

SENATE BILL 5421

Concerning environmental covenants

PROGRAM IMPACTS

This law adopts the Uniform Environmental Covenants Act (UECA) created by a National Conference of Commissions on Uniform State Laws (NCCUSL). An environmental covenant is a legal document filed with the property record that imposes a limitation on the use of a property or activities on the property arising from an “environmental response action”. The new law includes the following provisions

- Establishes procedures for establishing, amending, and terminating environmental covenants.
- Directs Ecology to establish and maintain a publicly accessible electronic registry of environmental covenants by July 1, 2008. The registry must contain information pertinent to environmental covenants, including the county where a covenant is recorded and the recording number.
- Directs Ecology to periodically review and, if necessary, enforce the covenants imposed as part of a cleanup conducted under the Model Toxics Control Act. Ecology must conduct reviews at least once every five years. The law establishes a phased schedule for completing reviews at sites where more than five years have elapsed since the last review.

RESOURCE IMPACTS

The 2007 Legislature authorized 3.9 FTEs and appropriated \$405,000 for implementation of UECA in the 07-09 biennium. However, Ecology estimated that full implementation of UECA will require approximately \$800,000 during the 07-09 biennium. Ecology also estimated that \$730,000 will be required in subsequent biennia. Ecology will pursue additional resources to implement the bill in the 2008 session consistent with the approved fiscal note.

All costs directly incurred by the department in fulfilling periodic review and enforcement duties for sites with environmental covenants are cost recoverable under the Model Toxics Control Act (RCW 70.105D). Ecology estimates recovery of costs associated with the review and enforcement workload will generate revenue of \$536,576 per biennium. These funds will be deposited to the State Toxics Control Account.

WORK PLAN

Ecology will hire two new staff (by October 2007) and temporarily reprogram existing staff to begin implementation of this bill. Ecology will submit a supplemental budget request to the 2008 Legislature to provide full funding for the staff (3.9 FTEs) identified in the approved fiscal note.

- Procedures for Establishing, Amending and Terminating Environmental Covenants
 - Boilerplate Covenant July 2007
 - Staff Training/Guidance July 2007
 - Policy/Procedure January, 2008
 - MTCA Rule Revisions December 2009 (if necessary)

- Establish and Maintain Publicly Accessible Registry of Environmental Covenants
 - Define Registry Requirements July 2007
 - Identify Sites with Covenants December 2007
 - Develop Registry April, 2008
 - Update Registry Ongoing

- Conduct Periodic Reviews for Sites with Environmental Covenants
 - Initial List of Sites with Covenants June 2007
 - Complete Pilot Project July 2007
 - Hire Two (2) Reviewers October 2007
 - Update List of Sites with Covenants December 2007
 - Periodic Review Guidance December 2007
 - Hire Third Reviewer July 2008
 - Complete reviews for 50 Sites December 2008
 - Complete reviews for 50 More Sites June 2009
 - MTCA Rule Revisions December 2009
 - Finish Working Through Site Backlog June 2010
 - Conduct Ongoing Reviews Ongoing

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