
Environment & Energy Committee

HB 1290

Brief Description: Concerning reviews of voluntary cleanups.

Sponsors: Representatives Peterson, Barkis, Robinson, Lekanoff, Maycumber and Pollet; by request of Department of Ecology.

Brief Summary of Bill

- Authorizes the Department of Ecology to offer an expedited process for providing advice and assistance under the Model Toxics Control Act.
- Requires the Department of Ecology to collect its full costs incurred in connection with providing expedited advice and assistance.
- Authorizes the Department of Ecology to waive its advice and assistance costs when the owner of a property commits to developing the property for affordable housing.

Hearing Date: 1/28/19

Staff: Robert Hatfield (786-7117).

Background:

The Model Toxics Control Act.

The Model Toxics Control Act (MTCA) was enacted as a result of the passage of Initiative 97 in 1988. The stated primary purpose of the MTCA is raising “sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state’s lands and waters.” The MTCA also grants the Department of Ecology (Ecology) authority to develop rules and oversee the cleanups done by public and private entities throughout the state.

Hazardous Waste Sites.

A hazardous waste site under MTCA is any site where Ecology has confirmed a release or a threatened release of a hazardous substance that requires remedial action. A site is defined by the nature and extent of contamination associated with one or more releases of hazardous substances.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Contaminated sites on land are known as upland sites, and contaminated sites along waterways are known as sediment sites.

The MTCA Site Cleanup Process.

Cleanups of hazardous waste sites under MTCA can be conducted in one of three general ways:

- independent cleanups, in which the property owner cleans up the property independently, either with or without Ecology consultation;
- Ecology-supervised cleanups, in which Ecology supervises a cleanup conducted by a potentially liable person under either an administrative order or a court-approved consent decree;
- Ecology-conducted cleanups, in which Ecology conducts the cleanup under a state contract, such as when no potentially liable person can be identified, or when such persons are unable or unwilling to pay for the cleanup.

Independent Cleanups - Cleanup without Ecology Consultation.

Under a non-Ecology supervised cleanup, the property owner determines the cleanup schedule, as well as the scope and extent of the cleanup. However, Ecology will not provide an opinion on the sufficiency of the cleanup. Independent cleanups do not require public notice.

Independent Cleanups - Cleanup with Ecology Consultation.

As with an independent cleanup without Ecology consultation, the property owner determines the cleanup schedule, as well as the scope and extent of the cleanup. However, through MTCA's Voluntary Cleanup Program, a property owner may request technical assistance and an opinion on the sufficiency of the cleanup from Ecology. Ecology is authorized to collect from property owners the costs Ecology incurred in providing advice and assistance, but Ecology must, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. Based on the review, Ecology either issues a letter stating that the site needs no further action or identifies what additional work is needed.

Summary of Bill:

Expedited Process for Technical Assistance.

Ecology may offer an expedited process for providing informal advice and assistance. For requests for informal advice and assistance under the expedited process, Ecology must collect all costs incurred by Ecology in providing the advice and assistance. Ecology may establish conditions for requesting expedited advice and assistance.

Waiver of Costs - Generally.

Ecology is authorized to waive costs for advice and assistance in the following general circumstances:

- for providing technical assistance in support of public participation;
- for providing written opinions on a cleanup that qualifies for and appropriately uses a model remedy; or
- based on a person's ability to pay.

If costs are waived, Ecology is authorized to file a lien against the real property for which Ecology has incurred the costs.

Waiver of Costs for Affordable Housing.

Ecology may waive collection of informal advice and assistance costs if the person requesting the assistance commits to remediate contaminated real property for development of affordable housing, as determined by Ecology. Prior to waiving costs, Ecology must consider the requestor's ability to pay and the public benefit of the development. To ensure the property is used for affordable housing, Ecology is authorized to file a lien against the property, require the person to record an interest in the real property, or use other means to ensure the property is used for affordable housing.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.