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HOUSE BILL 1014

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By Representatives Campbell, Hudgins, Hunt, Chase, Morrell, Nelson, Hasegawa, Wood, and White

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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 new sections 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 2021 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 2021  
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, 2009.

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.

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

28 ((+20)) (21) "Used oil" means (a) lubricating fluids that have  
29 been removed from an engine crankcase, transmission, gearbox, hydraulic  
30 device, or differential of an automobile, bus, truck, vessel, plane,  
31 heavy equipment, or machinery powered by an internal combustion engine;  
32 (b) any oil that has been refined from crude oil, used, and as a result  
33 of use, has been contaminated with physical or chemical impurities; and  
34 (c) any oil that has been refined from crude oil and, as a consequence  
35 of extended storage, spillage, or contamination, is no longer useful to  
36 the original purchaser. "Used oil" does not include used oil to which  
37 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 2021 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.

15       NEW SECTION. Sec. 7. A new section is added to chapter 70.95C RCW  
16 to read as follows:

17       Toxic chemicals, when used by a person engaged in agricultural  
18 production, are not subject to the provisions of RCW 70.95C.010,  
19 70.95C.030, 70.95C.040, 70.95C.070, and section 6 of this act.

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