

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2640

52nd Legislature
1992 Regular Session

Passed by the House March 11, 1992
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 11, 1992
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2640 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2640

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Environmental Affairs (originally sponsored by Representatives R. Johnson, Rust, Kremen, Roland, Heavey, Rasmussen and Spanel)

Read first time 02/05/92.

1 AN ACT Relating to municipal sewage sludge; amending RCW
2 43.19A.010, 43.21B.110, 47.28.220, 70.95.255, 70.95.030, and 90.48.465;
3 adding a new chapter to Title 70 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Municipal sewage sludge is an unavoidable byproduct of the
7 wastewater treatment process;

8 (b) Population increases and technological improvements in
9 wastewater treatment processes will double the amount of sludge
10 generated within the next ten years;

11 (c) Sludge management is often a financial burden to municipalities
12 and to ratepayers;

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

4 (e) Municipal sewage sludge can contain metals and microorganisms
5 that, under certain circumstances, may pose a risk to public health.

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

11 NEW SECTION. **Sec. 2.** The purpose of this chapter is to
12 provide the department of ecology and local governments with the
13 authority and direction to meet federal regulatory requirements for
14 municipal sewage sludge. The department of ecology may seek delegation
15 and administer the sludge permit program required by the federal clean
16 water act as it existed February 4, 1987.

17 NEW SECTION. **Sec. 3.** Unless the context clearly requires
18 otherwise, the definitions in this section apply throughout this
19 chapter.

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

26 (2) "Department" means the department of ecology.

27 (3) "Local health department" has the same meaning as
28 "jurisdictional health department" in RCW 70.95.030.

1 (4) "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 NEW SECTION. **Sec. 4.** (1) The department shall adopt rules to
6 implement a biosolid management program within twelve months of the
7 adoption of federal rules, 40 C.F.R. Sec. 503, relating to technical
8 standards for the use and disposal of sewage sludge. The biosolid
9 management program shall, at a minimum, conform with all applicable
10 federal rules adopted pursuant to the federal clean water act as it
11 existed on February 4, 1987.

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

16 (3) Rules adopted by the department under this section shall
17 provide for public input and involvement for all state and local
18 permits.

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

21 (5) The transportation of biosolids and municipal sewage sludge
22 shall be governed by Title 81 RCW. Certificates issued by the
23 utilities and transportation commission before the effective date of
24 this section that include or authorize transportation of municipal
25 sewage sludge shall continue in force and effect and be interpreted to
26 include biosolids.

1 NEW SECTION. **Sec. 5.** The department may work with all
2 appropriate state agencies, local governments, and private entities to
3 establish beneficial uses for biosolids and glassified sewage sludge.

4 NEW SECTION. **Sec. 6.** If a person violates any provision of
5 this chapter, or a permit issued or rule adopted pursuant to this
6 chapter, the department may issue an appropriate order to assure
7 compliance with the chapter, permit, or rule.

8 NEW SECTION. **Sec. 7.** The department, with the assistance of
9 the attorney general, may bring an action at law or in equity,
10 including an action for injunctive relief, to enforce this chapter or
11 a permit issued or rule adopted by the department pursuant to this
12 chapter.

13 NEW SECTION. **Sec. 8.** A person who willfully violates, without
14 sufficient cause, any of the provisions of this chapter, or a permit or
15 order issued pursuant to this chapter, is guilty of a gross
16 misdemeanor. Willful violation of this chapter, or a permit or order
17 issued pursuant to this chapter is a gross misdemeanor punishable by a
18 fine of up to ten thousand dollars and costs of prosecution, or by
19 imprisonment for up to one year, or by both. Each day of violation may
20 be deemed a separate violation.

21 NEW SECTION. **Sec. 9.** In addition to any other penalty
22 provided by law, a person who violates this chapter or rules or orders
23 adopted or issued pursuant to it shall be subject to a penalty in an
24 amount of up to five thousand dollars a day for each violation. Each
25 violation shall be a separate violation. In the case of a continuing
26 violation, each day of violation is a separate violation. An act of

1 commission or omission that procures, aids, or abets in the violation
2 shall be considered a violation under this section.

3 NEW SECTION. **Sec. 10.** The department may delegate to a local
4 health department the powers necessary to issue and enforce permits to
5 use or dispose of biosolids. A delegation may be withdrawn if the
6 department finds that a local health department is not effectively
7 administering the permit program.

8 NEW SECTION. **Sec. 11.** (1) Any permit issued by a local health
9 department under section 10 of this act may be reviewed by the
10 department to ensure that the proposed site or facility conforms with
11 all applicable laws, rules, and standards under this chapter.

12 (2) If the department does not approve or disapprove a permit
13 within sixty days, the permit shall be considered approved.

14 (3) A local health department may appeal the department's decision
15 to disapprove a permit to the pollution control hearings board, as
16 provided in chapter 43.21B RCW.

17 **Sec. 12.** RCW 43.19A.010 and 1991 c 297 s 2 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Compost products" means mulch, soil amendments, ground cover,
22 or other landscaping material derived from the biological or mechanical
23 conversion of biosolids or cellulose-containing waste materials.

24 (2) "Department" means the department of general administration.

25 (3) "Director" means the director of the department of general
26 administration.

1 (4) "Local government" means a city, town, county, special purpose
2 district, school district, or other municipal corporation.

3 (5) "Lubricating oil" means petroleum-based oils for reducing
4 friction in engine parts and other mechanical parts.

5 (6) "Mixed waste paper" means assorted low-value grades of paper
6 that have not been separated into individual grades of paper at the
7 point of collection.

8 (7) "Municipal sewage sludge" means a semisolid substance
9 consisting of settled sewage solids combined with varying amounts of
10 water and dissolved materials generated from a publicly owned
11 wastewater treatment plant.

12 (8) "Biosolids" means municipal sewage sludge or septic tank
13 septage sludge that meets the requirements of chapter 70.-- RCW
14 (sections 1 through 11 of this act).

15 (9) "Paper and paper products" means all items manufactured from
16 paper or paperboard.

17 ((+8)) (10) "Postconsumer waste" means a material or product that
18 has served its intended use and has been discarded for disposal or
19 recovery by a final consumer.

20 ((+9)) (11) "Procurement officer" means the person that has the
21 primary responsibility for procurement of materials or products.

22 ((+10)) (12) "State agency" means all units of state government,
23 including divisions of the governor's office, the legislature, the
24 judiciary, state agencies and departments, correctional institutions,
25 vocational technical institutions, and universities and colleges.

26 ((+11)) (13) "Recycled content product" or "recycled product"
27 means a product containing recycled materials.

28 ((+12)) (14) "Recycled materials" means waste materials and by-
29 products that have been recovered or diverted from solid waste and that
30 can be utilized in place of a raw or virgin material in manufacturing

1 a product and consists of materials derived from postconsumer waste,
2 manufacturing waste, industrial scrap, agricultural wastes, and other
3 items, all of which can be used in the manufacture of new or recycled
4 products.

5 ~~((13))~~ (15) "Re-refined oils" means used lubricating oils from
6 which the physical and chemical contaminants acquired through previous
7 use have been removed through a refining process. Re-refining may
8 include distillation, hydrotreating, or treatments employing acid,
9 caustic, solvent, clay, or other chemicals, or other physical
10 treatments other than those used in reclaiming.

11 ~~((14))~~ (16) "USEPA product standards" means the product standards
12 of the United States environmental protection agency for recycled
13 content published in the code of federal regulations.

14 **Sec. 13.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to
15 read as follows:

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

20 (a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080,
21 70.107.050, 90.03.600, 90.48.144, and ~~((90.48.350))~~ 90.56.330.

22 (b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332,
23 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

24 (c) The issuance, modification, or termination of any permit,
25 certificate, or license by the department or any air authority in the
26 exercise of its jurisdiction, including the issuance or termination of
27 a waste disposal permit, the denial of an application for a waste
28 disposal permit, or the modification of the conditions or the terms of
29 a waste disposal permit.

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

3 (e) Decisions of local health departments regarding the issuance
4 and enforcement of permits to use or dispose of biosolids under section
5 10 of this act.

6 (f) Any other decision by the department or an air authority which
7 pursuant to law must be decided as an adjudicative proceeding under
8 chapter 34.05 RCW.

9 (2) The following hearings shall not be conducted by the hearings
10 board:

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

13 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
14 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

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

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

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

22 **Sec. 14.** RCW 47.28.220 and 1991 c 297 s 14 are each amended to
23 read as follows:

24 (1) A contract awarded in whole or in part for the purchase of
25 compost products as a soil cover or soil amendment to state highway
26 rights of way shall specify that compost products be purchased in
27 accordance with the following schedule:

28 (a) For the period July 1, 1991, through June 30, 1993, twenty-five
29 percent of the total dollar amount purchased;

1 (b) For the period July 1, 1993, through June 30, 1995, fifty
2 percent of the total dollar amount purchased. The percentages in this
3 subsection apply only to the materials' value, and do not include
4 services or other materials.

5 (2) In order to carry out the provisions of this section, the
6 department of transportation shall develop and adopt bid specifications
7 for compost products used in state highway construction projects.

8 (3)(a) For purposes of this section, "compost products" means
9 mulch, soil amendments, ground cover, or other landscaping material
10 derived from the biological or mechanical conversion of biosolids or
11 cellulose-containing waste materials.

12 (b) For purposes of this section, "biosolids" means municipal
13 sewage sludge or septic tank septage sludge that meets the requirements
14 of chapter 70.-- RCW (sections 1 through 11 of this act).

15 **Sec. 15.** RCW 70.95.255 and 1986 c 297 s 1 are each amended to read
16 as follows:

17 After January 1, 1988, the department of ecology may prohibit
18 disposal of ((municipal)) sewage sludge or septic tank sludge (septage)
19 in landfills for final disposal, except on a temporary, emergency
20 basis, if the jurisdictional health department determines that a
21 potentially unhealthful circumstance exists. Beneficial uses of sludge
22 in landfill reclamation is acceptable utilization and not considered
23 disposal.

24 The department of ecology shall adopt rules that provide exemptions
25 from this section on a case-by-case basis. Exemptions shall be based
26 on the economic infeasibility of using or disposing of the sludge
27 material other than in a landfill.

28 ~~((The department of ecology, after consulting with representatives~~
29 ~~from cities, counties, special purpose districts, and operators of~~

1 ~~septic tank pump out services, shall adopt rules for the~~
2 ~~environmentally safe use of municipal sewage sludge and septage in this~~
3 ~~state.~~

4 ~~The department of ecology, after consulting with representatives~~
5 ~~from the pulp and paper industry and the food processing industry, may~~
6 ~~adopt rules for the environmentally safe use of appropriate industrial~~
7 ~~sludges, such as pulp and paper sludges or food processing wastes, used~~
8 ~~to improve the texture or nutrient content of soils.))~~

9 The department of ecology, in conjunction with the department of
10 ~~((social and))~~ health ~~((services))~~ and the department of agriculture,
11 shall adopt rules establishing labeling and notification requirements
12 for sludge material sold commercially or given away to the public. The
13 department shall specify mandatory wording for labels and notification
14 to warn the public against improper use of the material.

15 **Sec. 16.** RCW 70.95.030 and 1991 c 298 s 2 are each amended to read
16 as follows:

17 As used in this chapter, unless the context indicates otherwise:

- 18 (1) "City" means every incorporated city and town.
- 19 (2) "Commission" means the utilities and transportation commission.
- 20 (3) "Committee" means the state solid waste advisory committee.
- 21 (4) "Department" means the department of ecology.
- 22 (5) "Director" means the director of the department of ecology.
- 23 (6) "Disposal site" means the location where any final treatment,
24 utilization, processing, or deposit of solid waste occurs.
- 25 (7) "Energy recovery" means a process operating under federal and
26 state environmental laws and regulations for converting solid waste
27 into usable energy and for reducing the volume of solid waste.

1 (8) "Functional standards" means criteria for solid waste handling
2 expressed in terms of expected performance or solid waste handling
3 functions.

4 (9) "Incineration" means a process of reducing the volume of solid
5 waste operating under federal and state environmental laws and
6 regulations by use of an enclosed device using controlled flame
7 combustion.

8 (10) "Jurisdictional health department" means city, county, city-
9 county, or district public health department.

10 (11) "Landfill" means a disposal facility or part of a facility at
11 which solid waste is placed in or on land and which is not a land
12 treatment facility.

13 (12) "Local government" means a city, town, or county.

14 (13) "Multiple family residence" means any structure housing two or
15 more dwelling units.

16 (14) "Person" means individual, firm, association, copartnership,
17 political subdivision, government agency, municipality, industry,
18 public or private corporation, or any other entity whatsoever.

19 (15) "Recyclable materials" means those solid wastes that are
20 separated for recycling or reuse, such as papers, metals, and glass,
21 that are identified as recyclable material pursuant to a local
22 comprehensive solid waste plan. Prior to the adoption of the local
23 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),
24 local governments may identify recyclable materials by ordinance from
25 July 23, 1989.

26 (16) "Recycling" means transforming or remanufacturing waste
27 materials into usable or marketable materials for use other than
28 landfill disposal or incineration.

29 (17) "Residence" means the regular dwelling place of an individual
30 or individuals.

1 (18) "Sewage sludge" means a semisolid substance consisting of
2 settled sewage solids combined with varying amounts of water and
3 dissolved materials, generated from a wastewater treatment system, that
4 does not meet the requirements of chapter 70.-- RCW (sections 1 through
5 11 of this act).

6 (19) "Solid waste" or "wastes" means all putrescible and
7 nonputrescible solid and semisolid wastes including, but not limited
8 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
9 demolition and construction wastes, abandoned vehicles or parts
10 thereof, and recyclable materials.

11 (~~(19)~~) (20) "Solid waste handling" means the management, storage,
12 collection, transportation, treatment, utilization, processing, and
13 final disposal of solid wastes, including the recovery and recycling of
14 materials from solid wastes, the recovery of energy resources from
15 solid wastes or the conversion of the energy in solid wastes to more
16 useful forms or combinations thereof.

17 (~~(20)~~) (21) "Source separation" means the separation of different
18 kinds of solid waste at the place where the waste originates.

19 (~~(21)~~) (22) "Vehicle" includes every device physically capable of
20 being moved upon a public or private highway, road, street, or
21 watercourse and in, upon, or by which any person or property is or may
22 be transported or drawn upon a public or private highway, road, street,
23 or watercourse, except devices moved by human or animal power or used
24 exclusively upon stationary rails or tracks.

25 (~~(22)~~) (23) "Waste reduction" means reducing the amount or
26 toxicity of waste generated or reusing materials.

27 **Sec. 17.** RCW 90.48.465 and 1991 c 307 s 1 are each amended to read
28 as follows:

1 (1) The department shall establish annual fees to collect expenses
2 for issuing and administering each class of permits under RCW
3 90.48.160, 90.48.162, ~~((and))~~ 90.48.260, and sections 4 through 11 of
4 this act. An initial fee schedule shall be established by rule within
5 one year of March 1, 1989, and thereafter the fee schedule shall be
6 adjusted no more often than once every two years. This fee schedule
7 shall apply to all permits, regardless of date of issuance, and fees
8 shall be assessed prospectively. All fees charged shall be based on
9 factors relating to the complexity of permit issuance and compliance
10 and may be based on pollutant loading and toxicity and be designed to
11 encourage recycling and the reduction of the quantity of pollutants.
12 Fees shall be established in amounts to fully recover and not to exceed
13 expenses incurred by the department in processing permit applications
14 and modifications, monitoring and evaluating compliance with permits,
15 conducting inspections, securing laboratory analysis of samples taken
16 during inspections, reviewing plans and documents directly related to
17 operations of permittees, overseeing performance of delegated
18 pretreatment programs, and supporting the overhead expenses that are
19 directly related to these activities.

20 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.
21 Sec. 1362, for all domestic wastewater facility permits issued under
22 RCW 90.48.162 ~~((and))~~, 90.48.260, and sections 4 through 11 of this act
23 shall not exceed the total of a maximum of fifteen cents per month per
24 residence or residential equivalent contributing to the municipality's
25 wastewater system. The department shall adopt by rule a schedule of
26 credits for any municipality engaging in a comprehensive monitoring
27 program beyond the requirements imposed by the department, with the
28 credits available for five years from March 1, 1989, and with the total
29 amount of all credits not to exceed fifty thousand dollars in the five-
30 year period.

1 (3) The department shall ensure that indirect dischargers do not
2 pay twice for the administrative expense of a permit. Accordingly,
3 administrative expenses for permits issued by a municipality under RCW
4 90.48.165 are not recoverable by the department.

5 (4) In establishing fees, the department shall consider the
6 economic impact of fees on small dischargers and the economic impact of
7 fees on public entities required to obtain permits for storm water
8 runoff and shall provide appropriate adjustments.

9 (5) All fees collected under this section shall be deposited in the
10 water quality permit account hereby created in the state treasury.
11 Moneys in the account may be appropriated only for purposes of
12 administering permits under RCW 90.48.160, 90.48.162, ((and))
13 90.48.260, and sections 4 through 11 of this act.

14 (6) The department shall submit an annual report to the legislature
15 showing detailed information on fees collected, actual expenses
16 incurred, and anticipated expenses for the current and following fiscal
17 years.

18 (7) The legislative budget committee in 1993 shall review the fees
19 established under this section and report its findings to the
20 legislature in January 1994.

21 NEW SECTION. **Sec. 18.** Sections 1 through 11 of this act shall
22 constitute a new chapter in Title 70 RCW.