Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4617 (Substitute H-2 as passed by the House)
Sponsor: Representative John Moolenaar
House Committee: Government Operations
Senate Committee: Appropriations

Date Completed: 11-1-05

CONTENT

The bill would amend Part 201 (Environmental Response) of the Natural Resources and Environmental Protection Act to require the designation of a "facility" to be based on testing or the property owner's agreement; exclude a "remediated site" from designation as a facility; and require that peer-reviewed studies and criteria be incorporated into remedial action plans.

Under the bill, a parcel of property or portion of a parcel would be considered a "facility" containing a hazardous substance as determined by testing conducted according to scientifically accepted methods on soil or water samples collected from the parcel. 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. To obtain such an agreement, the Department of Environmental Quality (DEQ) would have to provide the owner of the property with the following information in writing:

- A definition of the term facility.
- A statement identifying the hazardous substance found in excess concentrations in the vicinity, including the concentration level and the applicable State cleanup standard.
- A statement listing the rights and responsibilities that a property owner incurs when the property is designated as a facility.
- A notice that a facility designation may have a negative impact on the property's fair market value.

The notice would have to be delivered to the property owner in person or by certified mail. The DEQ would be required to maintain a record of the name and address of the property owner, the date on which the disclosure statement was received, the date on which the property owner agreed to the facility designation, and a copy of the signed consent form. A document designating the parcel as a facility would have to be given to the property owner.

The bill also would exclude remediated sites from being designated as a facility. "Remediated site" would mean a parcel of property at which all response activities required by the DEQ to meet applicable closure standards have been met.

When entry to a property was necessary to determine if there had been a release or threat of release of a hazardous substance, the bill would require the DEQ to obtain the express written consent of the property owner before entering the property, if the parcel were a

"homestead", as defined in the General Property Tax Act, or the DEQ could enter the property if there were a substantial threat to public health or the environment.

The bill also would require the DEQ to provide necessary notifications related to the property to the property owner. This would be relevant if the party responsible for the cleanup activity were someone other than the current property owner.

In addition, the bill would direct the DEQ to incorporate into a remedial action plan for every contaminated site area-wide or site-specific cleanup criteria from peer-reviewed bioavailability studies, peer-reviewed site-specific human exposure data, and any other peer-reviewed scientifically based risk assessment studies that were available and relevant.

MCL 324.20101 et al.

FISCAL IMPACT

The bill would cost the State an indeterminate amount. It could require additional soil and water sample testing at a cleanup site in order for the DEQ to designate a parcel of property as a facility. The requirement for peer-reviewed studies for cleanup criteria, human exposure data, and other relevant information would increase the cleanup costs of some contaminated sites. The costs would depend on the number of cleanup sites and the number and complexity of the potential contaminants.

Fiscal Analyst: Jessica Runnels