

HOUSE BILL REPORT

SSB 6163

As Reported by House Committee On:
Environment & Energy

Title: An act relating to biosolids.

Brief Description: Concerning biosolids.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Wilson, J., Lovelett, Hasegawa, Nobles and Saldaña).

Brief History:

Committee Activity:

Environment & Energy: 2/19/24, 2/20/24 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Requires the Department of Ecology (Ecology) to establish perfluoroalkyl and polyfluoroalkyl substances (PFAS) sampling or testing requirements for certain biosolids by July 1, 2027.
- Requires Ecology to complete an analysis of the levels of PFAS chemicals in certain biosolids by July 1, 2028.
- Requires Ecology to report a summary of the analysis and to make recommendations to the Legislature by December 1, 2028.
- Establishes an advisory committee of representative stakeholders with which Ecology must consult before adopting or amending rules related to sampling or testing biosolids for PFAS chemicals.
- Clarifies that the act does not affect National Pollutant Discharge Elimination System permit requirements or local government efforts to address contamination of biosolids by PFAS chemicals.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 15 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Duerr, Fey, Goehner, Lekanoff, Ramel, Sandlin, Slatter and Street.

Staff: Zachary Blinkinsop (786-7296) and Robert Hatfield (786-7117).

Background:

Biosolids.

Biosolids are nutrient-rich organic matter that are the by-product of processing domestic sewage in a treatment facility. When treated and processed, biosolids can be applied as fertilizer to improve and maintain productive soils and stimulate plant growth.

Under federal law, different rules apply to different classes of biosolids. While all biosolids are treated in treatment facilities, class A biosolids go through a more rigorous treatment process than class B biosolids do. Class A biosolids contain no detectable levels of pathogens, but class B biosolids may contain trace amounts of pathogens. Both class A and class B biosolids are subject to buffer requirements; they may not be applied within a certain distance of waters of the state, at minimum 100 feet depending on the field slope of the application site. Class A biosolids are subject to neither crop-harvesting nor public access restrictions. Class B biosolids are subject to crop-harvesting and public access restrictions.

The Department of Ecology (Ecology) administers a Solid Waste Management Program. Ecology regulates biosolids under this program, which includes issuing permits for biosolids management and setting minimum requirements for biosolids facilities.

Perfluoroalkyl and Polyfluoroalkyl Substances.

Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are a class of fluorinated organic chemicals that contain at least one fully fluorinated carbon atom. Perfluoroalkyl and polyfluoroalkyl chemicals are widely used in consumer products and industrial processes because they have properties that are resistant to corrosion, heat, grease, and water. Perfluoroalkyl and polyfluoroalkyl chemicals are found in many everyday products, such as cleaning products, water-resistant fabrics, grease-resistant paper, nonstick cookware, personal care products like shampoo and eye makeup, and stain-resistant coatings used on carpets and upholstery.

Ecology has identified PFAS chemicals as persistent, bio accumulative, and toxic. Washington has enacted laws and adopted regulations relating to PFAS levels in drinking water, firefighting foam and equipment, food packaging, and many consumer products.

In 2021 the United States Environmental Protection Agency (EPA) announced its PFAS Strategic Roadmap, laying out the agency's approach to addressing PFAS chemicals. The roadmap sets a timeline of dates by which the EPA plans to take specific actions and to commit to new policies to safeguard public health, protect the environment, and hold polluters accountable. As part of the roadmap work, the EPA is conducting a biosolids risk assessment for two PFAS compounds: perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). The EPA plans to complete the risk assessment for PFOA and PFOS by December 2024.

National Pollutant Discharge Elimination System.

Ecology has delegated authority from the EPA to carry out the Clean Water Act in Washington. As part of this responsibility, Ecology issues required National Pollutant Discharge Elimination System (NPDES) wastewater discharge permits, except for federally owned facilities and for permits on tribal lands. National Pollutant Discharge Elimination System permits regulate discharges to surface water from commercial industry or publicly owned treatment works, also referred to as municipal wastewater treatment facilities. The wastewater discharge permits administered by Ecology place limits on the quantity and concentrations of contaminants that may be discharged. The permits may also require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning.

Summary of Amended Bill:

Ecology must convene a newly established advisory committee that includes representatives from the farming community, toxicologists, utilities that produce soil amendments, experts, interested parties, and other similar stakeholders. Before Ecology adopts or amends PFAS chemical sampling or testing and reporting requirements, it must consult with this committee.

By July 1, 2027, Ecology must establish PFAS chemical sampling or testing requirements for biosolids regulated under the Solid Waste Management Program. For the purposes of establishing these requirements, biosolids do not include septic tank sludge, also known as septage. Sampling and testing are activities for which Ecology may recover incurred costs through fees.

By July 1, 2028, Ecology must complete an analysis of the levels of PFAS chemicals in biosolids produced in the state.

By December 1, 2028, Ecology must submit to the Legislature and the public a report with a summary of its analysis and recommendations on how to proceed based on the analysis.

Nothing in the act affects any requirement imposed by an NPDES permit. The act does not

restrict local governments from taking actions to address contamination of biosolids by PFAS chemicals.

Amended Bill Compared to Substitute Bill:

The amended bill clarifies that the act does not affect NPDES permit requirements or local government efforts to address contamination of biosolids by PFAS chemicals.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill builds upon the years of work that Ecology has put into its biosolids program. There has been much recent attention on forever chemicals in water sources. Every life on the planet matters, so it is important to make sure that dangerous chemicals stay out of the water. Many agricultural communities rely on biosolids for soil enrichment. This bill will ensure that forever chemicals are not inadvertently transferred from municipal wastewater to farmlands. This bill can be compared to past work to ensure that mercury, particularly in dental procedures and dental fillings, does not pollute the state's water. This bill has bipartisan support.

(Opposed) None.

(Other) The policy in this bill is good but the necessary funds are not included in the Governor's budget. The bill will enable Ecology to gather specific and accurate data on PFAS chemicals in biosolids. The bill could be improved by ensuring ongoing consultation with local communities around the state and by clarifying that it does not affect reporting requirements under the National Pollutant Discharge Elimination System.

Persons Testifying: (In support) Senator Jeff Wilson, prime sponsor; Jenna Ramsey; and Heather Trim, Zero Waste Washington.

(Other) Peter Lyon, Department of Ecology; and Eric Gonzalez Alfaro, Earthjustice.

Persons Signed In To Testify But Not Testifying: None.