

Chapter 70A.226 RCW
MUNICIPAL SEWAGE SLUDGE—BIOSOLIDS

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RCW 70A.226.005 Findings—Municipal sewage sludge as a beneficial commodity. (1) The legislature finds that:

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

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

(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.

(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. [1992 c 174 s 1. Formerly RCW 70.95J.005.]

RCW 70A.226.007 Purpose—Federal requirements. 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. [1992 c 174 s 2. Formerly RCW 70.95J.007.]

RCW 70A.226.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(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) "Department" means the department of ecology.

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

(4) "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. [2020 c 20 s 1239; 1992 c 174 s 3. Formerly RCW 70.95J.010.]

RCW 70A.226.020 Biosolid management program—Transportation of biosolids and sludge.

(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. 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.

(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.

(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. [1992 c 174 s 4. Formerly RCW 70.95J.020.]

RCW 70A.226.030 Biosolids permits—Fees—Biosolids permit account.

(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, 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 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. [2014 c 76 s 7; 1997 c 398 s 1. Formerly RCW 70.95J.025.]

RCW 70A.226.040 Beneficial uses for biosolids and glassified sewage sludge. The department may work with all appropriate state agencies, local governments, and private entities to establish beneficial uses for biosolids and glassified sewage sludge. [1992 c 174 s 5. Formerly RCW 70.95J.030.]

RCW 70A.226.050 Violations—Orders. If a person violates any provision of this chapter, or a permit issued or rule adopted pursuant to this chapter, the department may issue an appropriate order to assure compliance with the chapter, permit, or rule. [1992 c 174 s 6. Formerly RCW 70.95J.040.]

RCW 70A.226.060 Enforcement of chapter. The department, with the assistance of the attorney general, may bring an action at law or in equity, including an action for injunctive relief, to enforce this chapter or a permit issued or rule adopted by the department pursuant to this chapter. [1992 c 174 s 7. Formerly RCW 70.95J.050.]

RCW 70A.226.070 Violations—Punishment. A person who willfully violates, without sufficient cause, any of the provisions of this chapter, or a permit or order issued pursuant to this chapter, is guilty of a gross misdemeanor. Willful violation of this chapter, or a permit or order issued pursuant to this chapter is a gross misdemeanor punishable by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment for up to three hundred sixty-four days, or by both. Each day of violation may be deemed a separate violation. [2011 c 96 s 50; 1992 c 174 s 8. Formerly RCW 70.95J.060.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

RCW 70A.226.080 Violations—Monetary penalty. In addition to any other penalty provided by law, a person who violates this chapter or rules or orders adopted or issued pursuant to it shall be subject

to a penalty in an amount of up to five thousand dollars a day for each violation. Each violation shall be a separate violation. In the case of a continuing violation, each day of violation is a separate violation. An act of commission or omission that procures, aids, or abets in the violation shall be considered a violation under this section. [1992 c 174 s 9. Formerly RCW 70.95J.070.]

RCW 70A.226.090 Delegation to local health department—

Generally. The department may delegate to a local health department the powers necessary to issue and enforce permits to use or dispose of biosolids. A delegation may be withdrawn if the department finds that a local health department is not effectively administering the permit program. [1992 c 174 s 10. Formerly RCW 70.95J.080.]

RCW 70A.226.100 Delegation to local health department—Review.

(1) Any permit issued by a local health department under RCW 70A.226.090 may be reviewed by the department to ensure that the proposed site or facility conforms with all applicable laws, rules, and standards under this chapter.

(2) If the department does not approve or disapprove a permit within sixty days, the permit shall be considered approved.

(3) A local health department may appeal the department's decision to disapprove a permit to the pollution control hearings board, as provided in chapter 43.21B RCW. [2020 c 20 s 1240; 1992 c 174 s 11. Formerly RCW 70.95J.090.]