S-1362.2

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**SUBSTITUTE SENATE BILL 5245**

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**State of Washington 68th Legislature 2023 Regular Session**

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

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

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

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

(1) The legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6)(a) By December 30, 2026, the department shall establish pollutant limits for PFAS chemicals in biosolids, based on state specific data gathered through the study of biosolids in Washington state. The department shall consider the results of the United States environmental protection agency's risk assessment for PFAS chemicals in biosolids, if available, and other accredited risk assessment tools when setting a PFAS standard.

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

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

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

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

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

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

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

(1) The department shall establish annual fees to collect expenses for issuing and administering biosolids permits under this chapter. An initial fee schedule shall be established by rule and shall be adjusted no more often than once every two years. This fee schedule applies to all permits, regardless of date of issuance, and fees shall be assessed prospectively. Fees shall be established in amounts to recover expenses incurred by the department in processing permit applications and modifications, reviewing related plans and documents, monitoring, evaluating, conducting inspections, overseeing performance of delegated program elements, testing, mapping, and providing technical assistance and supporting overhead expenses that are directly related to these activities.

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

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

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

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

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

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

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