
ENGROSSED SUBSTITUTE HOUSE BILL 2818

State of Washington

60th Legislature

2008 Regular Session

By House Select Committee on Environmental Health (originally sponsored by Representatives Campbell and Hudgins)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to the duties of the office of waste reduction and
2 sustainable production within the department of ecology; amending RCW
3 70.95C.010, 70.95C.020, 70.95C.030, 70.95C.040, and 70.95C.070; and
4 adding a new section to chapter 70.95C RCW.

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

6 **Sec. 1.** RCW 70.95C.010 and 1990 c 114 s 1 are each amended to read
7 as follows:

8 The legislature finds that:

9 (1) Land disposal and incineration of solid and hazardous waste can
10 be both harmful to the environment and costly to those who must dispose
11 of the waste.

12 (2) There are adverse effects on human health and the environment
13 from persistent, bioaccumulative, and toxic (PBT) chemicals, heavy
14 metals, and other chemicals found in the products we buy and use.

15 (3) Toxic chemicals end up in our soil, storm water, streams,
16 lakes, rivers, Puget Sound, and the bodies of all human and nonhuman
17 residents of the state; with children at a higher risk of harm from
18 exposure to toxic chemicals than adults.

1 (4) The public has a right to know about the potential human health
2 and environmental impacts of chemicals found in consumer products.

3 (5) Citizens, parents, businesses, workers, and government need
4 adequate tools and information to make informed choices about safer
5 chemical alternatives.

6 (6) It is practical and cost-effective to employ a systematic
7 approach to prevent the use and release of toxic chemicals where
8 cumulative costs exceed benefits due to significant or irreparable harm
9 to human health or the environment.

10 (7) In order to ((address this problem)) approach the management of
11 solid and hazardous waste in the most cost-effective and
12 environmentally sound manner, and to implement the highest waste
13 management priority as articulated in RCW 70.95.010 and 70.105.150,
14 public and private efforts should focus on reducing the generation of
15 waste and reducing the use of toxic chemicals. Waste and toxic
16 chemicals use reduction can be achieved by encouraging voluntary
17 efforts to redesign industrial, commercial, production, and other
18 processes to result in the reduction or elimination of waste byproducts
19 and to maximize the in-process reuse or reclamation of valuable spent
20 material.

21 (8) In the interest of protecting the public health, safety, and
22 the environment, the legislature declares that it is the policy of the
23 state of Washington to encourage reduction in the use of hazardous
24 substances and reduction in the generation of hazardous waste whenever
25 economically and technically practicable.

26 ~~((The legislature finds that))~~ (9) Hazardous wastes are generated
27 by numerous different sources including, but not limited to, large and
28 small business, households, and state and local government. ~~((The~~
29 ~~legislature further finds that))~~

30 (10) A goal against which efforts at waste reduction may be
31 measured is essential for an effective hazardous waste reduction
32 program. The Pacific Northwest hazardous waste advisory council has
33 endorsed a goal of reducing, through hazardous substance use reduction
34 and waste reduction techniques, the generation of hazardous waste ((by
35 fifty percent by 1995. The legislature adopts this as a policy goal
36 for the state of Washington)). ~~((The legislature recognizes that))~~

37 (11) A goal against which efforts at toxic chemicals use reduction
38 may be measured is essential for an effective hazardous waste and toxic

1 chemicals reduction program. The legislature endorses a goal of
2 reducing, through hazardous substance use reduction and waste reduction
3 techniques, the use of toxic chemicals in the state by fifty percent by
4 2020 and adopts this as a policy goal for the state.

5 (12) Many individual businesses have already reduced the generation
6 of hazardous waste through appropriate hazardous waste reduction
7 techniques. The legislature ((also)) recognizes that there are some
8 basic industrial processes which by their nature have limited potential
9 for significantly reducing the use of certain raw materials or
10 substantially reducing the generation of hazardous wastes. Therefore,
11 the goal of reducing hazardous waste generation and use of toxic
12 chemicals by fifty percent cannot be applied as a regulatory
13 requirement.

14 (13) Pollution prevention plan requirements in RCW 70.95C.200 and
15 70.95E.030 must be evaluated for their ability to help meet the 2020
16 toxic chemicals use reduction goal and fund programs found in RCW
17 70.95C.030, 70.95C.040, and 70.95C.070. The legislature directs the
18 department to convene a balanced stakeholder group and report its
19 findings and recommendations by December 31, 2008.

20 **Sec. 2.** RCW 70.95C.020 and 1991 c 319 s 313 are each amended to
21 read as follows:

22 ((As used in)) The definitions in this section apply throughout
23 this chapter((, the following terms have the meanings indicated))
24 unless the context clearly requires otherwise.

25 (1) "Department" means the department of ecology.

26 (2) "Director" means the director of the department of ecology or
27 the director's designee.

28 (3) "Dangerous waste" shall have the same definition as set forth
29 in RCW 70.105.010(5) and shall specifically include those wastes
30 designated as dangerous by rules adopted pursuant to chapter 70.105
31 RCW.

32 (4) "EPA/state identification number" means the number assigned by
33 the EPA (environmental protection agency) or by the department of
34 ecology to each generator and/or transporter and treatment, storage,
35 and/or disposal facility.

36 (5) "Extremely hazardous waste" shall have the same definition as

1 set forth in RCW 70.105.010(6) and shall specifically include those
2 wastes designated as extremely hazardous by rules adopted pursuant to
3 chapter 70.105 RCW.

4 (6) "Fee" means the annual hazardous waste fees imposed under RCW
5 70.95E.020 and 70.95E.030.

6 (7) "Generate" means any act or process which produces hazardous
7 waste or first causes a hazardous waste to become subject to
8 regulation.

9 (8) "Hazardous substance" means any hazardous substance listed as
10 a hazardous substance as of March 21, 1990, pursuant to section 313 of
11 Title III of the Superfund Amendments and Reauthorization Act, any
12 other substance determined by the director by rule to present a threat
13 to human health or the environment, and all ozone depleting compounds
14 as defined by the Montreal Protocol of October 1987.

15 (9)(a) "Hazardous substance use reduction" means the reduction,
16 avoidance, or elimination of the use or production of hazardous
17 substances without creating substantial new risks to human health or
18 the environment.

19 (b) "Hazardous substance use reduction" includes proportionate
20 changes in the usage of hazardous substances as the usage of a
21 hazardous substance or hazardous substances changes as a result of
22 production changes or other business changes.

23 (10) "Hazardous substance user" means any facility required to
24 report under section 313 of Title III of the Superfund Amendments and
25 Reauthorization Act, except for those facilities which only distribute
26 or use fertilizers or pesticides intended for commercial agricultural
27 applications.

28 (11) "Hazardous waste" means and includes all dangerous and
29 extremely hazardous wastes, but does not include radioactive wastes or
30 a substance composed of both radioactive and hazardous components and
31 does not include any hazardous waste generated as a result of a
32 remedial action under state or federal law.

33 (12) "Hazardous waste generator" means any person generating
34 hazardous waste regulated by the department.

35 (13) "Office" means the office of waste reduction and sustainable
36 production.

37 (14) "Plan" means the plan provided for in RCW 70.95C.200.

1 (15) "Person" means an individual, trust, firm, joint stock
2 company, partnership, association, state, public or private or
3 municipal corporation, commission, political subdivision of a state,
4 interstate body, the federal government, including any agency or
5 officer thereof, and any Indian tribe or authorized tribal
6 organization.

7 (16) "Process" means all industrial, commercial, production, and
8 other processes that result in the generation of waste.

9 (17) "Recycled for beneficial use" means the use of hazardous
10 waste, either before or after reclamation, as a substitute for a
11 commercial product or raw material, but does not include: (a) Use
12 constituting disposal; (b) incineration; or (c) use as a fuel.

13 (18) "Recycling" means reusing waste materials and extracting
14 valuable materials from a waste stream. Recycling does not include
15 burning for energy recovery.

16 (19) "Toxic chemicals" means chemicals with an adverse effect on
17 human health and the environment. "Toxic chemicals" includes but is
18 not limited to those that are persistent, bioaccumulative, toxic,
19 endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic,
20 toxic to reproduction, or have degradation products that exhibit any of
21 these characteristics. "Toxic chemicals" does not include chemicals
22 used in agricultural production.

23 (20) "Treatment" means the physical, chemical, or biological
24 processing of waste to render it completely innocuous, produce a
25 recyclable by-product, reduce toxicity, or substantially reduce the
26 volume of material requiring disposal as described in the priorities
27 established in RCW 70.105.150. Treatment does not include
28 incineration.

29 ((+20)) (21) "Used oil" means (a) lubricating fluids that have
30 been removed from an engine crankcase, transmission, gearbox, hydraulic
31 device, or differential of an automobile, bus, truck, vessel, plane,
32 heavy equipment, or machinery powered by an internal combustion engine;
33 (b) any oil that has been refined from crude oil, used, and as a result
34 of use, has been contaminated with physical or chemical impurities; and
35 (c) any oil that has been refined from crude oil and, as a consequence
36 of extended storage, spillage, or contamination, is no longer useful to
37 the original purchaser. "Used oil" does not include used oil to which
38 hazardous wastes have been added.

1 ((+21)) (22) "Waste" means any solid waste as defined under RCW
2 70.95.030, any hazardous waste, any air contaminant as defined under
3 RCW 70.94.030, and any organic or inorganic matter that shall cause or
4 tend to cause water pollution as defined under RCW 90.48.020.

5 ((+22)) (23) "Waste generator" means any individual, business,
6 government agency, or any other organization that generates waste.

7 ((+23)) (24) "Waste reduction" means all in-plant practices that
8 reduce, avoid, or eliminate the generation of wastes or the toxicity of
9 wastes, prior to generation, without creating substantial new risks to
10 human health or the environment. As used in RCW 70.95C.200 through
11 70.95C.240, "waste reduction" refers to hazardous waste only.

12 **Sec. 3.** RCW 70.95C.030 and 1998 c 245 s 133 are each amended to
13 read as follows:

14 (1) There is established in the department an office of waste
15 reduction and sustainable production. The office shall use its
16 authorities to encourage the voluntary reduction of hazardous substance
17 usage and waste generation by waste generators and hazardous substance
18 users, and encourage the production of safer consumer products. The
19 office (~~shall prepare and submit a quarterly progress report to the~~
20 ~~director~~) will promote the following purposes through research,
21 development, technology demonstration, technology transfer, education,
22 outreach, recognition, and training programs:

23 (a) Innovative and cost-effective methods for reducing or
24 eliminating the use of toxic substances in manufacturing and other
25 processes through research and development of environmental
26 technologies that result in sustainable production and toxic chemical
27 use reduction over the course of product life cycles;

28 (b) Pollution prevention as a means for preventing the risks
29 associated with the use and production of hazardous substances,
30 including risks to human health and the environment;

31 (c) Pollution prevention as a means for reducing energy and
32 resource consumption, and reducing or eliminating the generation of
33 hazardous substances, pollution, and waste;

34 (d) Implementation of affordable and cost-effective methods of
35 achieving pollution prevention as a means of sustaining and
36 safeguarding the competitive advantage of large and small businesses in

1 the state and advancing innovation in the reduction of energy and
2 resource consumption and the reduction or elimination of hazardous
3 substances, pollution, and waste; and

4 (e) Voluntary implementation of pollution prevention as a means for
5 meeting the requirements of state or federal environmental laws or
6 regulations.

7 (2) The office shall prepare and submit a biennial progress report
8 to the legislature.

9 (3) The office shall: (a) Be the coordinating center for all state
10 agency programs that provide technical assistance to waste generators
11 and hazardous substance users; (b) work with federal, state, and local
12 agencies and private organizations administering programs related to
13 pollution prevention, energy consumption, resource consumption, the use
14 and generation of hazardous substances, or the generation of waste or
15 pollution; and ((shall)) (c) serve as the state's lead agency and
16 promoter for such programs.

17 (4) In addition to ((this)) the coordinating function under
18 subsection (3) of this section, the office shall encourage hazardous
19 substance use reduction and waste reduction by:

20 (a) Providing for the rendering of advice and consultation to waste
21 generators and hazardous substance users on hazardous substance use
22 reduction and waste reduction techniques, including assistance in
23 preparation of plans provided for in RCW 70.95C.200;

24 (b) Sponsoring or co-sponsoring with public or private
25 organizations technical workshops and seminars on waste reduction and
26 hazardous substance use reduction;

27 (c) Administering a waste reduction and hazardous substance use
28 reduction database and hot line providing comprehensive referral
29 services to waste generators and hazardous substance users;

30 (d) Administering a waste reduction and hazardous substance use
31 reduction research and development program;

32 (e) Coordinating a waste reduction and hazardous substance use
33 reduction public education program that includes the utilization of
34 existing publications from public and private sources, as well as
35 publishing necessary new materials on waste reduction;

36 (f) Recommending to institutions of higher education in the state
37 courses and curricula in areas related to waste reduction and hazardous
38 substance use reduction; and

1 (g) Operating an intern program in cooperation with institutions of
2 higher education and other outside resources to provide technical
3 assistance on hazardous substance use reduction and waste reduction
4 techniques and to carry out research projects as needed within the
5 office.

6 **Sec. 4.** RCW 70.95C.040 and 1990 c 114 s 5 are each amended to read
7 as follows:

8 (1) The office shall establish a waste reduction and hazardous
9 substance use reduction consultation program to be coordinated with
10 other state waste reduction and hazardous substance use reduction
11 consultation programs.

12 (2) The director may grant a request by any waste generator or
13 hazardous substance user for advice and consultation on waste reduction
14 and hazardous substance use reduction techniques and assistance in
15 preparation or modification of a plan, executive summary, or annual
16 progress report, or assistance in the implementation of a plan required
17 by RCW 70.95C.200. Pursuant to a request from a facility such as a
18 business, governmental entity, or other process site in the state, the
19 director may visit the facility making the request for the purposes of
20 observing hazardous substance use and the waste-generating process,
21 obtaining information relevant to waste reduction and hazardous
22 substance use reduction, rendering advice, and making recommendations.
23 No such visit may be regarded as an inspection or investigation, and no
24 notices or citations may be issued, or civil penalty be assessed, upon
25 such a visit. A representative of the director providing advisory or
26 consultative services under this section may not have any enforcement
27 authority.

28 (3) Consultation and advice given under this section shall be
29 limited to the matters specified in the request and shall include
30 specific techniques of waste reduction and hazardous substance use
31 reduction tailored to the relevant process. In granting any request
32 for advisory or consultative services, the director may provide for an
33 alternative means of affording consultation and advice other than on-
34 site consultation.

35 (4) Any proprietary information obtained by the director while
36 carrying out the duties required under this section shall remain

1 confidential and shall not be publicized or become part of the database
2 established under RCW 70.95C.060 without written permission of the
3 requesting party.

4 (5) The consultation program shall provide engineering technical
5 assistance services to businesses and manufacturers in the state
6 seeking to use safer chemical alternatives, reduce waste, increase
7 efficiency, and redesign industrial processes. The director may award,
8 on a competitive basis, within amounts appropriated, contracts to
9 public or private institutions able to offer these services.

10 **Sec. 5.** RCW 70.95C.070 and 1988 c 177 s 7 are each amended to read
11 as follows:

12 (1) The office (~~may~~) shall administer a waste reduction and safer
13 chemical alternatives research and development program. The director
14 may contract with any public or private organization for the purpose of
15 developing methods and technologies that achieve waste and toxic
16 chemical use reduction. The office shall establish and maintain a
17 database of chemicals used in the state to help meet the 2020 toxic
18 chemicals use reduction goal.

19 (2) The office shall consult with the department of health
20 regarding the health effects of toxic chemicals and safer chemical
21 alternatives.

22 (3) All research performed and all methods or technologies
23 developed as a result of a contract entered into under this section
24 shall become the property of the state and shall be incorporated into
25 the database system established under RCW 70.95C.060.

26 (~~(+2)~~) (4) Any contract entered into under this section shall be
27 awarded only after requests for proposals have been circulated to
28 persons, firms, or organizations who have requested that their names be
29 placed on a proposal list. The director shall establish a proposal
30 list and shall review and evaluate all proposals received.

31 (5) The waste reduction and safer chemical alternatives research
32 and development program may establish or participate in a multistate
33 chemicals clearinghouse to collect and share information and resources
34 related to safer chemical alternatives. Responsibilities for the
35 clearinghouse include the following:

36 (a) Share information on safer chemicals initiatives at the state
37 and local level;

1 (b) Collaborate on interstate efforts;
2 (c) Provide fact sheets and guidance documents on chemical use,
3 hazards, and substitutes;
4 (d) Provide a forum for receiving and disseminating United States
5 environmental protection agency or other suitable chemical use and
6 hazard data; and
7 (e) The department may, on a biennial basis, convene a one-day
8 conference that brings together representatives from large and small
9 businesses, government agencies, private agencies, and the general
10 public to discuss progress and exchange ideas consistent with toxic
11 chemicals use reduction.

12 NEW SECTION. Sec. 6. A new section is added to chapter 70.95C RCW
13 to read as follows:

14 The department may adopt rules to fully implement this chapter.

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