
HOUSE BILL 2634

State of Washington

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By Representatives Pollet, Bernbaum, Stearns, Ryu, Parshley, Nance, Leavitt, Goodman, Taylor, and Wylie

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1 AN ACT Relating to the safe management of radioactive waste and
2 cleanup of hazardous substance releases into the environment with
3 recognition of treaty rights of federally recognized tribes,
4 providing for fees for generators of radioactive wastes and approval
5 of new sources of waste prior to disposal; amending RCW 70A.305.180,
6 70A.380.020, and 70A.384.110; adding a new section to chapter 70A.384
7 RCW; adding a new section to chapter 43.21C RCW; adding a new section
8 to chapter 80.50 RCW; and creating a new section.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
11 commercial radioactive waste disposal facility operated by the state
12 of Washington is a leaking unlined soil landfill. A state
13 investigation confirmed the site is releasing significant levels of
14 chemical and radioactive contamination into the soil and groundwater.
15 The groundwater under the site flows to the Columbia river.

16 (2) Pursuant to state law adopting the Northwest interstate
17 compact on low-level radioactive waste management and the federal
18 low-level radioactive waste policy act, the leaking, unlined landfill
19 is the only disposal site which may be utilized for the radioactive
20 wastes, other than high-level waste such as used reactor fuel,

1 generated by any new nuclear reactors built in Washington state or
2 the states comprising the Northwest and mountain states compacts.

3 (3) The legislature finds that the commercial low-level
4 radioactive waste landfill operated by the state of Washington for
5 the Northwest interstate compact on low-level radioactive waste
6 management is on lands to which the confederated bands and tribes of
7 the Yakama Nation and the confederated bands and tribes of the
8 Umatilla Indian reservation have treaty reserved rights. The
9 legislature further finds that contamination spreading from the
10 landfill and future potential releases of contamination interfere
11 with the treaty reserved rights to utilize lands and resources and
12 poses a significant health threat to the peoples of the two federally
13 recognized tribal nations.

14 (4) It is the policy of the state of Washington that
15 investigation and remediation of releases of hazardous substances,
16 including all carcinogens, are based on reasonable maximum exposure
17 scenarios pursuant to the model toxics control act.

18 (5) It is the policy of the state of Washington that clean-up
19 levels and standards reflecting reasonable maximum exposure scenarios
20 for sites where releases impact resources and lands to which
21 federally recognized Indian nations have reserved treaty rights, such
22 as the landfill operated by the state under the Northwest interstate
23 compact on low-level radioactive waste management, utilize tribal
24 exposure scenarios developed with, and approved by, the tribes whose
25 members' health may be affected by releases from the site.

26 (6) The legislature recognizes that the state is ultimately
27 responsible for remediation of the commercial radioactive waste
28 disposal site, which is located on lands leased to the state by the
29 United States department of energy on the Hanford nuclear
30 reservation, and for the costs of investigation, monitoring, and
31 remediation.

32 (7) The legislature declares it is the policy of the state of
33 Washington to require that the corporations, persons, or other
34 entities who contribute to the contamination sources, consistent with
35 RCW 70A.305.040, disposed in the commercial radioactive waste
36 landfill are liable parties who should bear the costs of
37 investigation and remediation under joint, several, and strict
38 liability pursuant to the model toxics control act and the federal
39 comprehensive environmental response, compensation, and liability
40 act. The legislature intends for the state policies adopted in RCW

1 70A.305.010 (2) and (5) to be applied to the commercial radioactive
2 waste landfill to raise sufficient funds to clean up all hazardous
3 waste sites and to prevent the creation of future hazards due to
4 improper disposal of toxic wastes into the state's lands and waters,
5 and because it is often difficult or impossible to allocate
6 responsibility among persons liable for hazardous waste sites and
7 because it is essential that sites be cleaned up well and
8 expeditiously, each responsible person should be liable jointly and
9 severally.

10 (8) The legislature further intends that the standards for
11 protection of human health and the environment under the model toxics
12 control act are applicable to releases or threatened releases of all
13 hazardous substances, including all carcinogens, not just toxic
14 chemicals, from the commercial low-level radioactive waste landfill
15 operated by the state under the Northwest interstate compact on low-
16 level radioactive waste management. It is further intended that the
17 potential for additional releases from the facility be reduced by
18 investigation of the sources in unlined trenches and potential
19 removal or other active remediation, followed by appropriate
20 treatment and disposal, to prevent future releases of hazardous
21 substances.

22 (9) It is the policy of the state of Washington to reduce the
23 long-term risk of additional releases from, and costs of remediating,
24 the commercial radioactive waste landfill operated by the state under
25 the Northwest interstate compact on low-level radioactive waste
26 management by reducing the amount of waste disposed until such time
27 as the site is fully investigated and remediated. It is the policy of
28 the state to clean up before adding more waste.

29 (10) Therefore, the legislature intends that no additional low-
30 level radioactive wastes from new commercial nuclear reactors should
31 be allowed to be disposed of in the commercial radioactive waste
32 landfill until the site is fully investigated and current or
33 potential releases are remediated to meet all standards to protect
34 human health and the environment.

35 (11) The legislature finds that the costs of investigation and
36 remediation of the landfill operated by the state under the Northwest
37 interstate compact on low-level radioactive waste management will
38 likely be greatly in excess of the funding in the site closure
39 account established in RCW 70A.384.050. The legislature declares and
40 reiterates that it is the policy of the state of Washington that

1 liable parties, including the site operator and entities utilizing
2 the site, including any operators of currently operating or new
3 nuclear reactors, shall be liable for the costs of investigation and
4 remediation of the facility, not the state of Washington and its
5 general taxpayers.

6 (12) The legislature further intends to ensure that future
7 disposal of commercial radioactive wastes occurs in a facility with
8 liners, leachate collection, monitoring and other controls to prevent
9 or reduce long-term releases of contamination which meet or exceed
10 those requirements for landfills permitted by the state for hazardous
11 and dangerous wastes.

12 (13) The legislature further intends that the costs to develop
13 any new facility meeting these requirements, if located in Washington
14 state, should be borne by current and future users of the disposal
15 facility and not the taxpayers of the state.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.384
17 RCW to read as follows:

18 (1) The director of the department shall conduct new
19 investigations and monitoring for releases of all hazardous
20 substances as defined in RCW 70A.305.020, or 42 U.S.C. Sec. 9601(14)
21 as it existed on the effective date of this section, which have been
22 released or have the potential to be released from the commercial
23 low-level radioactive waste disposal facility. The investigation
24 shall include characterization of the sources of past or potential
25 future releases of hazardous substances and identification of
26 hazardous substances and wastes which were not authorized to be
27 disposed of in the facility.

28 (2) By July 1, 2029, the director of the department shall propose
29 a plan for remediation of past and potential future releases,
30 including removal or stabilization of hazardous substances which may
31 release in concentrations, which when considered individually or
32 cumulatively, including summing the risk from all carcinogens, may
33 reasonably be projected to exceed applicable, relevant, or
34 appropriate standards and requirements for protection of human health
35 or the environment. The plan shall also provide for the removal from
36 the commercial low-level radioactive waste disposal facility of all
37 high-level radioactive waste as defined in 42 U.S.C. Sec. 10101(12)
38 as it existed as of the effective date of this section, or other
39 wastes whose disposal in a near surface, unlined landfill violates 42

1 U.S.C. Sec. 10101 et seq., other federal or state laws, lease terms,
2 or site permit conditions. The director of the department of ecology
3 may extend the deadline for proposing the plan and required
4 environmental analyses accompanying it by up to two years with
5 concurrence of each federally recognized tribe with reserved treaty
6 rights impacted by the facility which have formally informed the
7 director of the tribe's interest in participating in the response to
8 the release pursuant to subsection (3) of this section.

9 (3) In development of the plan and investigation required by this
10 section, the department shall utilize a tribal exposure scenario to
11 determine potential exposures and human health risks for all pathways
12 which members of federally recognized tribes exercising reserved
13 rights under treaties may be exposed to potential future releases
14 from the commercial low-level radioactive waste disposal facility,
15 including releases due to failures of caps or reasonably foreseeable
16 intrusion into the soil disposal areas. The department shall enter
17 into memoranda of understanding or other mutually agreed upon binding
18 agreements with such federally recognized tribes which inform the
19 department that they wish to participate in responding to the
20 releases or threatened releases from the site, including providing
21 response costs to such tribes from either the recovery of costs from
22 the commercial operator pursuant to chapter 70A.305 RCW and other
23 potentially liable parties, or from the fees established for
24 investigation and remediation of the facility to be charged to
25 generators utilizing the facility pursuant to RCW 70A.384.110.

26 (4) An environmental impact statement shall be required to
27 accompany the plan for the commercial low-level radioactive waste
28 disposal facility pursuant to chapter 43.21C RCW and shall include:

29 (a) Projections of the volumes, composition, longevity of risk,
30 from all proposals which may result in a significant increase in
31 volumes, changes in composition, or new sources of wastes to be
32 disposed of in the facility. The scope of proposals subject to such
33 analysis includes all identified potential proposals for new nuclear
34 reactors in this state, including those which any municipal
35 government, joint operating agency, or consortium in this state have
36 identified, or proposals located in any of the states comprising the
37 Northwest interstate compact in chapter 70A.380 RCW or any other
38 states in which the compact has agreed to accept waste for disposal
39 at the facility;

1 (b) Analyses of the potential cumulative impacts from proposals
2 which may result in any significant increase in volumes or changes in
3 the composition of waste to be disposed of in the facility;

4 (c) Analyses of the cumulative impacts of releases from the
5 facility and other sources of releases on the Hanford nuclear
6 reservation. This cumulative analysis shall identify cumulative risks
7 from potential releases to members of federally recognized tribes
8 exercising reserved treaty rights and shall utilize one or more
9 tribal exposure scenarios;

10 (d) Consideration of alternatives to disposal of wastes in
11 unlined trenches and consideration of alternative locations,
12 including in other states, for disposal of wastes from nuclear
13 reactors which are not currently in operation. Alternatives to be
14 reviewed shall include excluding wastes generated from new nuclear
15 reactors, and from new nuclear reactors located in states which are
16 not members of the Northwest interstate compact in chapter 70A.380
17 RCW.

18 (5) The proposed plan for remediation, including the results of
19 investigations, and the accompanying environmental impact statement
20 required pursuant to chapter 43.21C RCW, shall be available for
21 public review and comment for at least 90 days and the department
22 shall conduct no less than five public meetings to obtain comment on
23 the reports and plan, at least two of which shall be conducted in
24 collaboration with the state of Oregon, if that state requests such
25 meetings, on the same basis that the department collaborates with
26 Oregon in holding public meetings on proposals for the cleanup of,
27 and the hazardous waste permit for, the Hanford nuclear reservation.
28 Public participation funding shall be available for review of the
29 investigation, plan, and reports and to engage the public in review
30 and commenting pursuant to RCW 70A.305.180.

31 (6) The state may not issue any permit or approval for any new
32 nuclear reactor until the investigation, remediation plan, and impact
33 statement required by this section have been completed, formally
34 adopted, and are final. No municipal entity or joint operating agency
35 authorized by the state may enter into any agreement or issue bonds
36 or other debt for development of new nuclear reactors from which
37 wastes may be disposed of in the commercial low-level radioactive
38 waste disposal facility until the investigation, remediation plan,
39 and environmental impact statement are finalized and the site is
40 either remediated to prevent any releases or exposures which would

1 exceed applicable standards or an alternative lined disposal facility
2 to accept such wastes is opened in another state which is a member
3 of, or contracts with, the Northwest interstate compact in chapter
4 70A.380 RCW.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C
6 RCW to read as follows:

7 Environmental review under this chapter of a plan specified in
8 section 2 of this act must be carried out consistent with section 2
9 of this act.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.50
11 RCW to read as follows:

12 The council may not issue any permit or approval for any new
13 nuclear reactor until the investigation, remediation plan, and impact
14 statement required by section 2 of this act have been completed,
15 formally adopted, and are final.

16 **Sec. 5.** RCW 70A.305.180 and 2025 c 424 s 977 are each amended to
17 read as follows:

18 (1) The model toxics control operating account is hereby created
19 in the state treasury.

20 (2) Moneys in the model toxics control operating account must be
21 used only to carry out the purposes of this chapter, including but
22 not limited to the following:

23 (a) The state's responsibility for hazardous waste planning,
24 management, regulation, enforcement, technical assistance, and public
25 education required under chapter 70A.300 RCW;

26 (b) The state's responsibility for solid waste planning,
27 management, regulation, enforcement, technical assistance, and public
28 education required under chapter 70A.205 RCW;

29 (c) The hazardous waste clean-up program required under this
30 chapter;

31 (d) State matching funds required under federal cleanup law;

32 (e) Financial assistance for local programs and plans, including
33 local solid waste financial assistance, in accordance with chapters
34 70A.405, 70A.205, 70A.214, 70A.224, and 70A.300 RCW;

35 (f) State government programs for the safe reduction, recycling,
36 or disposal of paint and hazardous wastes from households, small
37 businesses, and agriculture;

1 (g) Oil and hazardous materials spill prevention, preparedness,
2 training, and response activities;

3 (h) Water and environmental health protection and monitoring
4 programs;

5 (i) Programs authorized under chapter 70A.135 RCW;

6 (j) A public participation program;

7 (k) Development and demonstration of alternative management
8 technologies designed to carry out the hazardous waste management
9 priorities of RCW 70A.300.260;

10 (l) State agriculture and health programs for the safe use,
11 reduction, recycling, or disposal of pesticides;

12 (m) Funding requirements to maintain receipt of federal funds
13 under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et
14 seq.);

15 (n) Air quality programs and actions for reducing public exposure
16 to toxic air pollution;

17 (o) Petroleum-based plastic or expanded polystyrene foam debris
18 clean-up activities in fresh or marine waters; (~~and~~)

19 (p) Expenses related to the investigation, remediation plan, and
20 tribal response required under section 2 of this act; and

21 (q) For the 2021-2023 fiscal biennium, and solely to continue the
22 policy of previous biennia, forest practices at the department of
23 natural resources.

24 (3) Except for unanticipated receipts under RCW 43.79.260 through
25 43.79.282, moneys in model toxics control operating account may be
26 spent only after appropriation by statute.

27 (4) One percent of the moneys collected under RCW 82.21.030 must
28 be allocated only for public participation grants to persons who may
29 be adversely affected by a release or threatened release of a
30 hazardous substance and to not-for-profit public interest
31 organizations. The primary purpose of these grants is to facilitate
32 the participation by persons and organizations in the investigation
33 and remedying of releases or threatened releases of hazardous
34 substances and to implement the state's solid and hazardous waste
35 management priorities. No grant may exceed sixty thousand dollars.
36 Grants may be renewed annually. Moneys appropriated for public
37 participation that are not expended at the close of any biennium
38 revert to the model toxics control operating account.

39 (5) The department must adopt rules for grant or loan issuance
40 and performance.

1 (6) During the 2023-2025 and 2025-2027 fiscal biennia, the
2 legislature may direct the state treasurer to make transfers of
3 moneys in the model toxics control operating account to the state
4 general fund.

5 **Sec. 6.** RCW 70A.380.020 and 1990 c 21 s 5 are each amended to
6 read as follows:

7 The person designated as the Washington representative to the
8 committee as specified in Article V shall (~~adhere~~):

9 (1) Adhere to all provisions of the low-level radioactive waste
10 compact. In considering special conditions or arrangements for access
11 to the state's facilities from wastes generated outside of the
12 region, the committee member shall ensure at a minimum, that the
13 provisions of Article IV, Section 3 are complied with. After 1992 the
14 Washington representative may approve access to the state's facility
15 only for the states currently members of the Rocky Mountain compact
16 or states which generate less than one thousand cubic feet of waste
17 annually and are contiguous with a state which is a member of the
18 Northwest compact.

19 (2) Represent that it is the policy of this state, and vote
20 accordingly, to require that the facility on the Hanford nuclear
21 reservation not accept waste from any new commercial nuclear reactors
22 that are not in operation as of the effective date of this section
23 until such time as:

24 (a) An investigation of all released and potentially released
25 hazardous substances as defined in RCW 70A.305.020 or 42 U.S.C. Sec.
26 9601(14), an environmental impact statement, and a remediation plan
27 are completed in consultation with the federally recognized tribes
28 with reserved treaty rights potentially affected by releases from the
29 facility on the Hanford nuclear reservation pursuant to section 2 of
30 this act;

31 (b)(i) Remediation is completed for all releases and potential
32 releases which are measured or projected to exceed drinking water
33 standards, soil clean-up standards pursuant to chapter 70A.305 RCW,
34 or standards utilized for the federal comprehensive environmental
35 response, compensation, and liability act cleanup on the Hanford
36 nuclear reservation, whichever is most protective of human health and
37 the environment. In determining such clean-up levels, a tribal
38 exposure scenario must be utilized; or

1 (ii) An alternative disposal facility for waste from new nuclear
2 reactors is developed, fully permitted and operational in another
3 state which is a member of the Northwest interstate compact;

4 (c) The fully burdened costs for the investigation and remedial
5 actions required by section 2 of this act are incorporated into the
6 disposal surcharges under RCW 70A.384.110 and are determined to be
7 adequate for remediation, monitoring, and closure of the site. The
8 Washington representative shall support policies which allocate a
9 greater proportion of those costs to wastes disposed from new or
10 existing commercial nuclear reactors based on the relative greater
11 contribution of risk, half-life of radioactive wastes disposed from
12 reactor operations, and potential for disposal of reactor components
13 than is allocated to either medical or other commercial radioactive
14 waste sources; and

15 (d) The studies and public vote required by chapter 80.52 RCW for
16 any proposal for new electrical generating facilities in this state
17 have occurred, and the voters have approved the issuance of debt for
18 any such proposal, including for any proposal for new nuclear
19 reactors or other generation which is proposed or contemplated to be
20 implemented in phases for which the total of potential phases may
21 exceed 350 megawatts.

22 **Sec. 7.** RCW 70A.384.110 and 2020 c 20 s 1059 are each amended to
23 read as follows:

24 (1) The director of the department of ecology shall require that
25 generators of waste pay a fee for each cubic foot of waste disposed
26 at any facility in the state equal to six dollars and fifty cents.
27 The fee shall be imposed specifically on the generator of the waste
28 and shall not be considered to apply in any way to the low-level site
29 operator's disposal activities. The fee shall be allocated in
30 accordance with RCW 70A.384.120 and 70A.384.130. Failure to comply
31 with this section may result in denial or suspension of the
32 generator's site use permit pursuant to RCW 70A.388.060.

33 (2) In addition to the fees required under subsection (1) of this
34 section, the director of the department of ecology shall assess on
35 all generators of waste from commercial nuclear reactors and disposed
36 of at the commercial radioactive waste disposal facility operated by
37 the department a fee for each unit of waste which is adequate to
38 fully fund the investigation, development of a remediation plan and
39 impact statement, and to complete all remedial actions adopted for

1 the facility. This fee may be reduced by the department to the extent
2 which all such response costs are funded by the commercial operator
3 and other potentially liable parties pursuant to chapter 70A.305 RCW.
4 All fees collected pursuant to this subsection shall be deposited in
5 the model toxics control operating account established in RCW
6 70A.305.180 to be used for expenses related to the requirements of
7 section 2 of this act.

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