
SUBSTITUTE SENATE BILL 5245

State of Washington

68th Legislature

2023 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators J. Wilson, Holy, Muzzall, and Schoesler)

1 AN ACT Relating to biosolids; amending RCW 70A.226.005,
2 70A.226.007, 70A.226.010, 70A.226.020, and 70A.226.030; and adding
3 new sections to chapter 70A.226 RCW.

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

5 **Sec. 1.** RCW 70A.226.005 and 1992 c 174 s 1 are each amended to
6 read as follows:

7 (1) The legislature finds that:

8 (a) Municipal sewage sludge is an unavoidable by-product of the
9 wastewater treatment process;

10 (b) Population ((increases)) growth and technological
11 improvements in wastewater treatment processes will ((double the
12 amount of sludge generated within the next ten years)) increase the
13 production of biosolids in the future;

14 (c) Sludge management is often a financial burden to
15 municipalities and to ratepayers;

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

19 (e) Municipal sewage sludge can contain metals and microorganisms
20 that, under certain circumstances, may pose a risk to public health;
21 and

1 (f) The United States environmental protection agency reported
2 that biosolids may contain PFAS chemicals and the agency is
3 conducting a risk assessment for some of those chemicals.

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

9 **Sec. 2.** RCW 70A.226.007 and 1992 c 174 s 2 are each amended to
10 read as follows:

11 The purpose of this chapter is to provide the department (~~(of~~
12 ~~ecology)~~) and local governments with the authority and direction to
13 meet federal regulatory requirements for municipal sewage sludge. The
14 department (~~(of ecology)~~) may seek delegation and administer the
15 sludge permit program required by the federal clean water act as it
16 existed (~~(February 4, 1987)~~) on the effective date of this section.

17 **Sec. 3.** RCW 70A.226.010 and 2020 c 20 s 1239 are each amended to
18 read as follows:

19 (~~(Unless the context clearly requires otherwise, the)~~) The
20 definitions in this section apply throughout this chapter unless the
21 context clearly requires otherwise.

22 (1) "Biosolids" means municipal sewage sludge that is a primarily
23 organic, semisolid product resulting from the wastewater treatment
24 process, that can be beneficially recycled and meets all requirements
25 under this chapter. For the purposes of this chapter, "biosolids"
26 includes septic tank sludge, also known as septage, that can be
27 beneficially recycled and meets all requirements under this chapter.

28 (2)(a) "Bulk biosolids" means biosolids that are not sold or
29 given away in a bag or other container holding less than one metric
30 ton for application to the land.

31 (b) Bulk biosolids do not include second generation biosolids
32 products covered under section 4.6.1 of the Washington state general
33 permit for biosolids management and biosolids sold or given away for
34 residential or garden use.

35 (3) "Department" means the department of ecology.

36 (~~((3))~~) (4) "Local health department" has the same meaning as
37 "jurisdictional health department" in RCW 70A.205.015.

1 (~~(4)~~) (5) "Municipal sewage sludge" means a semisolid substance
2 consisting of settled sewage solids combined with varying amounts of
3 water and dissolved materials generated from a publicly owned
4 wastewater treatment plant.

5 (6) "PFAS chemicals" has the same meaning as defined in RCW
6 70A.350.010.

7 **Sec. 4.** RCW 70A.226.020 and 1992 c 174 s 4 are each amended to
8 read as follows:

9 (1) The department shall adopt rules to implement a biosolid
10 management program within twelve months of the adoption of federal
11 rules, 40 C.F.R. (~~(Sec-)~~) Part 503, relating to technical standards
12 for the use and disposal of sewage sludge. The biosolid management
13 program shall, at a minimum, conform with all applicable federal
14 rules adopted pursuant to the federal clean water act as it existed
15 on (~~February 4, 1987~~) the effective date of this section.

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

20 (3) Rules adopted by the department under this section shall
21 provide for public input and involvement for all state and local
22 permits. Rules adopted under this section must require written notice
23 to be provided to the residents of properties adjacent to the land
24 application site before land application of bulk biosolids may be
25 approved.

26 (4) Materials that have received a permit as a biosolid shall be
27 regulated pursuant to this chapter.

28 (5) The transportation of biosolids and municipal sewage sludge
29 shall be governed by Title 81 RCW. Certificates issued by the
30 utilities and transportation commission before June 11, 1992, that
31 include or authorize transportation of municipal sewage sludge shall
32 continue in force and effect and be interpreted to include biosolids.
33 In addition to the provisions of Title 81 RCW, the biosolid
34 management program must require a transporter of bulk biosolids to
35 carry a manifest or similar document specifying that the transporter
36 is transporting biosolids regulated under this chapter.

37 (6) (a) By December 30, 2026, the department shall establish
38 pollutant limits for PFAS chemicals in biosolids, based on state
39 specific data gathered through the study of biosolids in Washington

1 state. The department shall consider the results of the United States
2 environmental protection agency's risk assessment for PFAS chemicals
3 in biosolids, if available, and other accredited risk assessment
4 tools when setting a PFAS standard.

5 (b) If the department is unable, with reasonable diligence, to
6 complete the rule making under chapter 34.05 RCW by the date provided
7 in this subsection for the establishment of PFAS pollutant limits,
8 the department may issue a general order to biosolids facilities
9 within the state requiring compliance with any initial PFAS limits
10 determined by the department until a rule permanently establishing
11 such limits is in effect.

12 (7) By July 1, 2026, the department shall complete an analysis of
13 the levels of PFAS chemicals in biosolids produced in Washington
14 state and provide a report of the analysis to the appropriate
15 committees of the legislature and members of the public.

16 (8) Land application of biosolids that do not comply with a PFAS
17 chemical pollutant limit is prohibited.

18 NEW SECTION. Sec. 5. A new section is added to chapter 70A.226
19 RCW to read as follows:

20 (1) The department shall publish and maintain a publicly
21 accessible online map or list of the location of parcels where bulk
22 biosolids have been approved for land application.

23 (2) The department and a local health department may agree that
24 the local health department will maintain the map or list required
25 under this section for parcels located within the jurisdiction of the
26 local health department.

27 **Sec. 6.** RCW 70A.226.030 and 2014 c 76 s 7 are each amended to
28 read as follows:

29 (1) The department shall establish annual fees to collect
30 expenses for issuing and administering biosolids permits under this
31 chapter. An initial fee schedule shall be established by rule and
32 shall be adjusted no more often than once every two years. This fee
33 schedule applies to all permits, regardless of date of issuance, and
34 fees shall be assessed prospectively. Fees shall be established in
35 amounts to recover expenses incurred by the department in processing
36 permit applications and modifications, reviewing related plans and
37 documents, monitoring, evaluating, conducting inspections, overseeing
38 performance of delegated program elements, testing, mapping, and

1 providing technical assistance and supporting overhead expenses that
2 are directly related to these activities.

3 (2) The annual fee paid by a permittee for any permit issued
4 under this chapter shall be determined by the number of residences or
5 residential equivalents contributing to the permittee's biosolids
6 management system. If residences or residential equivalents cannot be
7 determined or reasonably estimated, fees shall be based on other
8 appropriate criteria.

9 (3) The biosolids permit account is created in the state
10 treasury. All receipts from fees under this section must be deposited
11 into the account. Moneys in the account may be spent only after
12 appropriation. Expenditures from the account may be used only for the
13 purposes of administering permits under this chapter.

14 (4) The department shall make available on the department's
15 website information on fees collected, actual expenses incurred, and
16 anticipated expenses for the current and following fiscal years.

17 (5) The department shall work with the regulated community and
18 local health departments to study the feasibility of modifying the
19 fee schedule to support delegated local health departments and reduce
20 local health department fees paid by biosolids permittees.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 70A.226
22 RCW to read as follows:

23 Before adopting or amending any rules relating to biosolids
24 pollutant limits for PFAS chemicals, the department shall consult
25 with an advisory committee of experts, interested parties, and other
26 similar stakeholders, convened by the department. The purpose of
27 consultation required under this section is to ensure that the
28 department is soliciting and receiving sufficient input on
29 requirements and standards for biosolids pollutant limits for PFAS
30 chemicals.

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