

SENATE BILL REPORT

SB 6163

As Reported by Senate Committee On:
Environment, Energy & Technology, January 26, 2024
Ways & Means, February 5, 2024

Title: An act relating to biosolids.

Brief Description: Concerning biosolids.

Sponsors: Senators Wilson, J., Lovelett, Hasegawa, Nobles and Saldaña.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/16/24, 1/26/24 [DPS-WM].
Ways & Means: 2/02/24, 2/05/24 [DPS (ENET)].

Brief Summary of First Substitute Bill

- Requires the Department of Ecology (Ecology) to establish Perfluoroalkyl and Polyfluoroalkyl (PFAS) chemicals sampling or testing requirements for certain biosolids regulated under the biosolids management program by July 1, 2027.
- Requires Ecology to complete an analysis of PFAS chemicals levels in certain biosolids (analysis) by July 1, 2028.
- Directs Ecology to report to the Legislature and the public, by December 1, 2028, on a summary of the analysis and recommendations on how to proceed based on the analysis.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6163 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Boehnke, Short, Trudeau and Wellman.

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.

Staff: Matt Shepard-Koningsor (786-7627)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6163 as recommended by Committee on Environment, Energy & Technology be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Wendy Brown (786-7359)

Background: Biosolids. Biosolids are nutrient-rich organic materials resulting from processing domestic sewage in a treatment facility. When treated and processed, these residuals can be recycled and applied as fertilizer to improve and maintain productive soils and stimulate plant growth.

Under federal law, there are different rules for different classes of biosolids. While both classes are treated, class A biosolids contain no detectable levels of pathogens, but class B biosolids may. When used in bulk, class A biosolids are subject to buffer requirements, but not to crop-harvesting restrictions. In general, class B biosolids are subject to buffer requirements, public access, and crop harvesting restrictions.

In Washington, the Department of Ecology (Ecology) implements a Biosolid Management Program (program). Rules for the program address how and when biosolids can be applied to land as a fertilizer. These rules also include total pollution concentration limits, pathogen reduction rates, and vector attraction reduction requirements.

Perfluoroalkyl and Polyfluoroalkyl Chemicals. Perfluoroalkyl and Polyfluoroalkyl (PFAS) chemicals are characterized by their resistance to oil, stains, grease, and water, in addition to their durability, heat resistance, and anti-corrosive properties. Ecology has identified PFAS chemicals as persistent, bioaccumulative, and toxic. They are added to carpets, cookware, food packaging, clothing, cosmetics, and other common consumer products. They have many industrial applications and are used to make certain types of firefighting foams. Washington State 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 U.S. Environmental Protection Agency (EPA) announced its PFAS Strategic Roadmap, laying out the agency's approach to addressing PFAS chemicals. The roadmap sets timelines by which EPA plans to take specific actions and commits to new policies to

safeguard public health, protect the environment, and hold polluters accountable. As part of the roadmap work, EPA is conducting a biosolids risk assessment for two PFAS compounds, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS), in biosolids. EPA plans to complete the risk assessment for PFOA and PFOS by December 2024.

Summary of Bill (First Substitute): By July 1, 2027, Ecology must establish PFAS chemicals sampling or testing requirements for biosolids regulated under the program. By July 1, 2028, Ecology must complete an analysis of PFAS chemicals levels in biosolids produced in Washington.

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

For the purposes of Ecology establishing PFAS chemicals sampling or testing requirements and reporting recommendations:

- biosolids do not include septic tank sludge, also known as septage; and
- Ecology must consult with a newly-established advisory committee including representatives from the farming community, toxicologists, utilities that produce soil amendments, experts, interested parties, and other similar stakeholders.

Legislative intent language in the program is amended. Sampling or testing is added to this list of activities for which Ecology may recover incurred costs through fees.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Removes the requirement for certain biosolids transporters to carry a manifest or similar document specifying the class of biosolids being transported.
- Extends the date, by one year, by which: (1) Ecology must establish PFAS chemicals sampling or testing requirements for certain biosolids, and (2) Ecology must complete an analysis of the PFAS chemicals levels in biosolids produced in Washington.
- Requires Ecology to submit a report to the Legislature and the public with a summary of the analysis and recommendations on how to proceed based on the analysis by December 1, 2028, rather than July 1, 2027, and only include a summary of the analysis.
- Directs Ecology to consult with the newly-established advisory committee when developing recommendations on how to proceed based on the analysis, in addition to when developing PFAS chemicals sampling or testing requirements.
- Includes representatives from the farming community, toxicologists, and utilities that produce soil amendments on the advisory committee.
- Corrects a scrivener's error in the technical title.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: This is a reasonable first step to address PFAS chemicals both for sewage coming into wastewater treatment plants and for biosolids produced during the treatment process. We cannot address the PFAS problem until we study it, but this should be a technical memo rather than a full report, which will slow the process down. Biosolids have many beneficial uses, including as fertilizer. These forever chemicals are so persistent and detrimental to human health and the environment. We need to get a handle on these chemicals that can come back and harm us.

OTHER: Due to lab limitations, we recommend moving the report date out to July 1, 2028. Ecology rules already require a biosolids transporter to carry a manifest. Sewage sludge is not a beneficial resource. Ecology is pushing sewage sludge rather than protecting us from it.

Persons Testifying (Environment, Energy & Technology): PRO: Senator Jeff Wilson, Prime Sponsor; Scott Hazlegrove, WA Association of Sewer & Water Districts; Heather Trim, Zero Waste Washington; Joren Clowers, Sno-King Water District Coalition .

OTHER: Morton Alexander, Protect Mill Canyon Watershed; Peter Lyon, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: We are talking about the solid materials in the sewage treatment plan that settle, absorb toxic chemicals, and then are spread in farms and forests around the state. There is a lot of nutrient value in biosolids, but they also may contain some toxic chemicals. We need to figure out if this is a big concern in Washington, as it is in some other states. It is one of those situations where you want to know what the problem is so you can know what to do about it.

Persons Testifying (Ways & Means): PRO: Heather Trim, Zero Waste Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.