

## CONTAMINATED FACILITY DESIGNATION

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**House Bill 4617 (Substitute H-2)**  
**Sponsor: Rep. John Moolenaar**  
**Committee: Government Operations**

**Complete to 6-21-05**

## A SUMMARY OF HOUSE BILL 4617 AS REPORTED FROM COMMITTEE 6-21-05

Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act (MCL 324.20101 et seq.) regulates environmental response activities for contaminated sites—such a site is referred to as "a facility"—and provides that 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.

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 according to scientifically accepted methods. (This means that before being considered a "facility," each parcel of property would have to be tested.)

However, the bill also provides 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. To obtain consent from the property owner, the DEQ would have to provide the owner with the following information in writing: (1) a definition of the term "facility," (2) a statement identifying the hazardous substance found in the area in an excess concentration, including the concentration level and applicable state cleanup standard, (3) a statement listing the rights and responsibility the property owner incurs when the property is become a facility, and (4) notice that facility may have an adverse impact on the property's fair market value. Once the consent is provided, the property owner would be provided with a document designating the property as a facility.

The bill would also add that a "remediated site" – defined to mean a parcel of property where all response activities required to meet applicable closure standards have been completed – 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 require the DEQ to incorporate into a remedial action plan area-wide or site-specific cleanup criteria derived from peer-reviewed bioavailability studies, site-specific human exposure data, and other scientifically based risk assessment studies.

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 with the express written consent of the property owner or if there is a 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.

#### **POSITIONS:**

The Michigan Chamber of Commerce supports the bill. (6-21-05)

The City of Midland supports the bill. (6-21-05)

The Michigan Chemistry Council supports the bill. (6-21-05)

Tittabawassee River Voice supports the bill. (5-23-05)

Midland Matters supports the bill. (5-23-05)

The Home Builders Association of Midland supports the bill. (5-24-05)

The Department of Environmental Quality opposes the bill. (6-21-05)

The Michigan Environmental Council opposes the bill. (6-21-05)

The Lone Tree Council opposes the bill. (6-21-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.