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New Washington State Petroleum Cleanup Program May Speed Up Opinion Letter Process

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As of January 2, Washington state has a new program to help move underground storage tank cleanup sites to closure. Under SHB 1266 passed by the legislature in the 2016 session and signed by Governor Inslee, the Pollution Liability Insurance Agency (PLIA) now is responsible for providing technical assistance and opinion letters for cleanups of some petroleum contaminated sites that used to be handled under the Washington Department of Ecology's (Ecology) Voluntary Cleanup Program (VCP). This is more than just a shifting of deck chairs — it is a serious attempt to whittle down the backlog of cleanup sites in the state.

The legislature formed PLIA in 1998 to act as an insurer for underground storage tanks, provide assistance with heating oil tank closures and, since 2009, financial assistance to operators who wanted to replace or upgrade fuel systems or clean up past underground storage tank releases. Ecology, meanwhile, had responsibility under the Washington Model Toxics Control Act (MTCA) for investigations and cleanups of most sites, including former gas stations. Many of those sites were enrolled in Ecology's VCP. But reductions in staffing and a large number of cleanup sites led Ecology in September 2016 to implement a waiting list system, whereby sites already in the VCP had first priority and any new site enrolled after September 2016 would be assigned a manager according to enrollment date and agency availability. This had the effect of slowing down a process even more than it had been and left many newer sites without agency guidance for cleanup strategies.

SHB 1266 is intended to remedy the problem by giving PLIA new authority under the Petroleum Technical Assistance Program (PTAP). Sites eligible for consideration are those with a hazard ranking of "3," "4" or "5" (meaning the site is medium to low risk compared to others in the state), but a site ranked "1" or "2" that does not have impacts to sediment or surface water also may be eligible. Ecology will still be responsible for sites a) with hazard rankings of "1" or "2" where there are sediment or surface water impacts; b) within a larger cleanup site; c) with co-mingled,

nonpetroleum contaminants; d) in litigation; or e) funded by a grant from Ecology or already enrolled in the VCP.

PLIA charges a one-time, nonrefundable fee of \$7,500, payable upon enrollment of a site in PTAP. Before formal acceptance into PTAP, an intake meeting is scheduled at PLIA's Lacey headquarters. If a project does not qualify for PTAP, the applicant will be informed at the intake meeting and provided written reasons for the denial within three business days of the meeting.

If a site is accepted, PLIA sends notification within five working days of the intake meeting. PLIA designates a site manager for each project to provide informal advice and assistance on the administrative and technical requirements of investigations and cleanups under MTCA (much like what Ecology provided under the VCP). PLIA's range of written opinions include No Further Action (NFA) letters for the site or property, Further Action determinations, and Partial Sufficiency of the site cleanup.

PLIA's stated goal is to provide a written opinion for each request within 45 days and for projects to close within five years of entering PTAP. All of the usual submissions under MTCA are still required — a Remedial Investigation/Feasibility Study, Conceptual Site Model and Cleanup Action Plan, as well as a report on completion. More detail on what's involved in PTAP can be found in the Petroleum Technical Assistance Program Guidance, [Publication No. 02-2017-19](#).

Because of the new legislation, Ecology will no longer accept VCP applications for sites that are eligible for PTAP, and has shifted all responsibility for heating oil tank release investigations and listings to PLIA.

There is a high potential for PTAP to break the logjam of nearly 3,000 tanks awaiting cleanup in Washington state, which also should free up Ecology to focus on the more difficult, complex sites. Applicants may not be thrilled with having to drive to Lacey for an intake meeting, but if PTAP results in a dedicated site manager who provides opinions within the 45-day goal, a one-time drive to the agency office may be worth the cost. As with any state-funded program, the effectiveness of PTAP will be only as good as the amount of funding available to hire sufficient staff to do the work.