

ANALYSIS OF ESSB 6203

House Agriculture & Ecology Committee
1998

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BACKGROUND:

The Solid Waste Management Act, adopted in 1969, and was the first statewide response to solid waste management conditions. Prior to that time, solid waste management was a local matter.

The law used comprehensive solid waste management plans and disposal site permitting to carry out the objectives of the act. In 1989, the Legislature amended the solid waste law to make recycling a fundamental part of the solid waste definition. The amendment also established a 50 percent recycling rate by 1995 and clarified the state's waste management priorities.

Since 1989, recycling in Washington has increased tremendously, both in volume and types of materials recycled. This increased activity has raised questions among a variety of interests about whether the solid waste permitting system impedes, rather than facilitates, recycling. Questions have also been raised about the extent to which current regulations focus on the areas of greatest environmental risk.

To address these issues, the 1997 Legislature required the department of Ecology, in conjunction with the state Solid Waste Advisory Committee, to conduct a comprehensive review of Washington's permitting system for handling and managing solid waste (ESHB 1419). The review was required to address:

- alternatives to statutory definitions;
- permitting requirements;
- risk assessment; and
- the overall regulatory system as it pertains to solid waste and recyclables.

The report submitted to the Legislature as required by ESHB 1419 identified the following problems:

- current solid waste laws and regulations only allow for individual site-by-site permits, regardless of the type of waste and waste handling practice;
- opportunities for increased recycling and beneficial use of recovered materials are being blunted by the uncertainties and inconsistencies surrounding permitting and regulating under existing solid waste rules;
- diverse recycling practices and administrative structures have led to considerable variation in how jurisdictional health departments have permitted and regulated waste recycling practices; and

Washington State Department of Ecology, ESHB 1419 Report: Washington's Solid Waste Permit System, Publication #97-505, November 1997.

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- solid waste permitting must be viewed in the context of the other permits required, not only for environmental media (air and water), but also for land use.

Two bills address the recommendations of this report. SHB 2960 directs the Department of Ecology to further address the applicability of a permit-by-rule process for solid waste recycling facilities, including consistency of permitting for recycling facilities across jurisdictions, and the application of best available technology. A permit by rule would authorize jurisdictional health departments to provide written approval to any owner or operator who complies with the conditions in the rule. Such permits are intended for low to medium risk recycling facilities.

SUMMARY:

SSB 6203 provides exemptions from permit requirements for low risk material and waste handling methods. The Department of Ecology is authorized to adopt rules to address how certain beneficial uses of materials and certain handling facilities can be exempted from solid waste permitting requirements, and how jurisdictional health departments may defer solid waste permitting to other environmental permits.

Exemption for Beneficial Uses. The Department of Ecology may adopt rules to exempt one or more beneficial uses of solid wastes from the disposal site permitting requirements of the Solid Waste Management Act. To be considered for such an exemption, the department must develop rules to determine, at a minimum, whether the material will be beneficially used, and whether the beneficial use or reuse will pose a threat to human health or the environment.

The exemption process begins with the submission of an application for the exemption of a beneficial use of solid waste to the Department of Ecology, which reviews it for completeness as determined by rule, and then forwards it to the jurisdictional health department for review and comment. The jurisdictional health department has 45 days to complete and return the application to the Department of Ecology, which must then approve or deny the application within 90 days. If an application is denied, the jurisdictional health department may appeal that decision to the Pollution Control Hearings Board. If the exemption is approved, the beneficial use of the particular solid waste is exempt from permitting requirements.

The Department of Ecology must also determine by rule the procedures that jurisdictional health departments must use in reviewing proposed exemptions from solid waste disposal permitting, including whether a proposal meets the criteria for exemption, and whether it protects human health and the environment.

Exemption of Handling Facilities. The Department of Ecology also may exempt from permitting by rule any category of solid waste handling facility that it determines to present little or no environmental risk, as long as that facility does not receive municipal solid waste destined for final disposal, apply waste material on land for disposal purposes, or receive waste for recycling or reuse that presents a threat to human health or the environment.

Deferral of Solid Waste Permitting to other Permits. The Department of Ecology is required to adopt rules that allow jurisdictional health departments, under certain conditions, to defer to other environmental permits issued for the same facility.

If exemptions are provided to applicants and they fail to carry out the terms and conditions provided for those exemptions, the department is authorized to assess a civil penalty of \$1000 per day per violation.