
SUBSTITUTE SENATE BILL 6605

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, and
4 70.95.300; and adding new sections to chapter 70.95 RCW.

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

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

8 (1) Any local government that prohibits the disposal of food
9 waste and compostable paper as garbage must ensure that any solid
10 waste management plan it prepares under this chapter prevents the
11 spread of disease, plant pathogens, and pests to areas that are not
12 under a quarantine, as defined in RCW 17.24.007. A local government
13 to which this section applies must consult with the department of
14 agriculture to determine if the local government's solid waste
15 management plan complies with this section prior to submitting the
16 solid waste management plan to the department for approval under RCW
17 70.95.094. Before a solid waste management plan to which this section
18 applies may be approved, the department must receive a written
19 statement from the department of agriculture stating that the solid
20 waste management plan complies with this section. The department must

1 require the department of agriculture's written statement to be
2 included in the final approved solid waste management plan.

3 (2) A local government to which this section applies must review
4 and, if necessary, revise any existing solid waste management plan to
5 ensure compliance with this section, no later than ninety days after
6 the effective date of this section. A solid waste management plan
7 that is revised under this subsection is subject to review and
8 approval by the department.

9 (3) This section does not affect the authority of the department
10 of agriculture under chapter 17.24 RCW.

11 **Sec. 2.** RCW 70.95.060 and 1999 c 116 s 1 are each amended to
12 read as follows:

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

19 (2) In addition to the minimum functional standards adopted by
20 the department under subsection (1) of this section, each landfill
21 facility whose area at its design capacity will exceed one hundred
22 acres and whose horizontal height at design capacity will average one
23 hundred feet or more above existing site elevations shall comply with
24 the standards of this subsection. This subsection applies only to
25 wholly new solid waste landfill facilities, no part or unit of which
26 has had construction commence before April 27, 1999.

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

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

31 (ii) Over a sole source aquifer designated under the federal safe
32 drinking water act, if such designation was effective before January
33 1, 1999.

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

1 **Sec. 3.** RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 are each
2 amended to read as follows:

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

- 6 (a) Geology;
- 7 (b) Groundwater;
- 8 (c) Soil;
- 9 (d) Flooding;
- 10 (e) Surface water;
- 11 (f) Slope;
- 12 (g) Cover material;
- 13 (h) Capacity;
- 14 (i) Climatic factors;
- 15 (j) Land use;
- 16 (k) Toxic air emissions; and

17 (1) Other factors as determined by the department.

18 (2) The standards in subsection (1) of this section shall be
19 designed to use the best available technology to protect the
20 environment and human health, and shall be revised periodically to
21 reflect new technology and information, including information
22 relating to preventing the spread of disease, plant pathogens, and
23 pests to areas that are not under a quarantine, as defined in RCW
24 17.24.007.

25 (3) Each county shall establish a local solid waste advisory
26 committee to assist in the development of programs and policies
27 concerning solid waste handling and disposal and to review and
28 comment upon proposed rules, policies, or ordinances prior to their
29 adoption. Such committees shall consist of a minimum of nine members
30 and shall represent a balance of interests including, but not limited
31 to, citizens, public interest groups, business, the waste management
32 industry, agriculture, and local elected public officials. The
33 members shall be appointed by the county legislative authority. A
34 county or city shall not apply for funds from the state and local
35 improvements revolving account, Waste Disposal Facilities, 1980,
36 under RCW 43.83.350, for the preparation, update, or major amendment
37 of a comprehensive solid waste management plan unless the plan or
38 revision has been prepared with the active assistance and
39 participation of a local solid waste advisory committee.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.95
2 RCW to read as follows:

3 Upon receipt by the department of a preliminary draft plan as
4 provided in RCW 70.95.094, the department shall immediately provide
5 the department of agriculture with a copy of the preliminary draft
6 plan. Within forty-five days after receiving the plan, the department
7 of agriculture shall review the plan for compliance with chapter
8 17.24 RCW and the rules adopted under that chapter. The department of
9 agriculture shall advise the local government submitting the plan and
10 the department of the result of this review.

11 **Sec. 5.** RCW 70.95.180 and 1997 c 213 s 3 are each amended to
12 read as follows:

13 (1) Applications for permits to operate a new or modified solid
14 waste handling facility shall be on forms prescribed by the
15 department and shall contain a description of the proposed facilities
16 and operations at the site, plans and specifications for any new or
17 additional facilities to be constructed, and such other information
18 as the jurisdictional health department may deem necessary in order
19 to determine whether the site and solid waste disposal facilities
20 located thereon will comply with local regulations and state
21 (~~regulations~~) rules.

22 (2) Upon receipt of an application for a permit to establish or
23 modify a solid waste handling facility, the jurisdictional health
24 department shall refer one copy of the application to the department
25 which shall report its findings to the jurisdictional health
26 department. When the application is for a permit to establish or
27 modify a solid waste handling facility located in an area that is not
28 under a quarantine, as defined in RCW 17.24.007, and when the
29 facility will receive material for composting from an area under a
30 quarantine, the jurisdictional health department shall also refer a
31 copy of the application to the department of agriculture. The
32 department of agriculture shall review the application to determine
33 whether it contains information demonstrating that the proposed
34 facility presents a risk of spreading disease, plant pathogens, or
35 pests to areas that are not under a quarantine. For the purposes of
36 this subsection, "composting" means the biological degradation and
37 transformation of organic solid waste under controlled conditions
38 designed to promote aerobic decomposition.

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

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

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

16 **Sec. 6.** RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended
17 to read as follows:

18 Any permit for a solid waste disposal site issued as provided
19 herein shall be subject to suspension at any time the jurisdictional
20 health department determines that the site or the solid waste
21 disposal facilities located on the site are being operated in
22 violation of this chapter, (~~(or)~~) the regulations of the department,
23 the rules of the department of agriculture, or local laws and
24 regulations.

25 **Sec. 7.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to
26 read as follows:

27 (1) The department may by rule exempt a solid waste from the
28 permitting requirements of this chapter for one or more beneficial
29 uses. In adopting such rules, the department shall specify both the
30 solid waste that is exempted from the permitting requirements and the
31 beneficial use or uses for which the solid waste is so exempted. The
32 department shall consider: (a) Whether the material will be
33 beneficially used or reused; and (b) whether the beneficial use or
34 reuse of the material will present threats to human health or the
35 environment.

36 (2) The department may also exempt a solid waste from the
37 permitting requirements of this chapter for one or more beneficial
38 uses by approving an application for such an exemption. The

1 department shall establish by rule procedures under which a person
2 may apply to the department for such an exemption. The rules shall
3 establish criteria for providing such an exemption, which shall
4 include, but not be limited to: (a) The material will be beneficially
5 used or reused; and (b) the beneficial use or reuse of the material
6 will not present threats to human health or the environment. Rules
7 adopted under this subsection shall identify the information that an
8 application shall contain. Persons seeking such an exemption shall
9 apply to the department under the procedures established by the rules
10 adopted under this subsection.

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

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

36 (5)(a) Any jurisdictional health department, the department of
37 agriculture, or applicant may appeal the decision of the department
38 to approve or disapprove an application under subsection (3) of this
39 section. The appeal shall be made to the pollution control hearings
40 board by filing with the hearings board a notice of appeal within

1 thirty days of the decision of the department. The hearings board's
2 review of the decision shall be made in accordance with chapter
3 43.21B RCW and any subsequent appeal of a decision of the board shall
4 be made in accordance with RCW 43.21B.180.

5 (b) The department of agriculture's election to appeal or not to
6 appeal the decision of the department under this subsection does not
7 prevent the department of agriculture from exercising its regulatory
8 and enforcement authority in relation to the solid waste that is the
9 subject of any exemption under this section.

10 (6) 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 June 11, 1998, which exemptions and
13 determinations are recognized and confirmed subject to the
14 department's continuing authority to modify or revoke those
15 exemptions or determinations by rule.

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