

ESSB 6605 - H COMM AMD
By Committee on Environment

ADOPTED 03/04/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.95.060 and 1999 c 116 s 1 are each amended to
4 read as follows:

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

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

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

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

23 (ii) Over a sole source aquifer designated under the federal safe
24 drinking water act, if such designation was effective before January
25 1, 1999.

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

1 **Sec. 2.** 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 (l) 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.

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

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

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

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

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

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

38 (3) The jurisdictional health department shall investigate every
39 application as may be necessary to determine whether a proposed or

1 modified site and facilities meet all solid waste, air, and other
2 applicable laws and regulations, and conforms with the approved
3 comprehensive solid waste handling plan, and complies with all zoning
4 requirements.

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

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

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

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

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

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

34 (2) The department may also exempt a solid waste from the
35 permitting requirements of this chapter for one or more beneficial
36 uses by approving an application for such an exemption. The
37 department shall establish by rule procedures under which a person
38 may apply to the department for such an exemption. The rules shall

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

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

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

34 (5) Any jurisdictional health department or applicant may appeal
35 the decision of the department to approve or disapprove an
36 application under subsection (3) of this section. The appeal shall be
37 made to the pollution control hearings board by filing with the
38 hearings board a notice of appeal within thirty days of the decision
39 of the department. The hearings board's review of the decision shall
40 be made in accordance with chapter 43.21B RCW and any subsequent

1 appeal of a decision of the board shall be made in accordance with
2 RCW 43.21B.180.

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

9 **Sec. 7.** RCW 70.95.205 and 1998 c 36 s 18 are each amended to
10 read as follows:

11 (1) Waste-derived soil amendments that meet the standards and
12 criteria in this section may apply for exemption from solid waste
13 permitting as required under RCW 70.95.170. The application shall be
14 submitted to the department in a format determined by the department
15 or an equivalent format. The application shall include:

16 (a) Analytical data showing that the waste-derived soil
17 amendments meet standards established under RCW 15.54.800; and

18 (b) Other information deemed appropriate by the department to
19 protect human health and the environment.

20 (2) After receipt of an application, the department shall review
21 it to determine whether the application is complete, and forward a
22 copy of the complete application to all interested jurisdictional
23 health departments and the department of agriculture for review and
24 comment. Within forty-five days, the jurisdictional health
25 departments and the department of agriculture shall forward their
26 comments and any other information they deem relevant to the
27 department, which shall then give final approval or disapproval of
28 the application. The department of agriculture's comments must be
29 limited to addressing whether approving the application risks
30 spreading disease, plant pathogens, or pests to areas that are not
31 under a quarantine, as defined in RCW 17.24.007. Every complete
32 application shall be approved or disapproved by the department within
33 ninety days after receipt.

34 (3) The department, after providing opportunity for comments from
35 the jurisdictional health departments and the department of
36 agriculture, may at any time revoke an exemption granted under this
37 section if the quality or use of the waste-derived soil amendment
38 changes or the management, storage, or end use of the waste-derived

1 soil amendment constitutes a threat to human health or the
2 environment.

3 (4) Any aggrieved party may appeal the determination by the
4 department in subsection (2) or (3) of this section to the pollution
5 control hearings board.

6 **Sec. 8.** RCW 70.95.315 and 2009 c 178 s 5 are each amended to
7 read as follows:

8 (1) The department may assess a civil penalty in an amount not to
9 exceed one thousand dollars per day per violation to any person
10 exempt from solid waste permitting in accordance with RCW 70.95.205,
11 70.95.300, 70.95.305, 70.95.306, or 70.95.330 who fails to comply
12 with the terms and conditions of the exemption. Each such violation
13 shall be a separate and distinct offense, and in the case of a
14 continuing violation, each day's continuance shall be a separate and
15 distinct violation. The penalty provided in this section shall be
16 imposed pursuant to RCW 43.21B.300.

17 (2) If a person violates a provision of any of the sections
18 referenced in subsection (1) of this section, the department may
19 issue an appropriate order to ensure compliance with the conditions
20 of the exemption. The order may be appealed pursuant to RCW
21 43.21B.310."

22 Correct the title.

EFFECT: Allows the department of agriculture to comment on applications for exemptions from solid waste permitting requirements that apply to waste-derived soil amendments, using the same department of agriculture comment process that applies to other department of ecology beneficial use determinations. Makes persons who violate conditions attached to waste-derived soil amendment exemptions from solid waste permitting requirements subject to penalties of up to one thousand dollars per day.

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