

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 5

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Vallario” and substitute “Vallario, Owings, Klausmeier, Stup, Weir, Fulton, D. Davis, Redmer, D. Hughes, Frush, Billings, McHale, Hammen, Ciliberti, Morhaim, Stull, Oaks, and Mohorovic”; in line 5, after the semicolon insert “requiring MDE to adopt certain regulations; requiring certain moneys in the Fund to be used for certain purposes; requiring MDE to maintain a certain balance in the Fund for certain purposes; authorizing MDE to seek cost recovery under certain circumstances; authorizing MDE to allocate moneys to maintain a certain reserve balance in the Fund under certain circumstances; providing that certain recovered moneys shall be used to maintain a certain balance;”; in line 7, after the semicolon, insert “requiring an applicant to pay a certain oversight fee by a certain time;”; in line 8, strike “a property is eligible property” and substitute “the applicant is eligible”; in lines 11 and 12, strike “MDE to return certain documents under certain circumstances” and substitute “an applicant who withdraws to notify MDE and forfeit certain fees; authorizing a certain applicant to withdraw from the Program in a certain time period; providing that certain letters are void with certain exceptions”; strike beginning with “altering” in line 14 down through “purposes” in line 15 and substitute “requiring MDE to consider certain factors when approving a certain response action plan; requiring MDE to review certain standards in a certain time period and authorizing MDE to revise the standards; authorizing MDE to approve the use of certain remedies; requiring MDE to notify the applicant of a certain decision within a certain time period after taking into account certain writtent comments; requiring MDE to consider certain factors before notifying an applicant of a certain decision”; in lines 15 and 16, strike “and certain liability releases” and substitute “for certain purposes; requiring MDE to issue a certain letter which contains a liability release after the approval of a response action plan and within a certain time period; requiring the applicant to notify MDE that a response action plan has been completed; requiring MDE to issue a certain letter which contains a liability release after the completion of a response action plan and under certain circumstances; providing that a certain requirement will not delay the issuance of a certain letter; authorizing an applicant to receive a certain letter”; in line 17, strike “liability release” and substitute “letter”; in the same line, after

(Over)

“costs” insert “at an eligible property under certain circumstances”; in line 18, strike “liability releases” and substitute “certain letters”; in line 19, after the semicolon, insert “requiring an applicant to record a certain letter in the land records in a certain time period; providing that an owner of eligible property is responsible for certain costs under certain circumstances;”; strike beginning with the second “under” in line 19 down through “circumstances” in line 20 and substitute “by the applicant after the submission of a completed response action plan; providing that certain sections of the Environment Article shall apply to enforce certain violations”; in the same line, after the second semicolon, insert “providing that this Act does not affect the planning and zoning authority of a county or municipal corporation, certain tort actions, and the ability of certain applicants to seek cost recovery against certain persons;”; in line 22, strike “requiring” and substitute “authorizing”; in line 25, after the semicolon, insert “authorizing a taxing jurisdiction to grant a property tax credit up to a certain amount; authorizing a taxing jurisdiction to extend a property tax credit in a designated enterprise zone for an additional time period;”; in line 27, after the first semicolon, insert “requiring MDE to report to the Governor and the General Assembly on the status of the Program by a certain date; requiring MDE to report to the General Assembly on fees and the use of the Voluntary Cleanup Fund by a certain date;”; in line 30, strike “with” and substitute “without”; in line 32, strike “4-401(f) and”; and after line 34, insert:

“BY adding to

Article - Environment

Section 4-405(d)

Annotated Code of Maryland

(1993 Replacement Volume and 1995 Supplement)””.

On page 2, in line 3, strike “7-512” and substitute “7-518”; and in line 9, strike “3-903” and substitute “3-904”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 21 through 35, inclusive, and substitute:

“4-405.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING LIMITATIONS ON THE LIABILITY OF BANKS, AFFILIATES AND SUBSIDIARIES OF

BANKS, THE STATE, AND COUNTIES AND MUNICIPAL CORPORATIONS UNDER SUBTITLES 4 AND 7 OF THIS TITLE, WHICH ARE EQUIVALENT TO THE LIMITATIONS SET FORTH IN § 7-517 OF THIS ARTICLE.”.

On page 4, in line 37, strike the colon.

On page 5, in line 1, strike “1.”; in the same line, strike the brackets; in the same line, strike “RENDERING”; in line 5, strike the brackets; in the same line, strike “; OR”; and strike in their entirety lines 6 through 12, inclusive.

AMENDMENT NO. 3

On page 5, in lines 17 and 18, strike “: (1)”; strike beginning with the semicolon in line 18 down through “SUBSTANCES” in line 22; in line 23, after “(C)” insert “(1)”; strike beginning with “ON” in line 24 down through “PLAN” in line 25, and substitute “AS PROVIDED IN § 7-509 OF THIS SUBTITLE”; after line 25, insert:

“(2) AN ASSURANCE LETTER MAY INCLUDE A LIMITATION ON THE PERMISSIBLE USES OF THE PROPERTY.”;

strike beginning with “THE” in line 26 down through “PROPERTY” in line 28, and substitute “THE LEVEL OF A SUBSTANCE OCCURRING NATURALLY AT THE SITE PRIOR TO ANY MANMADE SPILL OR RELEASE”; in lines 30 and 31, strike “: (1)”; strike beginning with the semicolon in line 32 down through “ARTICLE” in line 33; after line 33, insert:

“(F) “COST AFFIDAVIT” MEANS AN AFFIDAVIT SIGNED BY THE APPLICANT AND THE PERSON MANAGING THE VOLUNTARY CLEANUP PROJECT CERTIFYING, TO THE BEST OF EACH PERSON’S KNOWLEDGE AND BELIEF, THE AMOUNT PAID FOR ANY ENGINEERING, SCIENTIFIC, OR TECHNICAL WORK PERFORMED DURING A VOLUNTARY CLEANUP PROJECT.”;

in line 34, strike “(F)” and substitute “(G)”; in line 34, strike “A SITE” and substitute “PROPERTY THAT IS SUSPECTED TO BE CONTAMINATED OR”; in line 35, after “(2)” insert “EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,”; in the same line, strike “A SITE” and substitute “PROPERTY”; and in line 37, strike “OR”.

(Over)

On page 6, strike beginning with “SUBJECT” in line 1 down through “ARTICLE” in line 2, and substitute “UNDER AN UNRESOLVED ENFORCEMENT ACTION AGAINST AN APPLICANT TAKEN UNDER THIS TITLE;

(III) LISTED ON THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY INFORMATION SYSTEM (CERCLIS) UNDER THE FEDERAL ACT; OR

(IV) A REGULATED UNIT UNDER A CONTROLLED HAZARDOUS SUBSTANCE PERMIT.

(3) “ELIGIBLE PROPERTY” INCLUDES PROPERTY DETERMINED BY THE DEPARTMENT TO BE ELIGIBLE UNDER § 7-505(B) OF THIS SUBTITLE.

(H) “FEDERAL ACT” HAS THE MEANING STATED IN § 7-201(K) OF THIS TITLE”;

in line 3, strike “(G)” and substitute “(I)”; in line 3, strike “LIABILITY RELEASE” and substitute “LETTER”; in line 4 strike “§ 7-508” and substitute “§ 7-510 OR § 7-511”; in line 10 strike “§ 7-508(D)” and substitute “§ 7-512”; in line 12, strike “LIABILITY RELEASE” and substitute “LETTER”; after line 13, insert:

“(J) “PREVIOUSLY UNDISCOVERED CONTAMINATION” MEANS CONTAMINATION AT AN ELIGIBLE PROPERTY WHICH WAS NOT ADDRESSED OR DESCRIBED IN THE RESPONSE ACTION PLAN.

(K) “PROGRAM” MEANS THE VOLUNTARY CLEANUP PROGRAM ESTABLISHED UNDER THIS SUBTITLE. “;

in line 14, strike “(H)” and substitute “(L)”; and in the same line, strike “MEANS A PERSON AS DEFINED BY” and substitute “HAS THE MEANING STATED IN”.

AMENDMENT NO. 4

On page 6, after line 16, insert:

“IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS ARTICLE, THE DEPARTMENT MAY:

(1) ACCEPT AND ADMINISTER LOANS AND GRANTS FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES, PUBLIC OR PRIVATE, TO CARRY OUT ANY OF ITS FUNCTIONS UNDER THIS SUBTITLE;

(2) ENTER INTO WRITTEN AGREEMENTS IN ACCORDANCE WITH THIS SUBTITLE TO REQUIRE APPLICANTS TO FULFILL THEIR OBLIGATIONS; AND

(3) ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

7-503.”.

AMENDMENT NO. 5

On page 6, in line 18, after “FEES” insert “AND OTHER MONEYS”; in the same line, after “DEPARTMENT” insert “UNDER § 7-505 OF THIS SUBTITLE”; in line 19, strike “VOLUNTARY CLEANUP”; in line 22, strike “VOLUNTARY CLEANUP”; in line 25, strike “SOLELY”; in the same line, after “FOR” insert “PROGRAM DEVELOPMENT,”; in the same line, after “PROJECTS” insert a comma; in line 26, after “THE” insert “DIRECT ADMINISTRATIVE”; after line 26, insert:

“(E) (1) THE MONEYS IN THE VOLUNTARY CLEANUP FUND COLLECTED UNDER § 9-109 OF THE TAX - PROPERTY ARTICLE SHALL BE:

(I) USED BY THE DEPARTMENT FOR ACTIVITIES DIRECTLY ASSOCIATED WITH A VOLUNTARY CLEANUP PROJECT IF AN APPLICANT FAILS TO COMPLETE A VOLUNTARY CLEANUP PROJECT OR § 7-512(B) OR (C) APPLIES AND AN APPLICANT OR A RESPONSIBLE PERSON IS UNAVAILABLE; AND

(Over)

(II) USED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT FOR FINANCIAL INCENTIVES AS PROVIDED FOR IN ARTICLE 83A, § 3-903(D) OF THE CODE.

(2) IF THE DEPARTMENT USES MONEYS IN THE VOLUNTARY CLEANUP FUND AS PROVIDED FOR IN PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY SEEK COST RECOVERY, INCLUDING LEGAL EXPENSES AND INTEREST, FROM ANY RESPONSIBLE PERSON FOR THESE ACTIVITIES.

(3) THE DEPARTMENT SHALL RETAIN AN AMOUNT OF MONEY UP TO \$1 MILLION IN THE VOLUNTARY CLEANUP FUND AS A RESERVE BALANCE TO BE USED FOR VOLUNTARY CLEANUP PROJECTS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

(4) IF THE RESERVE BALANCE IN THE FUND FALLS BELOW \$500,000, THE DEPARTMENT MAY ALLOCATE MONEYS FROM PARAGRAPH (1)(II) OF THIS SUBSECTION TO MAINTAIN THE RESERVE BALANCE IN PARAGRAPH (3) OF THIS SUBSECTION.

(5) ANY MONEYS RECOVERED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE USED TO MAINTAIN THE RESERVE BALANCE IN PARAGRAPH (3) OF THIS SUBSECTION AND THE REMAINDER FOR FINANCIAL INCENTIVES AS PROVIDED FOR IN PARAGRAPH (1)(II) OF THIS SUBSECTION.”;

in line 27, strike “7-503.” and substitute “7-504.”; in line 28, strike “ADMINISTERED BY” and substitute “IN”; in lines 31, 33, 35, and 37, in each instance, strike “VOLUNTARY”; in line 31, strike “PROVIDE FOR” and substitute “ENCOURAGE”; in line 33, after “PROTECT” insert “PUBLIC”; in line 34, after “PERFORMED” insert “OR NEED TO BE PERFORMED”; and in lines 35 and 36, strike “, IF CONTAMINATED”.

AMENDMENT NO. 6

On page 7, in line 1, strike “7-504.” and substitute “7-505.”; in line 4, strike “LIABILITY RELEASE” and substitute “LETTER”; in the same line, strike “§ 7-508” and substitute “§ 7-510 OR § 7-511”; in the same line, strike “AN”; in line 5, strike “SOUGHT BY THE APPLICANT” and

substitute “AS PROVIDED IN § 7-509 OF THIS SUBTITLE, THAT THE PERSON SEEKS, TOGETHER WITH INFORMATION SUFFICIENT FOR THE DEPARTMENT TO MAKE THE REQUESTED DETERMINATION UNDER §§ 7-509, 7-510, AND 7-511 OF THIS SUBTITLE”; in line 6, after “DEMONSTRATING” insert “TO THE SATISFACTION OF THE DEPARTMENT”; in line 7, after “FROM” insert “ANY VIOLATION BY”; in lines 7 and 8, strike “KNOWINGLY OR WILLFULLY VIOLATING” and substitute “OF”; in lines 8 and 9, strike “OIL OR CONTROLLED HAZARDOUS SUBSTANCES” and substitute “THE CONTROL OF HAZARDOUS SUBSTANCES WHICH WOULD SUBJECT THE APPLICANT TO CRIMINAL PENALTIES”; in line 9, after the semicolon, insert:

“(3) PROVIDE INFORMATION DEMONSTRATING THAT THE PROPERTY IS AN ELIGIBLE PROPERTY AS DEFINED IN § 7-501 OF THIS SUBTITLE;”;

in line 10, strike “(3)” and substitute “(4)”; in line 11, after “PROJECT” insert “THAT INCLUDES THE PROPOSED CLEANUP CRITERIA UNDER § 7-507 OF THIS SUBTITLE AND THE PROPOSED FUTURE USE OF THE PROPERTY”;

in line 12, strike “(4)” and substitute “(5)”; strike beginning with “BETWEEN” in line 12 down through “PROJECT” in line 14 and substitute “OF”:

(I) \$5,000, IF THE APPLICANT SEEKS A NO FURTHER ACTION LETTER AND A NO ACTION LETTER AS PROVIDED FOR IN §§ 7-510 AND 7-511 OF THIS SUBTITLE; OR

(II) \$1,000, IF THE APPLICANT ONLY SEEKS AN ASSURANCE LETTER AS PROVIDED FOR IN § 7-509 OF THIS SUBTITLE OR A NO ACTION LETTER AS PROVIDED FOR IN § 7-511(E) OF THIS SUBTITLE”;

after line 14, insert:

“(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER PROPERTY IS AN ELIGIBLE PROPERTY

UNDER SUBSECTION (A)(3) OF THIS SECTION IF THE PROPERTY IS:

(1) LISTED ON CERCLIS AND DESIGNATED AS “NO FURTHER ACTION REMEDIAL ACTION PLANNED”;

(2) THAT PORTION OF THE PROPERTY THAT IS NOT A REGULATED UNIT UNDER THE CONTROLLED HAZARDOUS SUBSTANCE PERMIT; OR

(3) BEING ACTIVELY INVESTIGATED UNDER THIS TITLE.

(C) THE DEPARTMENT SHALL NOTIFY AN APPLICANT IN WRITING WHEN AN APPLICATION IS COMPLETE.”;

in line 15, strike “(B)” and substitute “(D)(1)”; in the same line, after “WRITING” insert a comma; in the same line, strike “15” and substitute “30”; in line 16, strike “RECEIPT” and substitute “THE NOTIFICATION”; in the same line, after “APPLICATION” insert a comma; in line 17, strike “PROPERTY IS AN ELIGIBLE PROPERTY” and substitute “APPLICATION MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM”; in line 18, strike “(C)” and substitute “(2)”; in the same line, strike “ACCEPTED” and substitute “APPROVED”; in line 19, after “APPLICANT” insert “, WITHIN 45 DAYS,”; in lines 20 and 21, strike “VOLUNTARY CLEANUP PROJECT” and substitute “APPLICATION”; after line 21, insert:

“(E) THE DEPARTMENT SHALL REJECT AN APPLICATION IF THE APPLICANT OR THE PROPERTY IS NOT ELIGIBLE UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

(F) (1) AFTER AN APPLICATION HAS BEEN APPROVED, THE APPLICANT SHALL:

(I) SUBMIT A COST AFFIDAVIT EVERY 6 MONTHS AFTER AN APPLICATION HAS BEEN APPROVED, CERTIFYING THE COSTS INCURRED DURING A VOLUNTARY CLEANUP PROJECT;

(II) SUBMIT A COST AFFIDAVIT EVERY 6 MONTHS CERTIFYING THE COSTS INCURRED SINCE THE LAST COST AFFIDAVIT WAS SUBMITTED; AND

(III) WITHIN 30 DAYS AFTER THE SUBMITTAL OF A COST AFFIDAVIT UNDER THIS SUBSECTION, PAY TO THE FUND AN OVERSIGHT FEE EQUAL TO 10% OF THE AMOUNT OF COSTS INCURRED DURING A VOLUNTARY CLEANUP PROJECT AS SET FORTH IN THE COST AFFIDAVIT.

(2) AN APPLICANT MAY NOT BE REQUIRED TO PAY AN OVERSIGHT FEE FOR COSTS INCURRED FOR CONSTRUCTION, EQUIPMENT, MATERIALS, OR LABORATORY ANALYSES.

(3) FEES PAID UNDER THIS SECTION SHALL BE IN LIEU OF, AND NOT IN ADDITION TO, ANY OTHER OBLIGATION THAT THE APPLICANT MAY HAVE TO THE DEPARTMENT TO REIMBURSE OVERSIGHT OR OTHER COSTS RELATED TO THE OVERSIGHT INCURRED AFTER THE DATE THE APPLICATION IS FILED.

(4) THE DEPARTMENT MAY REQUIRE AN APPLICANT TO SUBMIT FURTHER PROOF OF THE AMOUNTS PAID TO ANY CONSULTANTS AND CONTRACTORS, INCLUDING COPIES OF ALL INVOICES RECEIVED AND ALL CANCELED CHECKS ISSUED.”;

in line 22, strike “(D)” and substitute “(G)”;

in the same line, strike “APPLICATION FEE” and substitute “FEES COLLECTED UNDER THIS SECTION”;

in line 23, strike “VOLUNTARY CLEANUP”;

and strike beginning with “AND” in line 23 down through “PROJECT” in line 32 and substitute “, LEGAL COSTS, OTHER DIRECT COSTS RELATED TO THE IMPLEMENTATION OF THE PROGRAM, AND THE COSTS OF OVERSEEING THE VOLUNTARY CLEANUP PROJECTS”.

AMENDMENT NO. 7

On page 7, in line 33, strike “7-505.” and substitute “7-506.”;

in line 34, strike “AN APPLICANT RECEIVES A NOTICE OF ELIGIBILITY” and substitute “THE DEPARTMENT APPROVES THE APPLICATION”;

in line 35, strike “NECESSARY TO” and substitute “THAT WILL”;

in line 36, strike “STANDARDS IN § 7-506” and substitute “CRITERIA SELECTED UNDER § 7-507”.

On page 8, in line 1, strike “SUMMARY OF” and substitute “DETAILED REPORT WITH”

ALL"; in line 2, after "CONDITIONS" insert "INCLUDING CONTAMINATION"; in line 3, strike "AND"; in line 4, strike "AN" and substitute "ALL"; strike beginning with "ASSESSMENT" in line 4 down through "(II)" in line 8 and substitute "EVALUATIONS;

(III) A PLAN FOR ALL WORK NECESSARY TO PERFORM THE PROPOSED RESPONSE ACTION PLAN, INCLUDING LONG-TERM MONITORING, OPERATION, AND MAINTENANCE OF THE SITE, IF NECESSARY;

(IV)";

strike line 9 in its entirety and substitute "PLAN;

1. WILL REASONABLY BE ANTICIPATED TO ACHIEVE CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE;

2. WILL INCLUDE AN IDENTIFICATION AND EVALUATION OF THE NATURE AND EXTENT OF ANY RELEASES; AND

3. WILL REASONABLY BE ANTICIPATED TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT ONCE COMPLETED;

(V) A CERTIFIED WRITTEN STATEMENT THAT THE PROPERTY MEETS ALL APPLICABLE COUNTY OR MUNICIPAL ZONING REQUIREMENTS; AND

(VI) ANY OTHER INFORMATION DIRECTLY RELATED TO THE PROPOSED RESPONSE ACTION PLAN THAT THE DEPARTMENT REQUIRES.;

in line 10, strike "(4)" and substitute "(3)"; in the same line, strike "MAY" and substitute "SHALL"; in the same line, after "ONE" insert "OR MORE"; in the same line, strike "§ 7-506(A)" and substitute "§ 7-507"; in line 12, after "(1)" insert "EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.;"; in the same line, after "APPLICATION" insert "OR RESPONSE ACTION PLAN"; in line 13, strike "VOLUNTARY CLEANUP"; in the same line, strike "WILL" and substitute "MAY"; in line 14, strike "A PROPOSED" and substitute "AN APPLICATION OR A"; and strike beginning with the comma in line 15 down through "APPLICANT" in line 17 and substitute "OR A RESPONSE ACTION PLAN, THE APPLICANT SHALL;

(I) PROMPTLY NOTIFY THE DEPARTMENT IN WRITING; AND

(II) FORFEIT ANY APPLICATION AND OVERSIGHT FEES.

(3) WITHIN 30 DAYS OF RECEIVING NOTIFICATION OF PLAN APPROVAL AND EXPLANATORY DOCUMENTS, AN APPLICANT WHO IS A RESPONSIBLE PERSON SHALL:

(I) SIGN A WRITTEN AGREEMENT WITH THE DEPARTMENT; OR

(II) PROMPTLY NOTIFY THE DEPARTMENT IN WRITING THAT THE APPLICATION OR RESPONSE ACTION PLAN HAS BEEN WITHDRAWN.

(4) IF AN APPLICANT WHO IS A RESPONSIBLE PERSON DOES NOT NOTIFY THE DEPARTMENT OF WITHDRAWAL OR SIGN A WRITTEN AGREEMENT, THE APPLICATION OR THE RESPONSE ACTION PLAN WILL BE DEEMED TO BE WITHDRAWN.

(5) IF AN APPLICATION OR A RESPONSE ACTION PLAN IS WITHDRAWN, ANY LETTERS ISSUED TO AN APPLICANT UNDER THIS SUBTITLE SHALL BE VOID EXCEPT FOR AN ASSURANCE LETTER ISSUED UNDER § 7-509(2), (3), OR (4) OF THIS SUBTITLE”.

AMENDMENT NO. 8

On page 8, in line 18, strike “7-506.” and substitute “7-507.”; in line 19, after “IF” insert “THE DEPARTMENT DETERMINES, AFTER REVIEW, THAT EACH CRITERION SELECTED PROTECTS PUBLIC HEALTH AND THE ENVIRONMENT AND”; in line 20, strike “ARE EXPECTED TO MEET ONE” and substitute “CAN REASONABLY BE ANTICIPATED TO ACHIEVE ONE OR MORE”; in line 21, after “UPON” insert “TIMELY”; strike in its entirety line 23; in line 24, strike “(3)” and substitute:

“(2) STANDARDS BASED ON”;

(Over)

in line 25, strike “(4)” and substitute “(3)”; in line 25, after the semicolon, insert “OR”; and strike in their entirety lines 26 through 28, inclusive, and substitute:

“(4) ANY RELEVANT MARYLAND STATE STANDARDS.”;

in line 29, strike “(1)”; strike beginning with “REGULATIONS” in line 29 down through “(A)” in line 30 and substitute “NUMERIC RISK-BASED STANDARDS BY REGULATION BASED ON RESIDENTIAL AND INDUSTRIAL USES UNDER SUBSECTION (A)(1)”; in line 30, after “SECTION” insert a period; in the same line, strike “BASED ON” and substitute:

“(C) IN APPROVING A RESPONSE ACTION PLAN BASED ON SITE-SPECIFIC RISK ASSESSMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS”;

in line 31, strike “(I)” and substitute:

“(1) PROTECTION OF THE PUBLIC HEALTH AND THE ENVIRONMENT;

(2)”;

in the same line, strike “EFFECTIVE RISK REDUCTION; AND” and substitute “EFFECTIVENESS;”; in line 32, strike “(II)” and substitute “(3)”; in the same line, after “PRACTICABILITY” insert “; AND

(4) THE PROPOSED USE OF THE PROPERTY”;

in line 33, strike “DEVELOP STANDARDS FOR” and substitute “REVIEW”; and strike beginning with the first comma in line 34 down through “PROPERTY” in line 36 and substitute “EVERY 2 YEARS AND MAY REVISE THE STANDARDS”.

On page 9, in strike in their entirety lines 1 and 2 and substitute:

“(D) THE DEPARTMENT MAY APPROVE THE USE OF PRESUMPTIVE AND

GENERIC REMEDIES TO ACHIEVE THE CRITERIA LISTED IN SUBSECTION (A) OF THIS SECTION.”;

in line 3, strike “(C)” and substitute “(E)”; in the same line, after “REGULATIONS” insert “UNDER THIS SUBTITLE”; and in line 5, strike “PROGRAM” and substitute “PROJECT”.

AMENDMENT NO. 9

On page 9, after line 5, insert:

“7-508.

(A) TO THE MAXIMUM EXTENT PRACTICABLE, WITHIN 60 DAYS AFTER THE DEPARTMENT HAS RECEIVED A PROPOSED RESPONSE ACTION PLAN, THE DEPARTMENT, AFTER TAKING INTO ACCOUNT ANY WRITTEN COMMENTS THE DEPARTMENT HAS RECEIVED UNDER § 7-514 OF THIS SUBTITLE, SHALL NOTIFY THE APPLICANT IN WRITING THAT:

(1)THE RESPONSE ACTION PLAN HAS BEEN APPROVED;

(2)THE RESPONSE ACTION PLAN HAS BEEN REJECTED; OR

(3) MODIFICATIONS OF THE RESPONSE ACTION PLAN ARE NECESSARY TO RECEIVE THE DEPARTMENT’S APPROVAL.

(B) PRIOR TO NOTIFYING AN APPLICANT THAT MODIFICATIONS ARE NECESSARY UNDER SUBSECTION (A)(3) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER COST EFFECTIVENESS AND TECHNICAL PRACTICABILITY.”.

AMENDMENT NO. 10

On page 9, in line 6, strike “7-507.” and substitute “7-509.”; in line 7, after “APPLICANT” insert “WHO HAS COMPLIED WITH § 7-505(A) OF THIS SUBTITLE”; in the same line, strike “A” and substitute “AN ASSURANCE”; in line 8, strike “OF ASSURANCE”; in line 9, strike

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“ASSESSMENTS” and substitute “EVALUATIONS”; in line 11, strike “DESIGNED” and substitute “SUBMITTED”; in line 12, strike “IS NOT” and substitute “WAS”; in line 13, strike “ACTIVITIES ON” and substitute “A RELEASE FROM A PROPERTY OTHER THAN”; in the same line, strike “OR”; strike line 14 in its entirety and substitute:

“(3) A PERSON OTHER THAN AN APPLICANT CAUSED”;

and in line 15, after “PROPERTY” insert “; OR”

“(4) THE ELIGIBLE PROPERTY IS NOT CONTAMINATED”.

AMENDMENT NO. 11

On page 9, in line 16, strike “7-508.” and substitute “7-510.”; in line 17, strike “ON” and substitute “AFTER”; in line 18, after “ACTION” insert “LETTER WHICH CONTAINS A”; strike beginning with “60” in line 19 down through “PLAN” in line 21 and substitute “30 DAYS, OR WITHIN 30 DAYS AFTER THE SIGNING OF A WRITTEN AGREEMENT UNDER § 7-506(B)(3)(I) OF THIS SUBTITLE.”

(B) THE NO FURTHER ACTION LETTER SHALL STATE THAT, SUBJECT TO THE REQUIREMENTS OF § 7-512(B) OF THIS SUBTITLE, NO FURTHER ACTION WILL BE REQUIRED TO ACCOMPLISH THE OBJECTIVES SET FORTH IN THE APPROVED RESPONSE ACTION PLAN OTHER THAN THOSE ACTIONS DESCRIBED IN THE APPROVED RESPONSE ACTION PLAN”.

AMENDMENT NO. 12

On page 9, in line 22, strike “(B)” and substitute:

“7-511.”

(A) UPON COMPLETION OF THE REQUIREMENTS OF THE RESPONSE ACTION PLAN, THE APPLICANT SHALL NOTIFY THE DEPARTMENT IN WRITING THAT THE RESPONSE ACTION PLAN HAS BEEN COMPLETED.

(B) WITHIN 60 DAYS AFTER RECEIVING THE NOTICE UNDER SUBSECTION (A)

OF THIS SECTION, IF THE DEPARTMENT DETERMINES THAT THE REQUIREMENTS OF THE RESPONSE ACTION PLAN HAVE BEEN COMPLETED TO THE SATISFACTION OF THE DEPARTMENT AND THE RESPONSE ACTION PLAN HAS ACHIEVED THE CLEANUP CRITERIA.”;

in line 22, after “ACTION” insert “LETTER WHICH CONTAINS A”; in line 23, strike “60” and substitute “30”; strike beginning with “STATING” in line 23 down through “PROPERTY” in line 36; and after line 36, insert:

“(C) THE NO ACTION LETTER SHALL STATE THAT, SUBJECT TO THE REQUIREMENTS OF § 7-512(C) OF THIS SUBTITLE, THE REQUIREMENTS OF THE RESPONSE ACTION PLAN HAVE BEEN COMPLETED AND THE APPLICANT HAS DEMONSTRATED THAT THE CONTAMINATION AT THE ELIGIBLE PROPERTY HAS ACHIEVED THE CLEANUP CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE.

(D) A REQUIREMENT FOR LONG-TERM OPERATION AND MAINTENANCE IN THE APPROVED RESPONSE ACTION PLAN MAY NOT DELAY THE ISSUANCE OF THE NO ACTION LETTER UNDER SUBSECTION (B) OF THIS SECTION.

(E) IF THE DEPARTMENT DETERMINES THAT AN ELIGIBLE PROPERTY IS NOT CONTAMINATED, AN APPLICANT MAY RECEIVE A NO ACTION LETTER UNDER THIS SECTION.”.

AMENDMENT NO. 13

On page 9, before line 37, insert “7-512.”; in line 37, strike “(C)” and substitute “(A)”; and in the same line strike “SUBSECTION (D)” and substitute “SUBSECTIONS (B) AND (C)”.

On pages 9 and 10, strike in their entirety the lines beginning with in line 38 on page 9 through line 4 on page 10, inclusive, and substitute “APPLICANT IS NOT LIABLE TO THE DEPARTMENT OR ANY OTHER PERSON FOR ANY CLEANUP COSTS OF THE CONTAMINATION AT THE ELIGIBLE PROPERTY ADDRESSED IN THE RESPONSE ACTION PLAN IF THE APPLICANT:

(1) RECEIVES A NO FURTHER ACTION LETTER OR A NO ACTION LETTER;

(Over)

AND

(2) HAS PAID ALL THE FEES REQUIRED UNDER THIS SUBTITLE.”;

on page 10, strike in their entirety the lines beginning with line 5 down through line 26, inclusive, and substitute:

“(B) A NO FURTHER ACTION LETTER DOES NOT:

(1) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY RESPONSIBLE PERSON TO PREVENT OR ABATE AN IMMINENT OR SUBSTANTIAL THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT AT THE ELIGIBLE PROPERTY;

(2) REMAIN IN EFFECT IF THE NO FURTHER ACTION LETTER IS OBTAINED THROUGH FRAUD OR A MATERIAL MISREPRESENTATION;

(3) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY PERSON WHO DOES NOT COMPLY WITH CONDITIONS ON THE PERMISSIBLE USE OF THE ELIGIBLE PROPERTY CONTAINED IN THE NO FURTHER ACTION LETTER;

(4) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING NEW CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO FURTHER ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT; OR

(5) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST A RESPONSIBLE PERSON CONCERNING PREVIOUSLY UNDISCOVERED CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO FURTHER ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT.

(C) A NO ACTION LETTER DOES NOT:

(1) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY RESPONSIBLE PERSON TO PREVENT OR ABATE AN IMMINENT OR SUBSTANTIAL THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT AT THE ELIGIBLE PROPERTY;

(2) REMAIN IN EFFECT IF THE NO ACTION LETTER IS OBTAINED THROUGH FRAUD OR A MATERIAL MISREPRESENTATION;

(3) PREVENT THE DEPARTMENT FROM REQUIRING A RESPONSIBLE PERSON TO TAKE FURTHER ACTION IF THE ELIGIBLE PROPERTY FAILS TO MEET THE APPLICABLE CLEANUP CRITERIA SET FORTH IN THE RESPONSE ACTION PLAN APPROVED BY THE DEPARTMENT;

(4) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY PERSON WHO DOES NOT COMPLY WITH CONDITIONS ON THE PERMISSIBLE USE OF THE ELIGIBLE PROPERTY CONTAINED IN THE NO ACTION LETTER;

(5) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING NEW CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT;

(6) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING PREVIOUSLY UNDISCOVERED CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT; OR

(7) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST A RESPONSIBLE PERSON IF THE LONG-TERM OPERATION AND MAINTENANCE SET FORTH IN THE APPROVED RESPONSE ACTION PLAN HAS NOT BEEN PERFORMED.”;

strike beginning with “(F)” in line 27 down through “SECTION,” in line 28 and substitute “(D)”;

in line 28, strike “LIABILITY RELEASE” and substitute “LETTER”;

in line 29, strike “LIABILITY RELEASE” and substitute “LETTER”;

in line 31, strike “(G)” and substitute “(E)”;

in lines 31 and 32, in each instance, strike “LIABILITY RELEASE” and substitute “LETTER”;

in line 32, after the

first “THE” insert “PERMISSIBLE”; and strike beginning with “THE” in line 33 down through the period in line 34 and substitute “THE APPLICANT SHALL RECORD THE LETTER IN THE LAND RECORDS OF THE LOCAL JURISDICTION WITHIN 30 DAYS AFTER RECEIVING THE LETTER.”

(F) IF AN OWNER OF AN ELIGIBLE PROPERTY, THE PERMISSIBLE USES OF WHICH ARE LIMITED, WANTS TO CHANGE THE USE OF THE ELIGIBLE PROPERTY, THE OWNER IS RESPONSIBLE FOR THE COST OF CLEANING UP THE ELIGIBLE PROPERTY TO THE APPROPRIATE NUMERIC RISK-BASED STANDARD OR A STANDARD BASED ON A REVISED SITE-SPECIFIC RISK ASSESSMENT.”.

AMENDMENT NO. 14

On page 10, in line 35, strike “7-509.” and substitute “7-513.”; in line 36, strike “IMPLEMENT” and substitute “DEVELOP”; in line 37, strike “LETTERS OF ASSURANCE” and substitute “ASSURANCE LETTERS”; in the same line, strike “AND”; in line 38, after “LETTERS” insert “, AND WRITTEN AGREEMENTS”; and strike beginning with “ADOPT” in line 39 down through “ASSESSMENT” in line 40 and substitute “ESTABLISH CRITERIA FOR ENVIRONMENTAL SITE EVALUATIONS TO ASSESS ELIGIBLE PROPERTIES”.

AMENDMENT NO. 15

On page 11, in line 1, strike “7-510.” and substitute “7-514.”; strike beginning with “BEFORE” in line 2 down through “DEPARTMENT” in line 7 and substitute “AFTER THE SUBMISSION OF A COMPLETED PROPOSED RESPONSE ACTION PLAN, THE APPLICANT SHALL PUBLISH A PROPOSED RESPONSE ACTION PLAN ONCE A WEEK FOR 2 CONSECUTIVE WEEKS IN A DAILY OR WEEKLY NEWSPAPER OF GENERAL CIRCULATION IN THE GEOGRAPHICAL AREA IN WHICH THE ELIGIBLE PROPERTY IS LOCATED”;

in line 9, strike “20” and substitute “30”; in the same line, strike “PUBLIC NOTIFICATION” and substitute “PUBLICATION REQUIRED UNDER THIS SECTION”.

AMENDMENT NO. 16

On page 11, strike in their entirety lines 10 through 14, inclusive, and substitute:

“7-515.

(A) THE PROVISIONS OF §§ 7-256 THROUGH 7-268 OF THIS TITLE SHALL BE USED AND SHALL APPLY TO ENFORCE VIOLATIONS OF:

(1) THIS SUBTITLE; OR

(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) A VIOLATION OF ANY WRITTEN AGREEMENT ENTERED INTO UNDER THIS SUBTITLE SHALL CONSTITUTE A VIOLATION OF THIS SUBTITLE.”;

in line 15, strike “7-512.” and substitute “7-516.”; and after line 24, insert:

“7-517.

(A) (1) THIS SECTION APPLIES TO AN ELIGIBLE PROPERTY FOR WHICH THE DEPARTMENT HAS ISSUED A NOTICE OF COMPLETED APPLICATION UNDER § 7-505(D)(1) OF THIS SUBTITLE.

(2) NOTWITHSTANDING § 7-201(X) OF THIS TITLE AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A BANK, AN AFFILIATE OR SUBSIDIARY OF A BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION MAY NOT BE DEEMED TO BE A RESPONSIBLE PERSON AS DEFINED UNDER SUBTITLE 2 OF THIS TITLE, AS THE RESULT OF AN ACTION TAKEN AFTER NOTIFICATION TO THE DEPARTMENT:

(I) TO CONTAIN, STABILIZE, OR REMOVE HAZARDOUS SUBSTANCES FOR THE PURPOSE OF PROTECTING OR SECURING THE ELIGIBLE PROPERTY OR PROPERTY LOCATED ON THE ELIGIBLE PROPERTY IN THE COURSE OF THE VOLUNTARY CLEANUP PROJECT INCLUDING ANY LONG-TERM OPERATION AND

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MAINTENANCE REQUIRED BY THE RESPONSE ACTION PLAN; OR

(II) TO COMPLETE A RESPONSE ACTION PLAN.

(B) A BANK, AN AFFILIATE OR SUBSIDIARY OF A BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION SHALL BE A RESPONSIBLE PERSON AND MAY BE LIABLE UNDER SUBTITLE 2 OF THIS TITLE SOLELY FOR CONTAMINATION THAT THE BANK, THE AFFILIATE OR SUBSIDIARY OF THE BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION CAUSES ON THE ELIGIBLE PROPERTY.

(C) A STATE, COUNTY, OR MUNICIPAL CORPORATION SHALL BE LIABLE UNDER SUBSECTION (B) OF THIS SECTION, ONLY IF THE STATE, COUNTY, OR MUNICIPAL CORPORATION IS ALSO LIABLE UNDER § 7-201(X)(VII) OF THIS TITLE.

7-518.

(A) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

(B) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, ANY TORT ACTION FOR PERSONAL INJURY AGAINST ANY APPLICANT.

(C) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, AN APPLICANT WHO IS NOT A RESPONSIBLE PERSON FROM SEEKING COST RECOVERY AGAINST A RESPONSIBLE PERSON.”.

AMENDMENT NO. 17

On page 11, after line 30, insert:

“(I) AN ELIGIBLE PROPERTY, AS DEFINED IN § 7-501 OF THE ENVIRONMENT ARTICLE; OR

(II) PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR THREATENED RELEASE OF OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.”;

strike in their entirety lines 31 through 35, inclusive; and in line 36, strike the colon.

On page 12, strike beginning with “(I)” in line 1 down through “(III)” in line 6; in line 15, strike “WITHIN FINANCIALLY DISTRESSED URBAN AREAS” and substitute “PREVIOUSLY USED FOR COMMERCIAL OR INDUSTRIAL PURPOSES”; in line 19, strike “AND”; in line 20, after “OPPORTUNITIES” insert “; AND

(6) PROVIDE FINANCIAL INCENTIVES FOR LISTED BROWNFIELDS SITES”;

in line 22, strike “CONJUNCTION” and substitute “CONSULTATION”; in line 25, strike “SHALL” and substitute “MAY”; strike beginning with the comma in line 25, down through the comma in line 26; in line 28, strike “OR”; in line 29, after “AREA” insert “; OR

(III) A RURAL AREA NOT ON PUBLIC WATER”;

and strike beginning with “THE” in line 33 down through “(III)” in line 35.

On page 13, in lines 1, 3, and 5, strike “(IV)”, “(V)”, and “(VI)”, respectively, and substitute “(III)”, “(IV)”, and “(V)”, respectively; in line 6, strike “, CLEANUP, OR CONTAMINATION”; and after line 28, insert:

“3-904.

THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.”;

in line 33, strike “SET FORTH” and substitute “STATED”; in the same line, after “IN” insert “ARTICLE 83A,”; and in line 34, strike “ARTICLE 83A” and substitute “THE CODE”.

On page 14, in line 1, after “CITY;” insert “OR”; in line 2, strike beginning with the

(Over)

semicolon down through "DISTRICT" in line 3; in line 4, after the second "THE" insert "FIRST REVALUATION OF THE PROPERTY AFTER"; in line 6, strike "THE" and substitute "A"; in line 8, strike "70%" and substitute "50%"; in lines 10 and 15, in each instance, after "SITE" insert ", INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION,"; in line 13, strike "§ 7-502" and substitute "§ 7-503"; in the same line, after "ARTICLE" insert "30% OF"; in lines 13 and 14, strike "COLLECTED THAT IS"; after line 16, insert:

"(E) A TAXING JURISDICTION MAY GRANT A PROPERTY TAX CREDIT UP TO AN ADDITIONAL 20% OF THE REMAINING PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE BROWNFIELDS SITE INCLUDING IMPROVEMENTS ADDED TO THE SITE OVER THE ASSESSMENT OF THE BROWNFIELDS SITE BEFORE THE VOLUNTARY CLEANUP.

(F) (1) A CREDIT UNDER THIS SECTION MAY NOT BE CALCULATED ON AN INCREASE IN ASSESSMENT DUE TO THE TERMINATION OF A USE VALUE UNDER §§ 8-209 THROUGH 8-217 OR §§ 8-220 THROUGH 8-225 OF THIS ARTICLE.

(2) IF THE BROWNFIELDS SITE ON WHICH THE VOLUNTARY CLEANUP IS COMPLETED HAD A USE VALUE IMMEDIATELY BEFORE THE CLEANUP, THE CREDIT SHALL BE CALCULATED ON AN ASSESSMENT AS IF THE PARCEL HAD BEEN VALUED AT MARKET VALUE.

(G) IN A DESIGNATED ENTERPRISE ZONE, THE STATE OR A TAXING JURISDICTION MAY EXTEND THE TAX CREDIT AUTHORIZED UNDER THIS SECTION UP TO AN ADDITIONAL 5 YEARS."

AMENDMENT NO. 18

On page 14, after line 16, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment, on or before July 1, 2000, shall report to the Governor and, subject to § 2-1312 of the State Government Article, to the General Assembly on the status of the Voluntary Cleanup Program established under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the Environment shall report to the General Assembly on or before November 30, 1997 on the reasonableness of the fees and the use of the Voluntary Cleanup Fund established by this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Subtitle 5 of the Environment Article does not affect, and may not be construed as affecting, any civil action pending against any applicant in the Voluntary Cleanup Program on the effective date of this Act.”;

in line 17, strike “2.” and substitute “5.”; and in line 18, strike “October” and substitute “July”.