

Department of Legislative Services  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 718

(Chair, Education, Energy, and the Environment  
Committee)(By Request - Departmental - Environment)

Education, Energy, and the Environment

Environment and Transportation

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**Voluntary Cleanup Program - Determination and Recordation Deadlines**

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This departmental bill increases the timeframe within which the Maryland Department of the Environment (MDE) must make certain determinations related to the Voluntary Cleanup Program (VCP). It also modifies provisions related to the recordation of determinations and certificates of completion by specifying that a program participant must provide written evidence that the determination or certificate of completion was presented for recordation in the land records of the local jurisdiction within 60 days of receiving the determination or certificate.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State finances. By providing more time to review VCP applications and make determinations, the bill may ease the administrative burden on MDE but is not anticipated to reduce the need for staff. Any impact to other State agencies (as program applicants) is similarly anticipated to be operational.

**Local Effect:** The bill is not anticipated to materially affect local government finances. Any impact to local governments (as program applicants) is anticipated to be operational.

**Small Business Effect:** MDE has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Bill Summary/Current Law:** VCP was established in 1997 and provides State oversight for the voluntary cleanup of properties contaminated by hazardous substances.

Under current law, VCP provides owners or purchasers of a contaminated site liability relief if cleanup goals are met. Eligible parties that want to participate must submit an application describing a proposed voluntary cleanup project that specifies the proposed cleanup criteria for a contaminated site and the future use of the site. *Under current law*, MDE must notify an applicant within 45 days whether the application is approved, denied, incomplete, or that a “no further requirements” determination (NFRD) has been issued stating that there are no further requirements related to the investigation of controlled hazardous substances at the property. *The bill* increases the timeframe for an MDE determination from 45 to 60 days. *Under current law*, if an NFRD is issued, the program participant must record the determination in the land records of the local jurisdiction within 30 days of receiving the determination. *The bill* requires the program participant to provide written evidence to MDE that the determination was presented for recordation within 60 days.

Under current law, after MDE approves an application, the participant must develop a response action plan on cleanup activities, and MDE must notify the applicant within 75 days if the plan has been approved or rejected. If a response action plan is rejected, there is a further process for modifications. The response action plan approval letter must state that no further action is required on the property other than the actions described in the plan and that the participant will receive a certificate of completion once the plan is carried out.

*Under current law*, once notified of a project’s completion, MDE must determine if the response action plan has been completed satisfactorily within 30 days. *The bill* increases the timeframe for determination from 30 to 60 days. *Under current law*, an NFRD or certificate of completion conditioned on the permissible use of the property must be recorded by the participant in the land records of the local jurisdiction within 30 days or the determination or certificate is void. *The bill* requires the program participant to provide written evidence to MDE that the certificate of completion was presented for recordation within 60 days.

**Background:** According to MDE, the average number of VCP applications received in a year is somewhat cyclical, but has generally increased since 2010, a trend that MDE anticipates will continue. In fiscal 2022, 71 applications were received. MDE advises that VCP applications are hundreds to thousands of pages long and that site closure requirements for participants have become more detailed as sites have become more complex. MDE also advises that the VCP participant population has become more diverse, with increased interest from both in- and out-of-state applicants. MDE notes that with an

increase in the number and types of developers seeking to remediate and redevelop contaminated sites through VCP, MDE staff and program participants are finding it difficult to comply with the existing statutory deadlines.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2023  
rh/lgc Third Reader - March 17, 2023  
Revised - Amendment(s) - March 17, 2023

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Voluntary Cleanup Program – Determinations and Recordation Deadlines

BILL NUMBER: SB 718

PREPARED BY: Erica Chapman

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

**OR**

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed increase in the allowed time to record NFRDs and COCs conditioned on certain uses in county land records may decrease a small business' fiscal and operational burden associated with requesting the reissuance of the documents by MDE and coordinating the resigning of the documents by multiple people and their delivery to the local land records office. Requesting the reissuance of these documents would not have an economic impact because a small business would only be charged once the \$2,000 fee for issuing NFRDs and COCs conditioned on certain use.