

SENATE BILL REPORT

SHB 1690

AS OF MARCH 25, 1993

Brief Description: Changing provisions relating to hazardous waste permits.

SPONSORS: House Committee on Environmental Affairs (originally sponsored by Representatives Rust, Hansen, Chandler and Bray)

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

HOUSE COMMITTEE ON REVENUE

SENATE COMMITTEE ON ECOLOGY & PARKS

Staff: Gary Wilburn (786-7453)

Hearing Dates: March 29, 1993

BACKGROUND:

The Legislature in 1985 declared that the state preempts the field of permitting and regulating facilities for landfilling, incineration or land treatment of hazardous wastes, designated as "preempted facilities." The Department of Ecology was assigned the authority to regulate such facilities with respect to location, construction and operation. Permits issued by the department are in lieu of any and all permits by any other state, regional or local governmental authority. Any laws or regulations which conflict with the state hazardous waste laws or regulations, and any regional or local laws regarding the location, construction or operation of preempted facilities, are deemed superseded.

In addition, the department was directed to adopt criteria for the siting of preempted facilities and other hazardous waste management facilities. The criteria are to be designed to minimize short-term and long-term risks and costs resulting from such facilities, and may consider natural site characteristics as well as engineered protection.

In 1983, the Legislature established priorities for the management and regulation of hazardous wastes. Waste reduction is the first priority in the management of hazardous waste. The remaining priorities, in descending order, are waste recycling, treatment, incineration, solidification or stabilization, and landfill.

In 1985, the Legislature directed the department to prepare a hazardous waste management plan. The plan must include an inventory of existing capacity to manage hazardous wastes, a forecast of future waste generation, a description of the best management practices study, siting criteria and policies, and

a public involvement process. The department appointed an advisory committee in 1989. The committee submitted its recommendations to the department in September 1991.

One recommendation from the committee was to separate energy recovery from incineration under the state's hazardous waste management hierarchy. The recommendation was to place this activity higher in the hierarchy.

A second recommendation in the plan was that the department should be authorized to limit the size of incineration and land disposal facilities based on the regional need for those facilities. The recommendation included a suggestion that the needs assessment be revised periodically and the permitted capacity be modified to meet the changing need. A needs assessment was conducted during the plan's development.

Under existing state law, if the owner and operator of a hazardous waste management facility are not the same, the owner of the property is only required to sign the application and acknowledge general knowledge of the contents of the application. The operator of the facility is responsible for the development of the permit. The United States Environmental Protection Agency has informed the state that this provision violates federal law.

The department currently receives no fees for processing hazardous waste disposal facility permit applications. The department's costs for the permit process are mostly provided from the state toxics control account. There are a significant number of permit applications that are awaiting the department's review.

SUMMARY:

The hazardous waste management hierarchy is modified to make energy recovery a separate priority, higher in preference than incineration.

The Department of Ecology shall issue a permit for a hazardous waste incinerator or landfill based on the regional need for the facility. The region to be considered consists of Alaska, Idaho, Oregon, and Washington. The department shall conduct a needs assessment after it receives a notice of intent from an applicant for a facility. A draft needs assessment must be issued within 180 days. For applications that have already been submitted to the department, the most recent needs assessment conducted as part of the hazardous waste management plan shall be used by the department.

The needs assessment must be reviewed by the department every five years. If the need for the facility has significantly changed, the department may change the facility's permitted capacity to reflect the change. The department may only modify a facility's operating capacity if to do so would not affect the safe operation of the facility. The department may reduce a facility's operating capacity only if this will not make the facility's operation uneconomical.

If they are not the same, the owner and operator of a hazardous waste management facility shall both be the permit applicant and sign and be responsible for the permit application.

The department shall assess a reasonable fee for review of hazardous waste disposal facility permit applications. The fee shall be based on the department's costs in reviewing permit applications. The fee shall be established by rule. The department shall develop a biennial workload analysis and provide an opportunity for public comment before adopting the rule. The cost of establishing the permit fees shall be paid by the state toxics control account.

Fees collected for permit review shall be deposited in the hazardous waste permit account which is created by the legislation. Expenditures from the account may only be for hazardous waste permit review. The account is subject to appropriation.

Appropriation: none

Revenue: none

Fiscal Note: available