**5170-S AMH ENVI H2511.2 - NOT FOR FLOOR USE**

**SSB 5170** - H COMM AMD

By Committee on Environment

**NOT CONSIDERED 01/05/2018**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 70.105D.090 and 2003 c 39 s 30 are each amended to read as follows:

(1) A person conducting an independent remedial action for which the person has obtained a joint voluntary remedial action plan from the department, a remedial action at a facility under a consent decree, order, or agreed order, and the department when it conducts a remedial action, are exempt from the procedural requirements of chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action. For a remedial action conducted under a consent decree, order, or agreed order, or when the department conducts a remedial action, the department shall ensure compliance with the substantive provisions of chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the substantive provisions of any laws requiring or authorizing local government permits ((~~of~~)) or approvals. The department shall establish procedures for ensuring that such remedial actions comply with the substantive requirements adopted pursuant to such laws, and shall consult with the state agencies and local governments charged with implementing these laws. The procedures ensuring the compliance of independent remedial actions for which a person has obtained a joint voluntary remedial action plan must be consistent with section 9 of this act. The procedures shall provide an opportunity for comment by the public and by the state agencies and local governments that would otherwise implement the laws referenced in this section. Nothing in this section is intended to prohibit implementing agencies from charging a fee to the person conducting the remedial action to defray the costs of services rendered relating to the substantive requirements for the remedial action.

(2) An exemption in this section or in RCW 70.94.335, 70.95.270, 70.105.116, ((~~77.55.030~~)) 77.55.061, 90.48.039, and 90.58.355 shall not apply if the department determines that the exemption would result in loss of approval from a federal agency necessary for the state to administer any federal law, including the federal resource conservation and recovery act, the federal clean water act, the federal clean air act, and the federal coastal zone management act. Such a determination by the department shall not affect the applicability of the exemptions to other statutes specified in this section.

**Sec.**  RCW 70.105D.030 and 2013 2nd sp.s. c 1 s 6 are each amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department shall give reasonable notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department shall give preference to permanent solutions to the maximum extent practicable and shall provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or willful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 6901 et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020 and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under (i) of this subsection that may be conditioned upon, environmental covenants where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing an environmental covenant under this subsection, the department shall consult with and seek comment from a city or county department with land use planning authority for real property subject to the environmental covenant;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in RCW 70.105D.110, and impose penalties for violations of that section consistent with RCW 70.105D.050;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(22)(b)(ii)(C);

(i) Provide informal advice and assistance to persons regarding the administrative and technical requirements of this chapter. This may include site-specific advice to persons who are conducting or otherwise interested in independent remedial actions. It may also include site-specific advice, and advice and assistance relating to the requirements of RCW 70.105D.090 and chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, to persons who are conducting or otherwise interested in independent remedial actions for which the person has obtained a joint voluntary remedial action plan from the department. Any such advice or assistance shall be advisory only, and shall not be binding on the department. As a part of providing this advice and assistance for independent remedial actions, the department may prepare written opinions regarding whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility. Nothing in this chapter may be construed to preclude the department from issuing a written opinion on whether further remedial action is necessary at any portion of the real property located within a facility, even if further remedial action is still necessary elsewhere at the same facility. Such a written opinion on a portion of a facility must also provide an opinion on the status of the facility as a whole. The department may collect, from persons requesting advice and assistance, the costs incurred by the department in providing such advice and assistance; however, the department shall, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance. The department must track the number of requests for reviews of planned or completed independent remedial actions and establish performance measures to track how quickly the department is able to respond to those requests((~~. By November 1, 2015, the department must submit to the governor and the appropriate legislative fiscal and policy committees a report on achieving the performance measures and provide recommendations for improving performance, including staffing needs~~));

(j) In fulfilling the objectives of this chapter, the department shall allocate staffing and financial assistance in a manner that considers both the reduction of human and environmental risks and the land reuse potential and planning for the facilities to be cleaned up. This does not preclude the department from allocating resources to a facility based solely on human or environmental risks;

(k) Establish model remedies for common categories of facilities, types of hazardous substances, types of media, or geographic areas to streamline and accelerate the selection of remedies for routine types of cleanups at facilities;

(i) When establishing a model remedy, the department shall:

(A) Identify the requirements for characterizing a facility to select a model remedy, the applicability of the model remedy for use at a facility, and monitoring requirements;

(B) Describe how the model remedy meets clean-up standards and the requirements for selecting a remedy established by the department under this chapter; and

(C) Provide public notice and an opportunity to comment on the proposed model remedy and the conditions under which it may be used at a facility;

(ii) When developing model remedies, the department shall solicit and consider proposals from qualified persons. The proposals must, in addition to describing the model remedy, provide the information required under (k)(i)(A) and (B) of this subsection;

(iii) If a facility meets the requirements for use of a model remedy, an analysis of the feasibility of alternative remedies is not required under this chapter. For department-conducted and department-supervised remedial actions, the department must provide public notice and consider public comments on the proposed use of a model remedy at a facility. The department may waive collection of its costs for providing a written opinion under (i) of this subsection on a cleanup that qualifies for and appropriately uses a model remedy; and

(l) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement shall not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

(e) Publish and periodically update minimum clean-up standards for remedial actions at least as stringent as the clean-up standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection shall ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) To achieve and protect the state's long-term ecological health, the department shall plan to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes at a pace that matches the estimated cash resources in the state and local toxics control accounts and the environmental legacy stewardship account created in RCW 70.105D.170. Estimated cash resources must consider the annual cash flow requirements of major projects that receive appropriations expected to cross multiple biennia. To effectively monitor toxic accounts expenditures, the department shall develop a comprehensive ten-year financing report that identifies long-term remedial action project costs, tracks expenses, and projects future needs.

(4) By November 1, 2016, the department must submit to the governor and the appropriate legislative committees a report on the status of developing model remedies and their use under this chapter. The report must include: The number and types of model remedies identified by the department under subsection (1)(k) of this section; the number and types of model remedy proposals prepared by qualified private sector engineers, consultants, or contractors that were accepted or rejected under subsection (1)(k) of this section and the reasons for rejection; and the success of model remedies in accelerating the cleanup as measured by the number of jobs created by the cleanup, where this information is available to the department, acres of land restored, and the number and types of hazardous waste sites successfully remediated using model remedies.

(5) Before September 20th of each even-numbered year, the department shall:

(a) Develop a comprehensive ten-year financing report in coordination with all local governments with clean‑up responsibilities that identifies the projected biennial hazardous waste site remedial action needs that are eligible for funding from the state and local toxics control account and the environmental legacy stewardship account;

(b) Work with local governments to develop working capital reserves to be incorporated in the ten-year financing report;

(c) Identify the projected remedial action needs for orphaned, abandoned, and other clean‑up sites that are eligible for funding from the state toxics control account;

(d) Project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long‑term remedial action needs from both the local and state toxics control account and the environmental legacy stewardship account, and submit this information to the appropriate standing fiscal and environmental committees of the senate and house of representatives. This submittal must also include a ranked list of such remedial action projects for both accounts. The submittal must also identify separate budget estimates for large, multibiennia clean-up projects that exceed ten million dollars. The department shall prepare its ten-year capital budget plan that is submitted to the office of financial management to reflect the separate budget estimates for these large clean-up projects and include information on the anticipated private and public funding obligations for completion of the relevant projects.

(6) By December 1st of each odd-numbered year, the department must provide the legislature and the public a report of the department's activities supported by appropriations from the state and local toxics control accounts and the environmental legacy stewardship account. The report must be prepared and displayed in a manner that allows the legislature and the public to easily determine the statewide and local progress made in cleaning up hazardous waste sites under this chapter. The report must include, at a minimum:

(a) The name, location, hazardous waste ranking, and a short description of each site on the hazardous sites list, and the date the site was placed on the hazardous waste sites list; and

(b) For sites where there are state contracts, grants, loans, or direct investments by the state:

(i) The amount of money from the state and local toxics control accounts and the environmental legacy stewardship account used to conduct remedial actions at the site and the amount of that money recovered from potentially liable persons;

(ii) The actual or estimated start and end dates and the actual or estimated expenditures of funds authorized under this chapter for the following project phases:

(A) Emergency or interim actions, if needed;

(B) Remedial investigation;

(C) Feasibility study and selection of a remedy;

(D) Engineering design and construction of the selected remedy;

(E) Operation and maintenance or monitoring of the constructed remedy; and

(F) The final completion date.

(7) The department shall establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

(8) For all facilities where an environmental covenant has been required under subsection (1)(f) of this section, including all facilities where the department has required an environmental covenant under an order, agreed order, or consent decree, or as a condition of a written opinion issued under the authority of subsection (1)(i) of this section, the department shall periodically review the environmental covenant for effectiveness. Except as otherwise provided in (c) of this subsection, the department shall conduct a review at least once every five years after an environmental covenant is recorded.

(a) The review shall consist of, at a minimum:

(i) A review of the title of the real property subject to the environmental covenant to determine whether the environmental covenant was properly recorded and, if applicable, amended or terminated;

(ii) A physical inspection of the real property subject to the environmental covenant to determine compliance with the environmental covenant, including whether any development or redevelopment of the real property has violated the terms of the environmental covenant; and

(iii) A review of the effectiveness of the environmental covenant in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances. This shall include a review of available monitoring data.

(b) If an environmental covenant has been amended or terminated without proper authority, or if the terms of an environmental covenant have been violated, or if the environmental covenant is no longer effective in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances, then the department shall take any and all appropriate actions necessary to ensure compliance with the environmental covenant and the policies and requirements of this chapter.

(c) For facilities where an environmental covenant required by the department under subsection (1)(f) of this section was required before July 1, 2007, the department shall:

(i) Enter all required information about the environmental covenant into the registry established under RCW 64.70.120 by June 30, 2008;

(ii) For those facilities where more than five years has elapsed since the environmental covenant was required and the department has yet to conduct a review, conduct an initial review according to the following schedule:

(A) By December 30, 2008, fifty facilities;

(B) By June 30, 2009, fifty additional facilities; and

(C) By June 30, 2010, the remainder of the facilities;

(iii) Once this initial review has been completed, conduct subsequent reviews at least once every five years.

**Sec.**  RCW 70.94.335 and 1994 c 257 s 15 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

**Sec.**  RCW 70.95.270 and 1994 c 257 s 16 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

**Sec.**  RCW 70.105.116 and 1994 c 257 s 17 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

**Sec.**  RCW 77.55.061 and 1994 c 257 s 18 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

**Sec.**  RCW 90.48.039 and 1994 c 257 s 19 are each amended to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

**Sec.**  RCW 90.58.355 and 2015 3rd sp.s. c 15 s 9 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement this chapter do not apply to:

(1) Any person conducting an independent remedial action for which a person has obtained a joint voluntary remedial action plan, a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Except for independent remedial actions for which a person has obtained a joint voluntary remedial action plan, the department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090;

(2) Any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard storm water treatment facilities; or

(3) The department of transportation projects and activities that meet the conditions of RCW 90.58.356.

NEW SECTION. **Sec.**  A new section is added to chapter 70.105D RCW to read as follows:

(1) By January 1, 2019, the department shall establish a program for independent remedial action with a joint voluntary remedial action plan that addresses applicable state and local land use and environmental statutes, administrative rules, ordinances, and development regulations. Participation in such a program is voluntary on the part of the person conducting an independent remedial action.

(2) The joint voluntary remedial action plan must describe, at a minimum, the site-specific requirements associated with the following:

(a) Water discharge permits issued under chapter 90.48 RCW;

(b) Air emissions permits issued under chapter 70.94 RCW;

(c) Solid waste permits issued under chapter 70.95 RCW;

(d) Hazardous waste permits issued under chapter 70.105 RCW;

(e) Hydraulic project approval permits issued under chapter 77.55 RCW;

(f) Development permits issued under chapter 90.58 RCW; and

(g) Permits issued under any land use or environmental laws requiring or authorizing local government permits or approvals.

(3)(a) As part of the joint voluntary remedial action plan process, the department shall develop a consolidated application to be used by the person conducting the independent remedial action to communicate relevant details concerning the independent remedial action and the property that is the subject of the independent remedial action.

(b) For each joint voluntary remedial action plan, the department shall forward the information included in the consolidated application to all appropriate local governments. The local governments have thirty days in which to communicate to the department the site-specific requirements associated with any statutes, administrative rules, ordinances, or development regulations administered by the local governments.

(c) The department shall use the information included in the consolidated application to provide the person conducting the independent remedial action with a joint voluntary remedial action plan that addresses the state and local land use and environmental statutes, administrative rules, ordinances, and development regulations applicable to the property that is the subject of the independent remedial action, including the information received from local governments concerning any site-specific requirements associated with any statutes, administrative rules, ordinances, or development regulations administered by the local governments.

(4) Beginning January 1, 2019, any person wishing to conduct an independent remedial action has the option of completing a consolidated application under subsection (3) of this section and receiving from the department a joint voluntary remedial action plan.

(5) A person who obtains a joint voluntary remedial action plan from the department is exempt from the procedural requirements of chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW, and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action.

(6) A joint voluntary remedial action plan neither reduces nor enlarges a person's legal obligations under any state and local land use and environmental statute, administrative rule, ordinance, or development regulation applicable to the property that is the subject of the independent remedial action. A joint voluntary remedial action plan may not serve as the basis of a cause of action under this chapter or under any state or local land use or environmental statute, administrative rule, ordinance, or development regulation that may be addressed in the joint voluntary remedial action plan."

Correct the title.

EFFECT: (1) Limits, to independent remedial actions for which a person has obtained a joint voluntary remedial action plan from the Department of Ecology (Ecology), the exemption from the procedural requirements of the following environmental laws: The Washington Clean Air Act, the Solid Waste Management—Reduction and Recycling Act, the Hazardous Waste Management Act, Construction Projects in State Waters, the Water Pollution Control Act, and the Shoreline Management Act.

(2) Authorizes Ecology to offer site-specific technical advice and assistance regarding the substantive requirements of the environmental laws listed above to persons who are conducting an independent remedial action after obtaining a joint voluntary remedial action plan from Ecology.

(3) Directs Ecology to establish, by January 1, 2019, an optional program for persons conducting independent remedial actions, that describes in a joint voluntary remedial action plan the applicable state and local environmental and land use statutes, administrative rules, ordinances, and development regulations applicable to a particular independent remedial action. Beginning January 1, 2019, a person wishing to conduct an independent remedial action will have the option of obtaining a joint voluntary remedial action plan from Ecology.

(a) The joint voluntary remedial action plan must describe, at a minimum, the site-specific requirements associated with permits issued under the Washington Clean Air Act, the Solid Waste Management—Reduction and Recycling Act, the Hazardous Waste Management Act, Construction Projects in State Waters, the Water Pollution Control Act, and the Shoreline Management Act, as well as any permits issued under any land use or environmental laws that require or authorize local government permits or approvals.

(b) As part of the joint voluntary remedial action plan, Ecology must develop a consolidated application to be used by the person conducting the independent remedial action, to communicate relevant details concerning the action and the subject property.

(c) Ecology must communicate the information in the consolidated application to appropriate local governments, who will then have 30 days to communicate to Ecology the site-specific requirements associated with any statutes, administrative rules, ordinances, or development regulations administered by the local government.

(d) Ecology must use the information from the consolidated application, as well as the information received from local governments in response to the consolidated application, to provide the person conducting the independent remedial action with a joint voluntary remedial action plan that addresses the state and local land use and environmental statutes, administrative rules, ordinances, and development regulations applicable to the property that is the subject of the independent remedial action.

(4) Modifies each of the environmental laws listed above to specify that the procedural requirements of each of the laws do not apply to a person conducting an independent remedial action for which the person has obtained a joint voluntary remedial action plan from Ecology.

(5) Specifies, in each of the environmental laws listed above, that Ecology is not responsible for ensuring that independent remedial actions for which a person has obtained a joint voluntary remedial action plan from Ecology comply with the substantive requirements of each of the laws.

(6) Specifies that a joint voluntary remedial action plan neither enlarges nor reduces a person's legal obligations under any state and local land use and environmental statute, administrative rule, ordinance, or development regulation applicable to the property that is the subject of the independent remedial action.

(7) Specifies that a joint voluntary remedial action plan may not serve as the basis of a cause of action under the Model Toxics Control Act or under any state or local land use or environmental statute, administrative rule, ordinance, or development regulation that may be addressed in the joint voluntary remedial action plan.