolid Management Program must require a transporter of bulk biosolids to carry a manifest or similar document specifying that the transporter is transporting biosolids regulated under the state program.

By July 1, 2025, Ecology must establish pollutant limits for PFAS chemicals in biosolids, based on the results of EPA's risk assessment for PFAS chemicals in biosolids.

The state's Biosolid Management Program must ensure that biosolids are tested for PFAS chemicals for which a pollutant limit has been established by Ecology. The test results must be recorded and made available to the public.

Land application of biosolids that do not comply with a PFAS chemical pollutant limit is prohibited.

Ecology must publish and maintain a publicly accessible online map or list of the location of parcels where bulk biosolids have been approved for land application.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: It's us, biosolids is the end form of solid material from municipal wastewater we create. We've been using it beneficially for many years. However, in recent years we have learned about forever chemicals that are persistent and in small doses are toxic over a long period of time. The bill gives people a chance to get ready for compliance, to recognize that these are not accepted chemicals in our community. With the chemicals being persistent and forever, this means we are going to have to deal this.

CON: There are three options for biosolids. One option is to incinerate, which is an energy intensive process. Another option is to skip incineration, and send it directly to a landfill, taking up valuable space and creating methane emissions. Third, we can apply it as a beneficial use as fertilizer. We are concerned over PFAS but it's important to note that treatment plants do not produce PFAS. Regulation should focus on the actual sources.

OTHER: Having state established standards addresses the tension between managing potential risk and benefits of the product. We support a regulatory tool to promote public safety and regulation of PFAS. We believe more studying can be done and should be done to better understand the risk of land application of biosolids, especially in drinking water.

Before the science was in, our Legislature deemed it a beneficial resource and mandated that Ecology promote its beneficial use. This was a mistake. The waste industry works hand in glove with the department to dump a toxic product on our food and gardens. It's time to reconsider the designation of biosolids as a beneficial resource. We would like to see this bill expanded to look at more chemicals.

Agencies are working on several measures to address these chemicals. We have concerns about setting a standard prematurely without more state specific data.

We are concerned that the bill creates regulatory burden and costs without commensurate benefit. PFAS is being addressed in many ways at the state level and will effectively

address PFAS at the source, which is the products.

**Persons Testifying:** PRO: Senator Jeff Wilson, Prime Sponsor.

CON: MacLeod Pappidas, NorthWest Biosolids.

OTHER: Scott Hazlegrove, WA Association of Sewer & Water Districts; Morton Alexander; Darlene Schanfald; Laurie Davies, Washington State Department of Ecology; Kyle Dorsey, Coalition for Clean Water; Holly Davies, Washington State Department of Health; Heather Trim, Zero Waste Washington.

**Persons Signed In To Testify But Not Testifying:** No one.