

HOUSE BILL REPORT

HB 1816

As Reported By House Committee On:
Environmental Affairs

Title: An act relating to incinerators of hazardous wastes and hazardous substances.

Brief Description: Requiring monitoring of farm and agricultural land, crops, and livestock that may be affected by discharge emissions from hazardous waste incinerators.

Sponsors: Representatives Chandler, Hansen, Rust, Schoesler, Rayburn and Bray.

Brief History:

Reported by House Committee on:
Environmental Affairs, February 25, 1993, DPS.

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Rust, Chair; Flemming, Vice Chair; Van Luven, Assistant Ranking Minority Member; Bray; Edmondson; Foreman; Hansen; Holm; L. Johnson; J. Kohl; Linville; and Sheahan.

Minority Report: Do not pass. Signed by 1 member: Representative Horn, Ranking Minority Member.

Staff: Harry Reinert (786-7110).

Background: The Department of Ecology issues permits for hazardous waste incinerators in the state. The Department of Agriculture is the state agency responsible for monitoring food safety.

Ecology's rules require the applicant for a permit for a hazardous waste incinerator to have an ambient monitoring program, including monitoring in the vicinity of the facility both before and after the facility begins operation.

The Department of Ecology may terminate a permit if the permittee fails to comply with a permit condition, has failed to disclose all relevant information during the application process, or the facility operation endangers the

public health and the environment to such an extent that termination is the only control available. Ecology's main enforcement authority is the ability to impose a fine.

Any fines imposed by the department, or any conditions imposed as part of a permit, may be appealed to the Pollution Control Hearings Board (PCHB). The PCHB may stay the department's order pending its decision. If the PCHB's decision is appealed to superior court, the court may also stay enforcement of either the department's or the PCHB's order.

Summary of Substitute Bill: If the Department of Ecology, in consultation with the Department of Agriculture, determines that the crops or farm land are endangered due to accumulations of heavy metals or other hazardous substances from a hazardous waste incinerator, the Department of Ecology must suspend the facility's authority to incinerate hazardous wastes. The Department of Ecology may not authorize resumption of incineration until it determines that the facility will not cause any further damage. The Department of Ecology is directed to consult with the Department of Agriculture before authorizing a facility to resume operation.

The facility operator may appeal to the Pollution Control Hearings Board (PCHB) the Department of Ecology's decision to suspend incineration. The department's order is not stayed pending the appeal to the board or on subsequent judicial review. A person who may be affected by the Department of Ecology's authorization to resume incineration may appeal the department's decision to the PCHB.

Substitute Bill Compared to Original Bill: The original bill directed the incinerator operator to negotiate with the Department of Agriculture to establish a monitoring program, to be conducted by that department. The Department of Agriculture would have then notified the Department of Ecology if there were crop damage or other food safety problem. The substitute directs the Department of Ecology to determine whether there is a problem which requires a facility's operations to be suspended, but requires the Department of Ecology to consult with the Department of Agriculture.

Fiscal Note: Requested February 9, 1993.

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

Testimony For: The Department of Agriculture is the state expert on food safety and agricultural land. Agriculture is

one of the state's major industries and a major export. If there are any doubts about the safety of state crops, the export market will be severely damaged.

Testimony Against: An incinerator operator will be required to establish an ambient monitoring program. There is no need to duplicate that. Bringing a second state agency into the permitting process will make this process even more cumbersome.

Witnesses: Representative Gary Chandler, Prime Sponsor (pro); Jim Boldt, Rabanco (con); Jeff Myers, EPIC (con); Harold Clinesmith, Citizens Hazardous Waste Coalition (pro); Bob Schrom, Farmer, Grant County (pro); Rich Callahan, Farmer/Exporter (pro); Bob Davis, Concerned Citizens of Royal Slope (pro); Norm Myrick, Citizen (pro); Margie Kelly, Greenpeace (pro); Betty Tabbutt, Washington Environmental Council (pro); Doris Cellarius, Sierra Club (pro); and Larry Ganders, Washington State University (con).