
HOUSE BILL 2150

State of Washington 61st Legislature 2009 Regular Session

By Representatives Chase, Dunshee, and White

Read first time 02/11/09. Referred to Committee on Environmental Health.

1 AN ACT Relating to hazardous waste releases and cleanup at
2 facilities in substantial noncompliance with chapter 70.105 RCW; adding
3 new sections to chapter 70.105 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) There are hazardous waste facilities in this state located on
7 sites listed on the United States environmental protection agency's
8 national priority list, pursuant to 42 U.S.C. Sec. 9605, due to
9 releases of hazardous substances, or on the same contiguous property
10 containing these sites. Some hazardous waste management units at these
11 facilities are in significant noncompliance with the requirements of
12 this act and pose special dangers to human health and the environment.
13 Cleanup of these hazardous substances will require a substantial
14 commitment of time, money, and effort. Sites and facilities with
15 releases of hazardous substances on the United States environmental
16 protection agency's national priority list are the most serious of
17 hazardous substance release sites in the state.

18 (2) Disposing of additional hazardous waste to hazardous waste
19 management units located at facilities within these sites or on the

1 same contiguous property containing such sites, where releases have yet
2 to be cleaned up and while hazardous waste management units located at
3 the facility remain in significant noncompliance with this act, is
4 likely to: Slow the cleanup; use capacity for disposal that may be
5 needed for cleanup and disposal of wastes from the site or property;
6 add to the cumulative impacts from the site; increase the amount of
7 cleanup required; or adversely affect the efforts to bring the facility
8 into compliance with the requirements of this act.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.105 RCW
10 to read as follows:

11 It is the policy of the state to ensure cleanup and compliance at
12 facilities with large releases of hazardous substances, and where a
13 hazardous waste management unit or units located on the same property
14 or site are in significant noncompliance with this act, before
15 permitting the disposal of more hazardous waste that is not generated
16 from the cleanup of the same site, facility, or property.

17 It is the further policy of the state to ensure prompt cleanup of
18 releases of hazardous waste and hazardous waste constituents, ensure
19 timely development of treatment and disposal capacity for hazardous
20 wastes currently stored in tank systems and awaiting disposal, and
21 ensure compliance by hazardous waste facilities with all requirements
22 of this act and the implementing rules of the Washington Administrative
23 Code.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.105 RCW
25 to read as follows:

26 (1) The restriction on the disposal of hazardous waste in this
27 section is limited to hazardous waste that Washington state has
28 received authorization to regulate from the United States under the
29 state's approved hazardous waste management program under 42 U.S.C.
30 Sec. 6926, as amended, or 42 U.S.C. Sec. 6939c, as amended.

31 (2) The department may not permit disposal of hazardous waste at a
32 facility located on a site named by the United States environmental
33 protection agency as a national priority list site pursuant to the
34 federal comprehensive environmental response, compensation, and
35 liability act, 42 U.S.C. Sec. 9605, or that is on the same contiguous
36 property as such a site, where:

1 (a) A hazardous waste management unit at such a facility is in
2 significant noncompliance with the requirements of this chapter; and

3 (b) The hazardous waste is not generated from cleanup, corrective,
4 or remedial action under this chapter, 42 U.S.C. Sec. 9605, or chapter
5 70.105D RCW at the facility or other facilities or sites located on the
6 same contiguous property or that was released from these facilities or
7 sites.

8 (3) The department may adopt rules to define what constitutes
9 significant noncompliance for purposes of this section or to otherwise
10 implement this section.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.105 RCW
12 to read as follows:

13 (1) This act does not in any way affect or modify the
14 enforceability of any order issued by the department or compliance
15 schedules (otherwise known as milestones) under the Hanford federal
16 facility agreement and consent order, also known as the tri-party
17 agreement, in effect on the effective date of this section.

18 (2) Rules adopted by the department to implement this chapter that
19 provide for exemptions or exclusions from hazardous or dangerous waste
20 permitting including, but not limited to, exemptions for small
21 quantities of dangerous wastes, materials used in manufacturing, lab
22 samples, and special wastes remain fully applicable and available to
23 any qualifying permit applicant under this act.

24 (3) Section 3 of this act does not apply to currently permitted
25 disposal of hazardous waste contained in sealed structures such as
26 naval reactor vessels, which the department has determined under the
27 state environmental policy act, chapter 43.21C RCW, will not pose a
28 significant risk of release to the environment over extended time
29 periods, as long as the receiving hazardous waste management unit
30 remains in significant compliance with the requirements of this chapter
31 and relevant permits.

32 (4) The department may grant an annual waiver from the provisions
33 of section 3 of this act for disposal of de minimis quantities of
34 hazardous waste. The waiver applies only if the department determines
35 that the:

36 (a) Specific hazardous waste or hazardous waste constituent
37 proposed to be disposed of is within the scope of wastes fully

1 considered in permitting and in any impact statement or threshold
2 determination issued or adopted under the state environmental policy
3 act, chapter 43.21C RCW, for the facility or unit;

4 (b) Unit that will receive the waste is in compliance with the
5 conditions of any applicable permit, compliance order, or agreement and
6 the requirements of this chapter; and

7 (c) Disposal will not adversely affect the availability of disposal
8 capacity for cleanup or remediation of releases, compliance, and
9 corrective action at the site or have any other adverse effect upon
10 remediation and corrective action. The department shall adopt rules
11 determining: (i) What is a de minimis quantity of wastes for purposes
12 of this subsection, with a presumption that such a quantity does not
13 exceed an annual volume to be determined by the department; and (ii)
14 the criteria and procedures, including public notice and comment, for
15 obtaining an annual waiver of the prohibition in section 3 of this act.
16 Criteria for annual waivers may include, but are not limited to:
17 Whether disposal of the waste stream benefits research on environmental
18 cleanup or treatment of hazardous wastes or national security; impacts
19 to health and groundwater from future projected releases; whether any
20 other facilities are available for disposal; and potential for
21 significant impacts at any point in the cycle of treatment, storage, or
22 disposal.

23 (5) This act is intended to operate within the existing regulatory
24 scope of this chapter and, consistent with RCW 70.105.109, to regulate
25 hazardous wastes to the extent not preempted by federal law.

26 (6) This act does not limit the department's authority to develop
27 and implement facility-specific permit terms and conditions as
28 necessary to protect human health and the environment.

29 NEW SECTION. **Sec. 5.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

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