
SUBSTITUTE HOUSE BILL 1810

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Honeyford, Thompson and L. Thomas)

Read first time 03/01/95.

1 AN ACT Relating to the authority of the state for cleanup standards
2 under the model toxics control act; creating new sections; and
3 providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) A legislative task force to review the
6 model toxics control act is hereby created.

7 (2) The purpose of the task force is to make recommendations and
8 submit a report to the legislature, including proposed statutory
9 amendments as necessary, regarding the application and implementation
10 of the model toxics control act, chapter 70.105D RCW, and its
11 implementing rules, chapter 173-340 WAC. In fulfilling its
12 responsibilities, the task force shall consider, at a minimum, the
13 following issues under chapter 70.105D RCW and its implementing rules:

14 (a) Revisions to the method A standards in the rules, including,
15 but not limited to, exclusion of any proposed regulatory levels that
16 have not been adopted on a final basis on a federal level;

17 (b) Revisions to the method B formulae to reflect, at a minimum,
18 current risk assessment methodology and to provide flexibility by
19 developing a range of values to be considered in the risk formulae, as

1 an alternative to using extremely conservative default values
2 compounded for risk and exposure assumptions;

3 (c) Revisions to the methods used in setting cleanup standards to
4 consider site-specific factors and to consider acceptable cancer risk
5 between the levels of one in ten thousand and one in one million;

6 (d) Review preference for treatment and preference for mitigation
7 or management of risk through nontreatment technology such as
8 containment, capping, and institutional controls where nontreatment
9 technologies may be less costly than treatment and equally effective;

10 (e) Use of cleanup standards that provide for site-specific risk
11 reduction while ensuring that the incremental risk reduction is
12 proportionate to the total cost of the remedial action, and that the
13 overall remedial action is cost-effective including the development of
14 standard procedures to establish cost-effectiveness;

15 (f) Cleanup standards that provide that remedial action be based on
16 current and reasonably anticipated future land and resource uses,
17 taking into account that, if the use is converted to one requiring the
18 application of more stringent applicable cleanup standards, additional
19 remediation may be required in the future;

20 (g) Review of exposure parameters and assumptions used in risk
21 assessment equations for development of cleanup standards, including
22 potential errors and safety factors, and the overall impact on the
23 certainty of the risk estimate;

24 (h) Consideration of the potential use of ground water as a
25 drinking water source in areas zoned for industrial use, in areas where
26 perched ground water is not a reasonable water supply source, or in
27 areas where a local water purveyor supplies drinking water to a
28 particular area;

29 (i) Review of soil contaminant leaching protocols to determine
30 impact on ground water;

31 (j) Review of petroleum contamination evaluation procedures and
32 cleanup standards;

33 (k) Review of remedy selection and cleanup action decision-making
34 criteria, including, but not limited to, such issues as points of
35 compliance, practicability, and the definition of substantial and
36 disproportionate as it relates to defining the appropriateness of
37 cleanup actions;

38 (l) Creation of additional land-use categories based on alternative
39 exposure scenarios in addition to the current residential and

1 industrial scenarios such as commercial, open space, recreational,
2 agricultural, and light industrial;

3 (m) Options available to potentially liable parties who voluntarily
4 undertake a remediation under a consent decree or an agreed order to
5 develop cleanup standards and cleanup levels using a site-specific risk
6 assessment that takes into consideration the following:

7 (i) Generally accepted and peer reviewed scientific evidence or
8 methodology;

9 (ii) Reasonable assumptions of exposure scenarios as to amounts of
10 contaminants to which humans or other receptors will be exposed;

11 (iii) When and where the exposures will occur, and the amount of
12 the exposure; and

13 (iv) Avoiding the use of redundant conservative assumptions;

14 (n) Review and revision of cleanup standards on an annual or
15 biannual basis to reflect current scientific evidence, methodologies,
16 and default assumptions; and

17 (o) Review of the use of the state toxics control account by the
18 department of ecology.

19 (3) These issues are intended as guidelines for the work of the
20 task force, and are not intended to limit the scope of its review or
21 its recommendations.

22 (4) The task force shall consist of the following members:

23 (a) One representative from each caucus of the senate, selected by
24 the president of the senate;

25 (b) One representative from each caucus of the house of
26 representatives, selected by the speaker of the house of
27 representatives;

28 (c) One representative of the science advisory board, selected by
29 the board members;

30 (d) One representative of port districts in the state of Washington
31 selected by the Washington public ports association;

32 (e) One representative of small business, selected by an
33 organization of small businesses;

34 (f) One representative of large business or industry, selected by
35 the association of Washington business;

36 (g) Two representatives of local government, selected by the
37 association of Washington counties and the Washington association of
38 cities;

39 (h) One representative of an environmental organization; and

1 (i) One representative of the department of ecology, as a nonvoting
2 ex officio member.

3 (5) The department of ecology shall provide the task force with
4 information and assistance as needed.

5 (6) The legislature intends to determine whether the cleanup
6 process mandated under chapter 70.105D RCW may be enhanced, simplified,
7 and made more cost-effective, and whether coordination between the
8 department of ecology and the potentially liable parties may be
9 improved, when site-specific cleanup factors, cost-benefit analysis,
10 and alternative risk assessment approaches are applied to the cleanup
11 process.

12 (7) The task force shall convene commencing July 1, 1995, and shall
13 report its final findings, conclusions, and recommendations to the
14 appropriate standing committees of the legislature no later than
15 December 31, 1995.

16 (8) Nonlegislative members of the task force shall be reimbursed
17 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

18 (9) Legislative members of the task force shall be reimbursed for
19 travel expenses under RCW 44.04.120.

20 (10) Funding for the task force shall be provided by the state
21 toxics control account as established in RCW 70.105D.070.

22 NEW SECTION. **Sec. 2.** (1) The department of ecology shall
23 undertake pilot projects on model toxics control act cleanups to
24 determine if the review process and selection of cleanup standards,
25 cleanup levels, and a cleanup action can be improved. Cleanup
26 standards, cleanup levels, and cleanup actions for such pilot projects
27 should be selected based upon the following:

28 (a) Cleanup standards and cleanup levels shall be protective of
29 public health, safety, welfare, and the environment;

30 (b) Use of redundant conservative assumptions in risk formulae
31 shall be avoided;

32 (c) Cleanup standards and cleanup levels shall be based upon
33 generally accepted and peer reviewed scientific evidence or
34 methodologies; reasonable assumptions of exposure scenarios as to
35 amounts of contaminants to which humans or other receptors will be
36 exposed; and when and where those exposures will occur and the amount
37 of the exposure;

1 (d) Cleanup standards and cleanup levels shall be based upon site-
2 specific risk;

3 (e) Cleanup standards and cleanup levels shall provide for site-
4 specific risk reduction that ensures that incremental risk reduction is
5 proportionate to the total cost of the remedial action and the overall
6 remedial action is cost-effective;

7 (f) Cleanup standards and cleanup levels shall require that
8 remedial actions be based upon a consideration of technical
9 practicability, and shall give equal consideration to engineering
10 controls, institutional controls, other nontreatment technologies, as
11 well as treatment; and

12 (g) Cleanup standards and cleanup levels shall provide that
13 remedial action shall be based on current and reasonably anticipated
14 future land and resource uses, and provide that if the use is converted
15 to one requiring the application of more stringent applicable cleanup
16 standards, additional remediation may be required in the future.

17 (2) The department of ecology shall establish, in cooperation with
18 business, industry, and other interested parties, at least three but
19 not more than five pilot projects, for the purposes outlined in section
20 1(2) and (6) of this act. In selecting pilot projects, the department
21 of ecology shall select sites that are large complex industrial sites,
22 where the potential cost of cleanup exceeds five million dollars, and
23 where the potentially liable parties have prepared or are in the
24 process of preparing a risk assessment. The risk assessment
25 information shall be used to determine the appropriate cleanup
26 standards and levels, as well as the appropriate remedial action.

27 (3) The project managers representing the department of ecology and
28 the lead potentially liable party for each pilot project shall prepare
29 interim reports for the legislative task force created in section 1(1)
30 of this act, including such findings and recommendations as may be
31 appropriate. Interim reports shall be due August 15, 1995, and October
32 1, 1995. A final report prepared by the project manager for the
33 department of ecology and the project manager for the lead potentially
34 liable party shall be presented to the legislative task force created
35 in section 1 of this act no later than December 1, 1995.

36 (4) Not later than December 31, 1995, the legislative task force
37 shall evaluate the overall progress of the pilot projects under this
38 section, and the effectiveness of the application of the standards in
39 subsection (1)(a) through (g) of this section, and shall:

1 (a) Provide a report of its findings to appropriate standing
2 committees of the legislature with such recommendations as may be
3 appropriate, including the need, if any, for further legislation;

4 (b) Consider adoption of any further rules or guidelines as may be
5 appropriate to assist the department of ecology in meeting the
6 requirements of chapter 70.105D RCW; and

7 (c) Prepare and circulate such information derived from the pilot
8 projects as will assist the department of ecology and potentially
9 liable parties in meeting the requirements and objectives of chapter
10 70.105D RCW in the most expeditious and efficient manner.

11 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act shall expire
12 January 31, 1996.

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