

Legislative Analysis



CONTAMINATED FACILITY DESIGNATION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4617

Sponsor: Rep. John Moolenaar

Committee: Government Operations

Complete to 5-23-05

A SUMMARY OF HOUSE BILL 4617 AS INTRODUCED 4-14-05

Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act regulates environmental response activities for contaminated sites; such a site is referred to in the act as a "facility."

Part 201 defines "facility" to mean any area, place, or property where a hazardous substance has been released, deposited, disposed of, or otherwise is located in excess of the concentrations for the cleanup criteria for unrestricted residential use. A facility does not include any area, place, or property at which response activities that satisfy the cleanup criteria for residential property have been completed or at which corrective action has been completed under Part 213 that satisfies the cleanup criteria for unrestricted residential use.

House Bill 4617 would amend the definition of "facility" to add that the presence of the hazardous substance would have to be determined by testing soil or water samples collected from the property. (This means that before being considered a "facility," each parcel of property would have to be tested.) The bill would also specify that in the absence of testing, a parcel of property could be considered a "facility" if the owner of the property agreed to the designation in writing based on the presence of hazardous substances in the vicinity of the property. The bill would also add that a "remediated site" – defined to mean a parcel of property where all response activities have been undertaken – would not be considered to be a "facility."

In addition, the act permits the Department of Environmental Quality to establish cleanup criteria and approve remedial actions for contaminated properties. The bill would add that if the hazardous substance on a particular property is dioxin, the DEQ would approve area-wide or site-specific cleanup criteria based on a probabilistic risk assessment from bioavailability studies approved by an independent science panel and site specific human exposure data if it is available and relevant.

Finally, the act permits representatives from the departments of Environmental Quality, Community Health, Agriculture, and State Police to enter public or private property, at a reasonable time, if there is a reasonable basis to suspect a release of a hazardous substance. House Bill 4617 would add that if such property is an individual's principal residence, state officials could only enter the property if there is an imminent and substantial threat to the public health or the environment.

FISCAL IMPACT:

The bill would have no apparent fiscal impact on the state or local units of government.

BACKGROUND INFORMATION:

Under Part 201, the entity responsible for the contamination is also liable for cleanup, irrespective of whether that entity is the owner or occupant of the contaminated site. If the owner or occupant of the contaminated site is not responsible for the contamination, it still must not make the contamination worse and must notify potential purchasers of the property of the contamination.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Kirk Lindquist

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