
SENATE BILL 6075

State of Washington 53rd Legislature 1994 Regular Session

By Senators Talmadge, Deccio and Fraser

Read first time 01/11/94. Referred to Committee on Ecology & Parks.

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) In setting site priorities, the readiness of potentially liable
11 parties to proceed or to fund all or a portion of the cleanup if often
12 given too great a weight, so that greater departmental resources may be
13 expended on sites with a low risk to human health or the environment
14 prior to a site with a high risk to human health or the environment;

15 (c) The existing hazard ranking has not been effective in ensuring
16 that the sites with the greatest risks obtain the highest priority, and
17 do not convey to the public adequate information by which the relative
18 degree of risk among sites on the hazardous waste site list may be
19 determined.

1 (2) The legislature therefore declares the following:

2 (a) Site ranking should be based on an assessment of the site's
3 relative degree of hazard to public health and the environment through
4 any pathway;

5 (b) The department's priority setting should rely primarily on the
6 relative risks to human health and the environment among the sites on
7 the waste site list;

8 (c) Funds appropriated for site remediation from the toxics control
9 accounts should be expended primarily for the highest priority sites
10 determined by the department based upon a uniform system for priority
11 setting.

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

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

16 (a) Investigate, provide for investigating, or require potentially
17 liable persons to investigate any releases or threatened releases of
18 hazardous substances, including but not limited to inspecting,
19 sampling, or testing to determine the nature or extent of any release
20 or threatened release. If there is a reasonable basis to believe that
21 a release or threatened release of a hazardous substance may exist, the
22 department's authorized employees, agents, or contractors may enter
23 upon any property and conduct investigations. The department shall
24 give reasonable notice before entering property unless an emergency
25 prevents such notice. The department may by subpoena require the
26 attendance or testimony of witnesses and the production of documents or
27 other information that the department deems necessary;

28 (b) Conduct, provide for conducting, or require potentially liable
29 persons to conduct remedial actions (including investigations under (a)
30 of this subsection) to remedy releases or threatened releases of
31 hazardous substances. In carrying out such powers, the department's
32 authorized employees, agents, or contractors may enter upon property.
33 The department shall give reasonable notice before entering property
34 unless an emergency prevents such notice. In conducting, providing
35 for, or requiring remedial action, the department shall give preference
36 to permanent solutions to the maximum extent practicable and shall
37 provide for or require adequate monitoring to ensure the effectiveness
38 of the remedial action;

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

4 (d) Carry out all state programs authorized under the federal
5 cleanup law and the federal resource, conservation, and recovery act,
6 42 U.S.C. Sec. 6901 et seq., as amended;

7 (e) Classify substances as hazardous substances for purposes of RCW
8 70.105D.020(5) and classify substances and products as hazardous
9 substances for purposes of RCW 82.21.020(1); and

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

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

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

23 (b) Establish and maintain a hazardous waste site list that
24 includes all sites for which the department has credible evidence to
25 believe that remedial action under this chapter will be required. The
26 department may adopt a minimum hazard threshold below which sites shall
27 not be listed, if the sites are subject to the department's authority
28 under this chapter to order remedial action of hazardous substances
29 releases at the site. The department shall adopt reasonable deadlines
30 for the removal of sites from the list for which remedial action has
31 been completed, and the department shall maintain a separate list of
32 sites containing monitoring or operation and maintenance activities
33 following remediation.

34 (c) Establish a ((hazard ranking)) priority setting system ((for
35 hazardous waste sites)) governing remedial actions by the department
36 and expenditures from the toxics control accounts at sites on the
37 hazardous waste site list and the investigation of sites for possible
38 inclusion on the list. The department shall adopt criteria for
39 determining priorities that ensure that the highest priority is

1 assigned to sites that present the greatest relative risk to human
2 health and the environment among the sites on the list. The criteria
3 shall include those specified under section 105(8) of the federal
4 cleanup law, 42 U.S.C. Sec. 9601 et. seq., as amended. The criteria
5 may also include the readiness of potentially liable parties to proceed
6 and the availability of funding from such parties or other sources of
7 funding, but such factors shall receive less weight than those relating
8 to the risks to human health and the environment. In assigning
9 priorities the department may incorporate and rely upon existing data
10 and rankings pursuant to the hazard ranking system established by the
11 department. The department shall amend its hazard ranking system to
12 conform to the requirements of this subsection no later than January 1,
13 1995, and all sites added to the hazardous waste site list after such
14 date shall be ranked as required by this subsection. The department
15 shall establish deadlines for assigning a priority ranking to a site,
16 not to exceed one year from its inclusion on the hazardous waste site
17 list;

18 ~~((+e))~~ (d) Establish reasonable deadlines not to exceed ninety
19 days for initiating an investigation of a hazardous waste site after
20 the department receives information that the site may pose a threat to
21 human health or the environment and other reasonable deadlines for
22 remedying releases or threatened releases at the site; and

23 ~~((+d))~~ (e) Publish and periodically update minimum cleanup
24 standards for remedial actions at least as stringent as the cleanup
25 standards under section 121 of the federal cleanup law, 42 U.S.C. Sec.
26 9621, and at least as stringent as all applicable state and federal
27 laws, including health-based standards under state and federal law.

28 (3) Before November 1st of each even-numbered year, the
29 ~~((department shall develop, with public notice and hearing, and))~~
30 governor shall submit to the ~~((ways and means))~~ fiscal and appropriate
31 standing environmental committees of the senate and house of
32 representatives the following:

33 (a) A ranked list of projects and expenditures recommended for
34 appropriation from both the state and local toxics control accounts to
35 implement the work plan required by this subsection and to achieve the
36 waste prevention and cleanup purposes of this chapter.

37 (b) A work plan developed by the department, with public notice and
38 hearing, for remedial action at the sites with the highest priority

1 rankings and the projected expenditure per site in each of the fiscal
2 years of the next biennium.

3 (c) The (~~department~~) governor shall also provide the legislature
4 and the public following each fiscal year with an accounting of the
5 (~~department's~~) activities of state agencies and grantees supported by
6 appropriations from the state and local toxics control accounts,
7 including (a) the list of (known) hazardous waste sites and their
8 (hazard) priority rankings, actions taken and planned at each site,
9 an accounting of expenditures at each site, how the department is
10 meeting its top two management priorities under RCW 70.105.150, and all
11 funds expended under this chapter.

12 (d) Funds appropriated to the department for remedial action
13 activities shall be expended in substantial conformance with the
14 priority ranking of sites and consistently with the work plan submitted
15 under (b) of this subsection.

16 (4) The department shall establish a scientific advisory board to
17 render advice to the department with respect to the hazard ranking
18 system, cleanup standards, remedial actions, deadlines for remedial
19 actions, monitoring, the classification of substances as hazardous
20 substances for purposes of RCW 70.105D.020(5) and the classification of
21 substances or products as hazardous substances for purposes of RCW
22 82.21.020(1). The board shall consist of five independent members to
23 serve staggered three-year terms. No members may be employees of the
24 department. Members shall be reimbursed for travel expenses as
25 provided in RCW 43.03.050 and 43.03.060.

26 (5) The department shall establish a program to identify potential
27 hazardous waste sites and to encourage persons to provide information
28 about hazardous waste sites.

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