



To: Members of House Economic Development and Trade
From: David Ashton, Assistant General Counsel, Port of Portland
Re: Support for HB 2968
Date: April 10, 2017

Port of Portland supports development of a pilot program to create a voluntary cleanup process that satisfies all applicable state and federal requirements and allows for the issuance of a release of liability under state and federal law on completion of cleanup.

Currently, cleanups have to comply with potentially conflicting state and federal cleanup programs. Investigation and cleanup has to be done in accordance with multiple programs the processes and requirements of which operate differently and independently. There is little opportunity to coordinate across programs and no agency incentives to assure coordination and consistency.

Federal cleanup programs under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act (TSCA) and their state law analogs operate independently and do not mesh well.

The programs use different and often uncoordinated processes and programs to apply the same scientific information on risk to human health and the environment to get to the same result: a cleanup protective of human health and the environment.

A pilot program to coordinate and ultimately reconcile these potentially conflicting programs would improve the reconciliation, speed, and effectiveness of cleanups.

Finding a way to reconcile the programs will lead to greater certainty for those tasked with cleaning up contamination and establish a path to getting releases of legal liability under all applicable programs, under state and federal law. Assuring certainty, speed and finality of cleanups is very important to cleaning up Brownfield contamination sites. Reconciliation and coordination of state and federal requirements also promotes efficient and effective use of resources.

Transparency of the cleanup process and criteria is also promoted by a pilot to coordinate the various requirements of the different programs. Properly implemented, the pilot would lead to a clearer investigation and cleanup process, clearer and consistent cleanup requirements, and consequent greater community acceptance of the cleanup.

Coordination between state and federal cleanup regulators will also lead to better use of scarce state and federal resources.

For these reasons, the Port of Portland supports HB 2968.