

**SENATE BILL REPORT**

**SB 5619**

**AS OF FEBRUARY 18, 1993**

**Brief Description:** Creating a system that allows public agencies to appeal the department of ecology's decisions concerning investigations, site rankings, or remedial actions.

**SPONSORS:** Senators Bauer, Haugen, Barr, Moore, Fraser, M. Rasmussen and Winsley

**SENATE COMMITTEE ON ECOLOGY & PARKS**

**Staff:** Shannon Murphy (786-7483)

**Hearing Dates:** February 19, 1993

**BACKGROUND:**

In 1988 the voters passed Initiative Measure 97, the Model Toxics Control Act (MTCA). MTCA is modeled in part, after the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

In cases where a release of a hazardous substance has been discovered, the Department of Ecology has established, by rule, steps that are to be taken prior to the cleanup activity. The department conducts an initial investigation followed by an assessment of the site. The site is then ranked to reflect the potential risk posed by the site to human health and the environment. The department then conducts or requires the responsible party to conduct a remedial investigation of the site and proposes cleanup or remedial actions to be taken.

Under MTCA, the Department of Ecology can order a responsible party to take remedial action in cases where a release or threatened release of a hazardous substance has taken place. If the responsible party refuses to take action, the Department of Ecology can undertake the cleanup process. The responsible party can be held responsible for three times the cost incurred by the state in the cleanup. In addition, the responsible party may be fined a civil penalty of up to \$25,000 a day for refusal to comply with the order to take remedial action.

Under MTCA, the Department of Ecology's investigative decisions, remedial decisions and decisions regarding liable persons are reviewable exclusively in superior court, and only as part of a cost recovery, enforcement, reimbursement or citizen's suit authorized under the act.

**SUMMARY:**

By December 31, 1993, the Department of Ecology is required to establish and implement a process for appeals by public agencies. The appeals process will apply to the department's decisions regarding investigations, site rankings and remedial actions.

The appeals process shall include administrative review of information submitted by public agencies to establish that the Department of Ecology was inaccurate in an investigation or remedial action pertaining to a release or threatened release of a hazardous substance.

The appeals process is required to include the opportunity for rebuttal by public agencies regarding an investigation or ranking of a facility.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 5, 1993