

January 20, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 19, after "controls" insert "that address environmental concerns"

Page 1, line 23, remove "23-20.3-12."

Page 2, line 1, replace "and" with "or"

Page 2, line 27, remove "and"

Page 2, line 30, replace the underscored comma with "; and"

Page 2, line 31, replace "and agree" with:

"h. Agree"

Page 3, line 22, after the underscored period insert "The political subdivision is responsible for providing all notices under this subdivision, but any public hearing must be held jointly by the political subdivision and the department."

Page 4, line 2, remove "the department," and remove the second underscored comma

Page 4, line 7, replace "c." with "3." and after "alternative" insert "to institutional controls, after completion of the assessments and requirements of subsection 1"

Page 4, line 13, replace "3." with "4."

Page 4, line 14, remove "authority"

Page 4, line 16, replace "4." with "5."

Page 4, line 21, after "property" insert "or results in the exposure of contaminants to receptors on the property"

Page 4, line 25, replace "6" with "7" and replace "7" with "8"

Page 4, line 26, after "property" insert "for any new or additional discharge, release, or movement of pollution or contamination"

Page 4, line 27, after "release" insert "or culpability for exposure of onsite or offsite receptors to pollution or contamination"

Page 5, line 3, replace "5." with "6."

Page 5, line 9, replace "6." with "7."

Page 5, replace line 29 with:

"8. Participation by a lender in an agreement under this section may not be construed as management of the property under chapter 32-40.1. Lenders who participate in an agreement under this section may not be held responsible for any environmental remediation on the site or property except as provided in subsection 3 of section 32-40.1-02. As part of an agreement under subsection 7, the department may issue a letter of regulatory assurance to a lender which states that the lender is not responsible for environmental remediation on the property or site, and which addresses other issues relating to responsibility, notice, violation of agreement under subsection 7 by the owner or operator, default, or other matters affecting potential environmental liability, investment, or redevelopment. A responsibility exemption of regulatory assurance given or granted to a lender under this section also applies to a lender's transferees or assigns, provided the party has had no prior involvement with or responsibility for the site of the environmental release, and uses and manages the property after the transfer or assignment in compliance with institutional controls or other conditions established under this section and the requirements of this chapter and chapter 61-28."

Page 5, remove lines 30 and 31

Page 6, remove lines 1 through 6

Page 6, line 7, replace "8." with "9."

Page 6, line 9, replace ", or" with ". In addition" and replace "6" with "7 the department may collect an administrative fee for a specific site or project to address the department's costs and expenses at that site or project"

Page 6, line 10, replace "6. All" with "7, or may collect an administrative fee in an amount set by rule from a person making a request for a responsibility exemption or regulatory assurance under this section. Any"

Page 6, line 16, replace "9." with "10."

Page 6, line 24, replace "10." with "11."

Page 6, line 29, replace "11." with "12."

Page 7, line 1, replace "12." with "13."

Page 7, line 2, after the first "a" insert "regulated" and after the underscored comma insert "pollutant, contaminant."

Page 7, line 13, replace "13." with "14."

Page 7, line 15, after the underscored period insert "A regulatory assurance is not voidable under subsection 5."

Page 7, line 16, replace "14." with "15."

Page 7, line 19, after the underscored period insert "A responsibility exemption is voidable only against a person that violates an institutional control or a condition of a letter of no further action or no further remediation, or that is responsible for a new or additional"

release or migration of a regulated substance or pollutant on the property or site, or whose actions or negligence cause the violation, release, or migration."

Page 7, line 20, replace "15." with "16."

Page 7, line 26, replace "16." with "17."

Page 8, line 14, after "controls" insert "that address environmental concerns"

Page 8, line 28, after "controls" insert "that address environmental concerns"

Renumber accordingly