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ENGROSSED SUBSTITUTE SENATE BILL 6605

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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 a new section to chapter 70.95 RCW.

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

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

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

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

1 (a) No landfill specified in this subsection may be located:  
2 (i) So that the active area is closer than five miles to any  
3 national park or a public or private nonprofit zoological park  
4 displaying native animals in their native habitats; or  
5 (ii) Over a sole source aquifer designated under the federal safe  
6 drinking water act, if such designation was effective before January  
7 1, 1999.

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

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

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

- 18 (a) Geology;
- 19 (b) Groundwater;
- 20 (c) Soil;
- 21 (d) Flooding;
- 22 (e) Surface water;
- 23 (f) Slope;
- 24 (g) Cover material;
- 25 (h) Capacity;
- 26 (i) Climatic factors;
- 27 (j) Land use;
- 28 (k) Toxic air emissions; and
- 29 (l) Other factors as determined by the department.

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

34 (3) Each county shall establish a local solid waste advisory  
35 committee to assist in the development of programs and policies  
36 concerning solid waste handling and disposal and to review and  
37 comment upon proposed rules, policies, or ordinances prior to their  
38 adoption. Such committees shall consist of a minimum of nine members  
39 and shall represent a balance of interests including, but not limited

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

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

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

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

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

32 (2) Upon receipt of an application for a permit to establish or  
33 modify a solid waste handling facility, the jurisdictional health  
34 department shall refer one copy of the application to the department  
35 which shall report its findings to the jurisdictional health  
36 department. When the application is for a permit to establish or  
37 modify a solid waste handling facility located in an area that is not  
38 under a quarantine, as defined in RCW 17.24.007, and when the

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

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

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

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

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

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

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

37 (1) The department may by rule exempt a solid waste from the  
38 permitting requirements of this chapter for one or more beneficial

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

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

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

1 of the application, the use of the solid waste remains subject to the  
2 permitting requirements of this chapter.

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

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

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

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