

## REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Natural Resources** recommends **HB 2193** be amended on page 1, in line 6, before "Section" by inserting "New";

On page 5, following line 3, by inserting:

"Sec. 2. K.S.A. 65-34,167 is hereby amended to read as follows: 65-34,167. Remedial alternatives shall be based on the actual risk to human health and the environment currently posed by contaminants ~~on the property~~, considering the following factors:

(a) The present and proposed future uses of the property and surrounding properties;

(b) the ability of the contaminants to move in a form and manner which would result in exposure to humans and the surrounding environment at levels which exceed applicable state standards and guidelines or ~~the results of a risk analysis if such standards and guidelines are not available~~ which exceed acceptable contaminant concentrations as determined by a risk analysis that evaluates the property and surrounding properties as a whole; and

(c) the potential risks associated with proposed cleanup alternatives and the reliability and economic and technical feasibility of such alternatives.

Sec. 3. K.S.A. 65-34,168 is hereby amended to read as follows: 65-34,168. (a) The department shall provide formal written notification to the applicant that a voluntary cleanup plan has been approved or disapproved within 60 days of submittal of the voluntary cleanup plan by the applicant unless the department extends the time for review to a date certain.

(b) The department shall approve a voluntary cleanup plan if the department concludes that the plan will attain a degree of cleanup and control of contaminants that complies with all

applicable statutes and rules and regulations.

(c) If a voluntary cleanup plan is not approved by the department, the department shall promptly provide the applicant with a written statement of the reasons for denial. If the department disapproves a voluntary cleanup plan based upon the applicant's failure to submit the information required, the department shall notify the applicant of the deficiencies in the information submitted.

(d) The approval of a voluntary cleanup plan by the department applies only to those contaminants and conditions identified on the property based upon the statutes and rules and regulations that exist when the application is submitted.

(e)(1) Upon determination by the department that a voluntary cleanup plan is acceptable, the department shall publish a notice of the determination in a local newspaper of general circulation in the area affected and make the voluntary cleanup plan available to the public. The public shall have 15 days from the date of publication during which any person may submit to the department written comments regarding the voluntary cleanup plan. After 15 days have elapsed, the department may hold a public information meeting if, in the department's judgment, the comments submitted warrant such a meeting or if the applicant requests such a meeting. Upon completion of the public notification and participation process, the department shall make a determination to approve the plan in accordance with this section.

(2) The voluntary cleanup plan and associated documents shall be available for public review upon request from a member of the public.

(3) Such cleanup plan and any associated documents shall be indexed and posted on the website of the Kansas department of health and environment upon determination by the department that a voluntary cleanup plan is acceptable and for at least five years following the no further action determination.

(f) Departmental approval of a voluntary cleanup plan shall be void upon:

(1) Failure of an applicant to comply with the approved voluntary cleanup plan;

(2) willful submission of false, inaccurate or misleading information by the applicant in the context of the voluntary cleanup plan; or

(3) failure to initiate the plan within 6 months after approval by the department, or failure to complete the plan within 24 months after approval by the department, unless the department grants an extension of time.

(g) An applicant desiring to implement a voluntary clean up plan after the time limits prescribed by subsection (f)(3) have expired shall submit a written petition for reapplication accompanied by written assurances from the applicant that the conditions on the subject property are substantially similar to those existing at the time of the original approval. Reapplications shall be reviewed by the department. Any reapplication that involves property upon which the condition has substantially changed since approval of the original voluntary cleanup plan shall be treated as a new application and shall be subject to all the requirements of this act.

(h) Within 45 days after the completion of the voluntary cleanup described in the approved voluntary cleanup plan, the applicant shall provide to the department assurance that the plan has been fully implemented. A verification sampling program shall be required by the department to confirm that the property has been cleaned up as described in the voluntary cleanup plan.

Sec. 4. K.S.A. 65-34,169 is hereby amended to read as follows: 65-34,169. (a) After an applicant completes the requirements of this act, the department may determine that no further remedial action is required. Within 60 days after such completion, unless the applicant and the department agree to an extension of the time for review, the department shall provide written notification that a no further action determination has been made.

~~(b)-(1)~~ The department may consider in issuing this determination that contamination or a release of contamination originates from a source on ~~adjacent~~ another property ~~upon which the necessary action which protects human health and the environment is or will be taken by a viable and financially capable person or entity which may or may not be legally responsible for the source of contamination.~~

~~(2)~~ The department shall provide written notification of a no further action determination.

~~(3)-(c)~~ The issuance of a no further action determination by the department applies only to identified conditions on the property and is based upon applicable statutes and rules and regulations that exist as of the time of completion of the requirements.

~~(e)-(d)~~ The department may determine that the no further action determination, under this section is void if:

(1) There is any evidence of fraudulent representation, false assurances, concealment or misrepresentation of the data in any document to be submitted to the department under this act;

(2) the applicant agrees to perform any action approved by the department and fails to perform such action;

(3) the applicant's willful and wanton conduct contributes to known environmental contamination; or

(4) the applicant fails to complete the voluntary actions required in the voluntary cleanup plan.

~~(d)-(e)~~ If a no further action determination is not issued by the department, the department shall promptly provide the applicant with a written statement of the reasons for denial.

Sec. 5. K.S.A. 65-34,167, 65-34,168, 65-34,169 and 65-34,170 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking all before "risk" and inserting "environmental remediation;"; in line 3, after "act" by inserting "; voluntary cleanup and property redevelopment act; amending K.S.A. 65-34,167, 65-34,168 and 65-34,169 and repealing the existing sections; also repealing K.S.A. 65-34,170";

And the bill be passed as amended.

\_\_\_\_\_Chairperson