

Committee on Environmental Preservation and Conservation

CS/SB 100 — Pollution Discharge Removal and Prevention

by Appropriations Committee and Senator Simpson

The bill amends the Global Risk Based Corrective Action (RBCA) and brownfield program cleanup statutes to:

- Define “background concentration” to mean the concentration of contaminants naturally occurring or resulting from anthropogenic (human) impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation and deletes the phrase “naturally occurring” in determining the cleanup target level (CTL);
- Define “long-term natural attenuation” to mean natural attenuation approved by the Department of Environmental Protection (DEP) as a site rehabilitation program task for a period of more than 5 years;
- Provide that Global RBCA does not apply to nonprogram petroleum-contaminated sites unless requested by the person responsible for site rehabilitation;
- Require rules concerning rehabilitation program tasks to include protocols for long-term natural attenuation where site conditions warrant;
- Create an exception when applying state water quality standards to CTLs for surface water exposed to contaminated groundwater when it has been demonstrated that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria;
- Encourage DEP to utilize long-term attenuation monitoring when additional site rehabilitation is necessary to reach a finding of “No Further Action”;
- Require DEP to consider the interactive (as opposed to additive) effects of contaminants when determining what constitutes a rehabilitation program task;
- Allow the use of risk assessment modeling and probabilistic risk assessment to create site-specific alternative CTLs; and
- Allow the use of alternative CTLs without institutional controls if certain specified conditions exist.

Concerning the Abandoned Tank Restoration Program, the bill:

- Removes the June 30, 1996 deadline for applications for the Abandoned Tank Restoration Program;
- Provides that certain sites eligible for the Petroleum Cleanup Participation Program are not eligible for the Abandoned Tank Restoration Program; and
- Removes provisions that exclude sites from eligibility when the sites are owned by a person who had knowledge of the polluting condition when the title was acquired unless the person acquired title to the site after issuance of a notice of site eligibility by DEP.

The bill makes the following changes to the Petroleum Restoration Program, the Low Scored Site Initiative (LSSI), and DEP’s findings of “No Further Action” for contamination sites. The bill:

- Authorizes continued state funding for certain sites that have received a site rehabilitation completion order;
- Substantially revises the criteria for a finding of “No Further Action;”
- Removes an expiration date of July 1, 2016 for the obligation of funds from the Inland Protection Trust Fund (IPTF) for payments for program deductibles, copayments and certain reports;
- Allows DEP to pay for institutional controls for costs associated with certain surveys and obtaining a title report and recording fees;
- Allows for payment of costs for limited remediation to include up to 12 months, rather than 6 months, of groundwater monitoring and 12 months of limited remediation activities;
- Increases the amount available for groundwater monitoring and for limited remediation activities from \$30,000 to \$35,000, for sites where DEP has determined that the assessment and limited remediation, if applicable, will likely result in a determination of “No Further Action;”
- Provides that DEP may approve an additional amount not to exceed \$35,000 for limited remediation need to achieve a determination of “No Further Action;”
- Provides that assessment and limited remediation work shall be completed no later than 15 months, rather than 6 months, after DEP authorizes the start of a state-funded, LSSI task;
- Provides that if groundwater monitoring is required after the assessment and limited remediation in order to satisfy certain conditions, DEP may authorize an additional 12 months to complete the monitoring; and
- Increases the amount that may be encumbered from the IPTF for the LSSI from \$10 million to \$15 million per year.

The bill makes the following revisions to the Petroleum Cleanup Participation Program (PCPP).
The bill:

- Specifies that participation in the cost-sharing cleanup program under the PCPP is available for property contaminated by discharges of petroleum or petroleum products from a petroleum storage system;
- Removes the December 31, 1998 deadline for applications for the PCPP; and
- Allows DEP to approve supplemental funding of up to \$100,000 for additional remediation and monitoring if such remediation and monitoring is necessary to achieve a determination of “No Further Action.”

The bill revises the advanced cleanup program to:

- Substantially revise the criteria for an application for advanced cleanup;
- Increase the amount DEP may enter into contracts for advanced cleanup work each fiscal year from \$15 million to \$25 million;
- Allow a property owner or responsible party to enter into a voluntary cost-share agreement in which the property owner or responsible party commits to bundle multiple sites and lists the facilities that will be included in those future bundles;

- Provide that facilities listed are not subject to agency term contractor assignment pursuant to DEP rule; and
- Allow DEP to terminate or amend the voluntary cost-share agreement for any identified site under the voluntary cost-share agreement if the property owner or responsible party fails to submit an application to bundle any site, not already covered by an advance cleanup contract, under such voluntary cost-share agreement within a subsequent open application period during which it is eligible to participate.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 115-0