CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1154

Chapter 311, Laws of 2025

69th Legislature
2025 Regular Session

SOLID WASTE HANDLING FACILITIES—PERMITS AND ENFORCEMENT

EFFECTIVE DATE: July 27, 2025

Passed by the House April 21, 2025
Yeas 57 Nays 39

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate April 15, 2025
Yeas 28 Nays 20

DENNY HECK

President of the Senate

Approved May 17, 2025 1:38 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1154** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 19, 2025

Secretary of State
State of Washington

SECOND SUBSTITUTE HOUSE BILL 1154

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Appropriations (originally sponsored by Representatives Duerr, Doglio, Ramel, Berry, Ryu, Callan, Pollet, Berg, Davis, Kloba, and Hunt)

READ FIRST TIME 02/21/25.

AN ACT Relating to ensuring environmental and public health protection from solid waste handling facility operations; amending RCW 70A.205.125, 70A.205.130, 70A.205.135, and 70A.205.140; reenacting and amending RCW 43.21B.110; adding new sections to chapter 70A.205 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 70A.205.125 and 2016 c 119 s 4 are each amended to read as follows:

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

(2) Upon receipt of an application for a permit to establish or modify a solid waste handling facility, the jurisdictional health department shall refer one copy of the application to the department which shall report its findings to the jurisdictional health

department. When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting from an area under a quarantine, the jurisdictional health department shall also provide a copy of the application to the department of agriculture. The department of agriculture shall review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. For the purposes of this subsection, "composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition.

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

(4) When the jurisdictional health department finds that the permit should be issued, ((~~it~~)) and the department has approved the permit under RCW 70A.205.130(4), the jurisdictional health department shall issue such permit. Every application shall be approved or disapproved within ((~~ninety~~)) 90 days after its receipt by the jurisdictional health department.

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

Sec. 2. RCW 70A.205.130 and 2020 c 20 s 1173 are each amended to read as follows:

((~~Every~~)) (1) Except as provided in subsection (4) of this section, every permit issued by a jurisdictional health department under RCW 70A.205.125 shall be reviewed by the department to ensure that the proposed site or facility conforms with:

((~~(1)~~)) (a) All applicable laws and regulations including the ((~~minimal~~)) minimum functional standards for solid waste handling; and

((~~(2)~~)) (b) The approved comprehensive solid waste management plan.

(2) The department shall review the permit within ((~~thirty~~)) 30 days after the issuance of the permit by the jurisdictional health department. ((~~The~~)) For solid waste handling facilities other than landfills, the department may appeal the issuance of the permit by the jurisdictional health department to the pollution control hearings board, as described in chapter 43.21B RCW, for noncompliance with subsection (1) ((~~or (2)~~)) (a) or (b) of this section.

(3) No permit issued pursuant to RCW 70A.205.125 after June 7, 1984, shall be considered valid unless it has been reviewed by the department.

(4)(a) Every permit issued by a jurisdictional health department under RCW 70A.205.125 for landfilling must be reviewed and approved by the department to ensure that the proposed landfill conforms with:

(i) All applicable laws and regulations including the minimum functional standards for solid waste handling; and

(ii) The approved comprehensive solid waste management plan.

(b) The department shall review the permit prior to the issuance of the permit by the jurisdictional health department. The department may only approve a permit that ensures that the landfill conforms with all applicable laws and regulations, including the minimum functional standards for solid waste handling. The department may require a jurisdictional health department to amend the contents of a proposed permit to ensure conformance with applicable laws and regulations, including the minimum functional standards for solid waste handling.

(c) A jurisdictional health department or applicant may appeal the department's denial or amendment of a landfill permit under this section, including the denial of the renewal of a permit, to the pollution control hearings board.

(d) No permit issued under this subsection after August 1, 2027, is considered valid unless it has been approved by the department.

Sec. 3. RCW 70A.205.135 and 2020 c 20 s 1174 are each amended to read as follows:

(1) Every permit for an existing solid waste handling facility issued pursuant to RCW 70A.205.125 shall be renewed at least every five years on a date established by the jurisdictional health department having jurisdiction of the site and as specified in the

permit. If a permit is to be renewed for longer than one year, the local jurisdictional health department may hold a public hearing before making such a decision. Prior to renewing a permit, the health department shall conduct a review as it deems necessary to assure that the solid waste handling facility or facilities located on the site continues to meet minimum functional standards of the department, applicable local regulations, and are not in conflict with the approved solid waste management plan. A jurisdictional health department shall approve or disapprove a permit renewal within ((~~forty-five~~)) 45 days of conducting its review. The department shall review and may appeal the renewal of permits for solid waste handling facilities other than landfills as set forth for the approval of permits in RCW 70A.205.130(2). The department must review and approve or disapprove renewal of permits for landfill disposal facilities as set forth in RCW 70A.205.130(4).

(2) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 4. RCW 70A.205.140 and 2016 c 119 s 5 are each amended to read as follows:

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

NEW SECTION. **Sec. 5.** A new section is added to chapter 70A.205 RCW to read as follows:

(1) This section establishes a cooperative program of solid waste handling facility management between local government and the state. Local government shall have the primary responsibility for issuing the permits required by this chapter, administering the regulatory program consistent with the policy and provisions of this chapter, and imposing penalties for violations of the provisions of this chapter. The department shall act primarily in a supportive and

review capacity with an emphasis on ensuring compliance with the policy and provisions of this chapter. The department shall enforce the requirements of this chapter under the following circumstances:

(a) A jurisdictional health department may send written notice to the department that it is deferring to the department's authority under this section to enforce the requirements of this chapter with respect to a solid waste handling facility in a jurisdiction.

(b) The department determines that a jurisdictional health department's enforcement action is inadequate to address violations of this chapter by a solid waste handling facility operator. A jurisdictional health department's enforcement action is inadequate when any of the following occur without successful resolution of the violation:

(i) The jurisdictional health department fails to conduct an inspection to verify a reported, credible alleged violation within 45 calendar days after receiving notification of the violation;

(ii) The jurisdictional health department fails to issue a notice of violation or corrective action order within 60 calendar days after observing a violation during an inspection or on-site visit;

(iii) The jurisdictional health department fails to take any enforcement action as authorized under this chapter within 90 calendar days after issuing a notice of violation; or

(iv) The jurisdictional health department has initiated enforcement action but the violation has continued for more than 180 days without resolution or substantial progress toward resolution.

(c) A jurisdictional health department shall notify the department within a reasonable amount of time of the dates and official communications regarding the following activities with respect to a solid waste handling facility operator:

(i) Receipt of a reported, credible alleged violation of this chapter;

(ii) Observation of a violation of this chapter during an inspection or on-site visit;

(iii) Notice of a violation of this chapter or corrective action that was sent by the jurisdictional health department to a solid waste handling operator;

(iv) Any enforcement action taken by the jurisdictional health department; and

(v) Any activities by the solid waste handling facility operator that constitute resolution or progress toward resolution of the violations of this chapter.

(2) When the department determines that a jurisdictional health department enforcement action is inadequate and that it will take enforcement action under subsection (1)(b) of this section, the department shall provide written notice of its intent to enforce to the jurisdictional health department and to the solid waste handling facility operator. The department's notice of intent to enforce must be provided no less than 30 calendar days prior to the department issuing a penalty or order under this section and section 6 of this act. The 30-day notice requirement may be waived if the violation presents an immediate and substantial endangerment to human health or the environment requiring urgent action. The department's notice of intent to enforce must include:

(a) Identification of the alleged violations of the statute, regulation, or rule that are the basis for the department's enforcement action and the number of alleged violations;

(b) A description of the department's process that led to its determination that such violations existed;

(c) Which of the criteria under subsection (1)(b)(i) through (iv) of this section apply;

(d) The proposed start date and any end date of the department's enforcement action; and

(e) The proposed geographical boundaries of solid waste handling facilities at which the enforcement action is planned.

(3) If within 30 calendar days of the jurisdictional health department's receipt of the department's notice of intent to enforce, and the violation does not present an immediate and substantial endangerment to human health or the environment, the jurisdictional health department initiates an enforcement action that the department and the jurisdictional health department agree will adequately address the identified violations, the department will hold its enforcement action in abeyance.

(4) Upon receipt of an order by the jurisdictional health department or the department, a solid waste handling facility owner or operator must provide information necessary to determine compliance with the requirements of this chapter applicable to solid waste handling facilities.

(5) An applicant or permittee must allow the jurisdictional health department and department to conduct inspections and collect samples.

(6) This section does not apply to actions taken by the department under chapter 70A.305 RCW.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70A.205 RCW to read as follows:

(1) In addition to the provisions of RCW 70A.205.140, and in accordance with the procedures described in section 5 of this act, for any person engaged in solid waste handling subject to permitting under this chapter, the enforcement authority may:

(a) Impose a civil penalty not to exceed $5,000 per day for the first 14 days of violation of the requirements of this chapter or a permit issued under this chapter. If the violation is not resolved within 14 days, the agency imposing the penalty may increase the penalty not to exceed $10,000 per day of violation of the requirements of this chapter or a permit issued under this chapter; and

(b) Issue an order requiring compliance with the requirements of this chapter or a permit issued under this chapter. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (a) of this subsection. Before issuing a civil penalty, the enforcement authority will attempt through education and outreach to assist the person engaged in solid waste handling with achieving compliance with the requirements of this chapter or a permit issued under this chapter.

(2) If a solid waste handling facility owner or operator pays a penalty under this section for a violation to a government entity, any penalty imposed by a different government entity for a violation based on the same incident and conduct shall be reduced by the amount of the prior penalty.

(3)(a) Penalties levied by a jurisdictional health department shall be deposited in the treasury and to the account from which such jurisdictional health department's operating expenses are paid.

(b) Penalties levied by the department under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(4) A person who is issued an order or incurs a penalty from:

(a) A jurisdictional health department may appeal the order or penalty to the local health officer;

(b) The department under this section may appeal the order or penalty to the pollution control hearings board created by chapter 43.21B RCW.

Sec. 7. RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and 2024 c 339 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to chapter 70A.230 RCW and RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, section 6 of this act, 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 70A.565.030, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530, 70A.15.6010, section 6 of this act, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020, 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, a decision to approve or deny a solid waste management plan under RCW 70A.205.055, approval or denial of an application for a beneficial use determination under RCW 70A.205.260,

an application for a change under RCW 90.03.383, or a permit to distribute reclaimed water under RCW 90.46.220.

(d) Decisions of local health departments regarding the granting or denial of solid waste permits pursuant to chapter 70A.205 RCW, including appeals by the department as provided in RCW 70A.205.130.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026 as provided in RCW 90.64.028.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content

for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW, except where appeals to the pollution control hearings board and appeals to the shorelines hearings board have been consolidated pursuant to RCW 43.21B.340.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

Passed by the House April 21, 2025.
Passed by the Senate April 15, 2025.
Approved by the Governor May 17, 2025.
Filed in Office of Secretary of State May 19, 2025.

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