

**SENATE BILL REPORT**

**SB 6085**

**AS OF JANUARY 13, 1994**

**Brief Description:** Exempting hazardous waste site cleanup from certain permits.

**SPONSORS:** Senators Fraser and Haugen

**SENATE COMMITTEE ON ECOLOGY & PARKS**

**Staff:** Gary Wilburn (786-7453)

**Hearing Dates:** January 17, 1994

**BACKGROUND:**

The Model Toxics Control Act (MTCA) directs the Department of Ecology to implement a comprehensive program for the cleanup of hazardous waste sites. Under the act the following are jointly and severally liable for all of the costs of the cleanup, subject to certain exemptions and defenses: (1) the current property owner; (2) the owner at the time of the disposal of the waste; (3) those generating the waste; and (4) certain transporters of the waste to the site. Ecology may order such potentially liable persons ("PLPs") to clean up, and if not complied with, Ecology may clean up the site and seek cost recovery. Ecology may also enter settlement agreements with PLPs for site cleanup, which provides protection from contribution claims by other PLPs.

A settlement agreement must be approved by the Attorney General and is subject to several statutory limitations. Because of these limitations and the time required to obtain such a settlement, most site cleanups by PLPs are undertaken independently of state oversight. However, it is suggested that a mechanism is needed to reflect the state's general concurrence with the PLP cleanup, short of a settlement, to facilitate financing and other conditions necessary for the cleanup.

Cleanups conducted by the state or subject to state oversight must meet extensive requirements to ensure the protection of environmental quality and public health. MTCA also requires extensive public notice and participation procedures in all phases of site cleanup. In many cases, site cleanups must not only meet these requirements, but also are subject to other state and local permits. This has caused delays in site cleanup and duplication of public participation processes.

**SUMMARY:**

In addition to other types of enforcement orders and settlements, Ecology is authorized to enter "agreed orders", with which the PLPs agree to comply. Such orders are not a settlement under MTCA, do not provide contribution protection, or provide eligibility for public funding of cleanup.

Cleanups conducted by Ecology or by PLPs acting under a consent decree, order, or agreed order are exempt from the procedural requirements of the following state laws: (1) air pollution; (2) solid waste management; (3) hazardous waste management; (4) hydraulics act; (5) water pollution control; and (6) Shoreline Management Act. The exemption also applies to local government permits or approvals for the remedial action. Ecology is to adopt procedures to ensure compliance with the substantive provisions of such laws, and must consult with the state agencies and local governments charged with implementing the laws. The procedures must provide an opportunity for comments by the public and government agencies.

Ecology is to ensure that the procedures for cleanups it conducts or supervises through a consent decree, order, or agreed order are integrated to the maximum extent practicable with those required in complying with the State Environmental Policy Act (SEPA). This integration shall include the public participation procedures required under SEPA and MTCA.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested January 12, 1994