
SUBSTITUTE SENATE BILL 6075

State of Washington**53rd Legislature****1994 Regular Session**

By Senate Committee on Ecology & Parks (originally sponsored by
Senators Talmadge, Deccio and Fraser)

Read first time 02/03/94.

1 AN ACT Relating to the listing and setting of priorities for the
2 cleanup of hazardous waste sites; amending RCW 70.105D.030; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature hereby finds and
6 declares as follows:

7 (a) The principal factor in setting priorities for cleanup of
8 hazardous waste sites should be the actual threat to the public's
9 health and to the environment;

10 (b) The existing hazard ranking and reporting system has not been
11 effective in ensuring that the sites with the greatest risks obtain the
12 highest priority for cleanup.

13 (2) The legislature therefore declares the following:

14 (a) The department's priority setting should rely primarily on the
15 relative risks to human health and the environment among the sites on
16 the waste site list;

17 (b) Funds appropriated for site remediation from the toxics control
18 accounts should be expended primarily for the highest priority sites
19 determined by the department based on the hazard ranking.

1 **Sec. 2.** RCW 70.105D.030 and 1989 c 2 s 3 are each amended to read
2 as follows:

3 (1) The department may exercise the following powers in addition to
4 any other powers granted by law:

5 (a) Investigate, provide for investigating, or require potentially
6 liable persons to investigate any releases or threatened releases of
7 hazardous substances, including but not limited to inspecting,
8 sampling, or testing to determine the nature or extent of any release
9 or threatened release. If there is a reasonable basis to believe that
10 a release or threatened release of a hazardous substance may exist, the
11 department's authorized employees, agents, or contractors may enter
12 upon any property and conduct investigations. The department shall
13 give reasonable notice before entering property unless an emergency
14 prevents such notice. The department may by subpoena require the
15 attendance or testimony of witnesses and the production of documents or
16 other information that the department deems necessary;

17 (b) Conduct, provide for conducting, or require potentially liable
18 persons to conduct remedial actions (including investigations under (a)
19 of this subsection) to remedy releases or threatened releases of
20 hazardous substances. In carrying out such powers, the department's
21 authorized employees, agents, or contractors may enter upon property.
22 The department shall give reasonable notice before entering property
23 unless an emergency prevents such notice. In conducting, providing
24 for, or requiring remedial action, the department shall give preference
25 to permanent solutions to the maximum extent practicable and shall
26 provide for or require adequate monitoring to ensure the effectiveness
27 of the remedial action;

28 (c) Indemnify contractors retained by the department for carrying
29 out investigations and remedial actions, but not for any contractor's
30 reckless or wilful misconduct;

31 (d) Carry out all state programs authorized under the federal
32 cleanup law and the federal resource, conservation, and recovery act,
33 42 U.S.C. Sec. 6901 et seq., as amended;

34 (e) Classify substances as hazardous substances for purposes of RCW
35 70.105D.020(5) and classify substances and products as hazardous
36 substances for purposes of RCW 82.21.020(1); and

37 (f) Take any other actions necessary to carry out the provisions of
38 this chapter, including the power to adopt rules under chapter 34.05
39 RCW.

1 (2) The department shall immediately implement all provisions of
2 this chapter to the maximum extent practicable, including investigative
3 and remedial actions where appropriate. The department((, within nine
4 months after March 1, 1989,)) shall adopt, and thereafter enforce,
5 rules under chapter 34.05 RCW to:

6 (a) Provide for public participation, including at least (i) the
7 establishment of regional citizen's advisory committees, (ii) public
8 notice of the development of investigative plans or remedial plans for
9 releases or threatened releases, and (iii) concurrent public notice of
10 all compliance orders, enforcement orders, or notices of violation;

11 (b) Establish and maintain a hazardous waste site list that
12 includes all sites for which the department has credible evidence to
13 believe that remedial action under this chapter will be required. The
14 department shall adopt reasonable deadlines for the removal of sites
15 from the list for which remedial action has been completed, and the
16 department shall maintain a separate list of sites requiring monitoring
17 or operation and maintenance activities following remediation.

18 (c) Establish a hazard ranking and priority setting system ((for
19 hazardous waste sites)) governing remedial actions by the department
20 and expenditures from the toxics control accounts at sites on the
21 hazardous waste site list. The criteria used in setting priorities
22 must ensure that the highest priority is assigned to sites that present
23 the greatest relative risk to human health and the environment among
24 the sites on the list. The department may use additional criteria in
25 setting priorities for remedial action, such as the readiness of the
26 potentially liable person to proceed, the availability of funding, or
27 the need to fulfill federal grant commitments or obligations under
28 federal law, but these factors shall be given a lower weight than risk
29 to human health and the environment. The sites elevated in priority
30 using these additional criteria shall be identified in the work plan
31 required under subsection (3) of this section and the reasons for
32 elevating their priority indicated. In assigning priorities the
33 department may incorporate and rely upon the hazard ranking system
34 established by the department. The department shall utilize the
35 priority setting system in developing the work plan required under
36 subsection (3) of this section;

37 ((+e))) (d) Establish reasonable deadlines not to exceed ninety
38 days for initiating an investigation of a hazardous waste site after
39 the department receives information that the site may pose a threat to

1 human health or the environment and other reasonable deadlines for
2 remedying releases or threatened releases at the site; and

3 ((d)) (e) Publish and periodically update minimum cleanup
4 standards for remedial actions at least as stringent as the cleanup
5 standards under section 121 of the federal cleanup law, 42 U.S.C. Sec.
6 9621, and at least as stringent as all applicable state and federal
7 laws, including health-based standards under state and federal law.

8 (3) Before November 1st of each even-numbered year, the
9 ((department shall develop, with public notice and hearing, and))
10 governor shall submit to the ((ways and means)) fiscal and appropriate
11 standing environmental committees of the senate and house of
12 representatives the following:

13 ((a ranked)) (a) A list of ((projects)) activities and the
14 expenditures recommended for appropriation from both the state and
15 local toxics control accounts to all agencies implementing programs and
16 to achieve the waste prevention and cleanup purposes of this chapter.

17 (b) A work plan for remedial action at sites on the hazardous waste
18 site list and the expenditures recommended for appropriation from the
19 state and local toxics control accounts to implement the work plan.
20 The plan shall be developed by the department, with public notice and
21 hearing, to provide for remedial action at the sites for which the
22 department has assigned the highest priority under subsection (2)(c) of
23 this section. The plan shall include projected expenditures for such
24 sites in each of the fiscal years of the next biennium. However, the
25 plan may exclude a per-site projection of expenditures of funds which
26 it proposes to hold in reserve for department-conducted cleanup in the
27 event that liable persons refuse to conduct the cleanup, and such
28 amount may be projected as a total amount for the biennium.

29 (c) The ((department)) governor shall also provide the legislature
30 and the public following each fiscal year with an accounting of the
31 ((department's)) activities of state agencies and grantees supported by
32 appropriations from the state and local toxics control accounts,
33 including ((a)) the list of ((known)) hazardous waste sites and their
34 ((hazard)) priority rankings, actions taken and planned at each site,
35 an accounting of expenditures at each site, how the department is
36 meeting its top two management priorities under RCW 70.105.150, and all
37 funds expended under this chapter.

38 (d) Funds appropriated to the department for remedial action
39 activities shall be expended in substantial conformance with the

1 priority ranking of sites and consistently with the work plan submitted
2 under (b) of this subsection.

3 (4) The department shall establish a scientific advisory board to
4 render advice to the department with respect to the hazard ranking
5 system, cleanup standards, remedial actions, deadlines for remedial
6 actions, monitoring, the classification of substances as hazardous
7 substances for purposes of RCW 70.105D.020(5) and the classification of
8 substances or products as hazardous substances for purposes of RCW
9 82.21.020(1). The board shall consist of five independent members to
10 serve staggered three-year terms. No members may be employees of the
11 department. Members shall be reimbursed for travel expenses as
12 provided in RCW 43.03.050 and 43.03.060.

13 (5) The department shall establish a program to identify potential
14 hazardous waste sites and to encourage persons to provide information
15 about hazardous waste sites.

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