

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 883

(Senator Stone)

Education, Health, and Environmental Affairs

Environmental Matters

Voluntary Cleanup Program - Enforcement and Oversight - Requirements

This bill requires the Maryland Department of the Environment to conduct regular inspections of a site under the Voluntary Cleanup Program to ensure that the participant is implementing the approved response action plan (RAP) to MDE's satisfaction and is achieving the cleanup criteria specified in the RAP. The bill also requires an applicant to include the anticipated project start and end dates in the application to the program.

Fiscal Summary

State Effect: Potential increase in general/special fund expenditures to conduct additional inspections. No effect on revenues.

Local Effect: The bill would not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Applicants must submit an application to MDE that includes • specified information regarding the property and the contamination; • an environmental site assessment; and • a description of the proposed project that includes the proposed cleanup criteria and the proposed future use of the property, if appropriate. Once MDE has received an application, MDE is required to publish a notice of the application on its website, and the applicant is required to post notice at the property.

After a review of an application package, MDE may • determine that the application is incomplete and request additional information; • approve the application and issue a No Further Requirements Determination stating that there are no further requirements related to the investigation of controlled hazardous substances at the eligible property; • approve the application and require the applicant to prepare a RAP; or • deny the application.

If MDE specifies that a RAP is necessary, the participant develops a proposed RAP that includes a schedule for implementation and completion. MDE is required to hold a public informational meeting on a proposed RAP at the participant's expense within 40 days after the publication of the notice of a proposed RAP. The participant is required to publish notice of the proposed RAP and to post a notice of intent to conduct a RAP at the property. MDE must receive written comments from the public for 30 days after that information is published/posted, or five days after the public informational meeting, whichever is later.

MDE is not required by statute to conduct regular inspections of a VCP site. However, within 30 days after receipt of the notice of completion of a cleanup, MDE is required to review the implementation and completion of the RAP at the eligible property. If MDE determines that the requirements of the plan have been completed satisfactorily and that the plan has achieved the cleanup criteria, MDE issues a certificate of completion.

Background: Brownfields are abandoned or underutilized industrial or commercial sites, located primarily in urban areas, which are either contaminated or perceived to be contaminated by hazardous substances. Chapters 1 and 2 of 1997 established VCP within MDE to encourage the investigation of eligible brownfields properties, protect public health and the environment, accelerate the cleanup of eligible properties, and provide predictability and finality to the cleanup process. VCP works in conjunction with the Brownfields Remediation Incentive Program, a program administered by the Department of Business and Economic Development that provides economic incentives such as loans, grants, and property tax credits to clean up and develop certain properties.

As of January 2008, the cleanup of 205 properties covering 3,028 acres had been completed under VCP; 60 cleanups were pending. In fiscal 2007, MDE received 82 applications for 50 properties and approved 31 applications. As of January 2008, MDE had held 58 public informational meetings on proposed RAPs. To date, 14 properties covering 255 acres have withdrawn from the program.

State Expenditures: General/special fund expenditures within MDE could increase to the extent the bill requires MDE to conduct additional inspections of VCP sites. The bill requires MDE to conduct "regular" inspections, but does not define the term regular. MDE advises that, on average, it currently conducts about four inspections per site per

year; however, the number of inspections (and their timing) can vary depending on the type and complexity of the cleanup.

If MDE's current inspection activity is sufficient to meet the bill's intent, then the bill would not result in any additional costs.

For illustrative purposes only, however, if MDE were required to conduct 12 inspections per site each year, general/special fund expenditures could increase by an estimated \$138,396 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date, to hire two geologists to conduct additional inspections. Future year expenditures would reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

VCP activities are funded from application fees; to the extent the bill's changes result in program expenditures exceeding fee revenues, and other special funds are not available, additional general funds would be needed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Office of the Attorney General, Department of Legislative Services

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