

CHAPTER 62

HEALTH AND ENVIRONMENT

SENATE BILL 08-037

BY SENATOR(S) Tupa, and Williams;
also REPRESENTATIVE(S) Fischer, Madden, McGihon, and Todd.

AN ACT

**CONCERNING INCREASED FLEXIBILITY OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
IN ENFORCING THE HAZARDOUS WASTE LAWS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-15-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-15-101. Definitions. As used in this article, unless the context otherwise requires:

(10.5) "NOTICE OF ENVIRONMENTAL USE RESTRICTIONS" OR "RESTRICTIVE NOTICE" MEANS AN INSTRUMENT CONTAINING ENVIRONMENTAL USE RESTRICTIONS CREATED PURSUANT TO SECTION 25-15-321.5.

SECTION 2. 25-15-317, Colorado Revised Statutes, is amended to read:

25-15-317. Legislative declaration. The general assembly declares that it is in the public interest to ensure that environmental remediation projects protect human health and the environment. The general assembly finds that environmental remediation projects may leave residual contamination at levels that have been determined to be safe for a specific use, but not all uses, and may incorporate engineered structures that must be maintained or protected against damage to remain effective. The general assembly finds that in such cases, it is necessary to provide an effective and enforceable means of ensuring the conduct of any required maintenance, monitoring, or operation, and of restricting future uses of the land, including placing restrictions on drilling for or pumping groundwater for as long as any residual contamination remains hazardous. The general assembly, therefore, declares that it is in the public interest to create environmental covenants AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NOTICES OF ENVIRONMENTAL USE RESTRICTIONS because such covenants AND RESTRICTIVE NOTICES are necessary for the protection of human health and the environment.

SECTION 3. 25-15-318 (2), Colorado Revised Statutes, is amended to read:

25-15-318. Nature of environmental covenants. (2) Notwithstanding any other provision of law, including any common-law requirement for privity of estate, an environmental covenant shall run with the land and shall bind the owner of the land, the owner's successors and assigns, and any person using the land. AN ENVIRONMENTAL COVENANT SHALL NOT BE DEEMED UNENFORCEABLE ON THE BASIS OF:

- (a) A LACK OF PRIVACY OF CONTRACT;
- (b) A LACK OF BENEFIT TO A PARTICULAR PARCEL OF LAND;
- (c) FAILURE OF THE ENVIRONMENTAL COVENANT TO EXPRESSLY STATE THAT IT RUNS WITH THE LAND; OR
- (d) ANY OTHER INCONSISTENCY WITH COMMON-LAW REQUIREMENTS APPLICABLE TO COMMON-LAW COVENANTS.

SECTION 4. Part 3 of article 15 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-15-318.5. Nature of a notice of environmental use restrictions. (1) A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS IS AN AGENCY ACTION BASED ON THE STATE'S POLICE POWER.

(2) A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS IS BINDING ON CURRENT AND SUBSEQUENT OWNERS OF THE AFFECTED LAND AND ANY PERSON USING OR POSSESSING AN INTEREST IN THE LAND.

(3) THE REQUIREMENTS AND RESTRICTIONS CONTAINED IN A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS ARE REQUIREMENTS UNDER THIS PART 3, BUT MAY BE ENFORCED ONLY AS PROVIDED IN SECTION 25-15-322. THE CREATION OF A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS DOES NOT TRIGGER THE APPLICATION OF ANY OTHER REQUIREMENT OF THIS PART 3.

SECTION 5. The introductory portion to 25-15-319 (1), 25-15-319 (1) (a), (1) (c), (1) (e), (1) (f), and (1) (g), and the introductory portion to 25-15-319 (1) (h), Colorado Revised Statutes, are amended to read:

25-15-319. Contents of environmental covenants and notices of environmental use restrictions. (1) ~~An Environmental covenant~~ COVENANTS AND NOTICES OF ENVIRONMENTAL USE RESTRICTIONS shall include provisions regarding:

- (a) ~~Its~~ Duration and any conditions under which ~~it~~ THE ENVIRONMENTAL COVENANT OR RESTRICTIVE NOTICE may be modified or terminated;

(c) A requirement that the owner of the property subject to the environmental covenant OR RESTRICTIVE NOTICE notify the department at least fifteen days in advance of any transfer of ownership of some or all of the real property subject to the environmental covenant OR RESTRICTIVE NOTICE;

(e) A requirement to allow the department right of entry at reasonable times with prior notice for the purpose of determining compliance with the terms of the environmental covenant OR RESTRICTIVE NOTICE. Nothing in this section shall impair any other authority the department may otherwise have to enter and inspect property subject to the environmental covenant OR RESTRICTIVE NOTICE.

(f) (I) FOR ENVIRONMENTAL COVENANTS, inclusion of the following statement on the first page of the instrument creating the environmental covenant in fifteen-point, bold-faced type: "This property is subject to an environmental covenant held by the Colorado department of public health and environment pursuant to section 25-15-321, Colorado Revised Statutes."

(II) FOR RESTRICTIVE NOTICES, INCLUSION OF THE FOLLOWING STATEMENT ON THE FIRST PAGE OF THE RESTRICTIVE NOTICE IN FIFTEEN-POINT, BOLD-FACED TYPE: "THIS PROPERTY IS SUBJECT TO A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS IMPOSED BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-15-321.5, COLORADO REVISED STATUTES."

(g) ~~An agreement~~ A REQUIREMENT to incorporate, either in full or by reference, the environmental covenant OR RESTRICTIVE NOTICE in any leases, licenses, or other instruments granting a right to use the property that may be affected by the environmental covenant OR RESTRICTIVE NOTICE;

(h) Modification or termination of the environmental covenant OR RESTRICTIVE NOTICE consistent with this subsection (1). The owner of land subject to an environmental covenant OR RESTRICTIVE NOTICE may request that the department approve modification or termination of the covenant OR RESTRICTIVE NOTICE. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The department shall review any submitted information, and may request additional information. If the department determines that the proposal to modify or terminate the environmental covenant OR RESTRICTIVE NOTICE will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of an environmental covenant OR RESTRICTIVE NOTICE shall be effective unless it has been approved in writing by the department. Information to support a request for modification or termination may include one or more of the following:

SECTION 6. The introductory portion to 25-15-320 (2) and 25-15-320 (3) (b) (III), (4), and (5), Colorado Revised Statutes, are amended to read:

25-15-320. Environmental covenants - when required - waiver. (2) EXCEPT AS SPECIFIED IN SUBSECTIONS (3) AND (4) OF THIS SECTION, an environmental covenant under this part 3 shall be required for any environmental remediation project in which the relevant regulatory authority makes a remedial decision on or after July 1, 2001, that would result in either or both of the following:

(3) The department may waive the requirement for an environmental covenant in the following circumstances:

(b) For a parcel of land involved in an environmental remediation project that is owned by any person who is not being required to remediate the contamination, and:

(III) The county, city and county, or municipality having jurisdiction and the department have entered into an intergovernmental agreement for oversight and enforcement of the local ordinance or resolution pursuant to section 29-1-203, C.R.S. Such agreement shall be binding and mutually enforceable. ~~The department's~~ DEPARTMENT SHALL HAVE SUCH authority ~~under any such agreement shall~~ AS MAY be ~~limited~~ PROVIDED IN THE INTERGOVERNMENTAL AGREEMENT TO BRING SUIT FOR INJUNCTIVE RELIEF TO ENFORCE ANY LOCAL ORDINANCE OR RESOLUTION DESCRIBED IN THIS SUBSECTION (3), BUT ONLY WITH RESPECT to properties that are subject to the requirements of this section. Any intergovernmental agreement under this section shall require that, insofar as the local ordinance or resolution applies to properties that are subject to the requirements of this section, any amendments to the local ordinance or resolution shall incorporate such requirements as the department may recommend to ensure continued protection of human health and the environment.

~~(4) (a) The department shall have such authority as may be provided in the intergovernmental agreement to bring suit for injunctive relief to enforce any local ordinance or resolution described in subsection (3) of this section with respect to properties that are subject to the requirements of this section.~~ WHEN AN ENVIRONMENTAL COVENANT IS REQUIRED UNDER SUBSECTION (2) OF THIS SECTION, A RESTRICTIVE NOTICE MAY BE SUBSTITUTED FOR THE COVENANT AS FOLLOWS:

(I) AN OWNER OF A PARCEL OF LAND INVOLVED IN AN ENVIRONMENTAL REMEDIATION PROJECT WHO IS BEING REQUIRED TO REMEDIATE CONTAMINATION MAY REQUEST THAT THE DEPARTMENT APPROVE A PROPOSED RESTRICTIVE NOTICE FOR SUCH PARCEL OR MAY REQUEST THAT THE DEPARTMENT ISSUE A RESTRICTIVE NOTICE.

(II) THE DEPARTMENT MAY UNILATERALLY ISSUE A RESTRICTIVE NOTICE CONTAINING THE PROVISIONS DESCRIBED IN SECTION 25-15-319 WHEN AN ENVIRONMENTAL COVENANT IS REQUIRED UNDER SUBSECTION (2) OF THIS SECTION AND THE OWNER OF THE SUBJECT PROPERTY FAILS TO CREATE A COVENANT OR RESTRICTIVE NOTICE WITHIN THIRTY DAYS AFTER:

(A) THE DATE OF A REMEDIAL DECISION FOR AN ENVIRONMENTAL REMEDIATION PROJECT THAT RELIES SOLELY ON ENVIRONMENTAL USE RESTRICTIONS TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT; OR

(B) THE COMPLETION OF CONSTRUCTION WORK FOR ENVIRONMENTAL REMEDIATION PROJECTS THAT REQUIRE PHYSICAL WORK.

(b) PRIOR TO ISSUING A RESTRICTIVE NOTICE UNILATERALLY UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (4), THE DEPARTMENT SHALL MAKE A GOOD FAITH ATTEMPT TO REACH AGREEMENT WITH THE OWNER OF THE SUBJECT PROPERTY REGARDING A CONSENSUAL COVENANT OR NOTICE.

(c) THE DEPARTMENT MAY NOT ISSUE A RESTRICTIVE NOTICE FOR A PARCEL OF LAND INVOLVED IN AN ENVIRONMENTAL REMEDIATION PROJECT THAT IS OWNED BY A PERSON WHO IS NOT BEING REQUIRED TO REMEDIATE THE CONTAMINATION, UNLESS SUCH PERSON CONSENTS IN WRITING.

(5) The department may accept ~~and enforce~~ environmental covenants OR ISSUE RESTRICTIVE NOTICES in cases where such covenants OR NOTICES are not required, including approvals of voluntary cleanup plans or petitions for no action determinations under sections 25-16-306 and 25-16-307, but the owner of the remediated land nonetheless desires to create such a covenant OR REQUESTS THAT THE DEPARTMENT ISSUE SUCH A NOTICE. A COVENANT OR NOTICE CREATED UNDER THIS SUBSECTION (5) MAY BE ENFORCED AS ANY OTHER COVENANT OR NOTICE.

SECTION 7. 25-15-321 (6), Colorado Revised Statutes, is amended to read:

25-15-321. Creation, modification, and termination of an environmental covenant. (6) The department shall review and make a determination regarding all applications for creating, modifying, or terminating an environmental covenant within sixty days after receipt of such application, INCLUDING THE INFORMATION DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

SECTION 8. Part 3 of article 15 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-15-321.5. Notice of environmental use restrictions - creation, modification, and termination. (1) A PERSON WHO PROPOSES TO CREATE, MODIFY, OR TERMINATE A RESTRICTIVE NOTICE SHALL PROVIDE WRITTEN NOTICE OF THE PERSON'S INTENTION TO ALL PERSONS HOLDING AN INTEREST OF RECORD IN THE REAL PROPERTY THAT WILL BE SUBJECT TO THE RESTRICTIVE NOTICE, TO ALL PERSONS KNOWN TO THE PERSON TO HAVE AN UNRECORDED INTEREST IN THE PROPERTY, AND TO ALL AFFECTED PERSONS IN POSSESSION OF THE PROPERTY PRIOR TO SUCH CREATION, MODIFICATION, OR TERMINATION AND SHALL PROVIDE THE DEPARTMENT WITH:

- (a) A COPY OF THE NOTICE PROVIDED;
- (b) A LIST OF THE PERSONS TO WHOM NOTICE WAS GIVEN AND THE ADDRESS OR OTHER LOCATION TO WHICH THE NOTICE WAS DIRECTED; AND
- (c) SUCH TITLE INFORMATION AS THE DEPARTMENT MAY REQUIRE.

(2) BEFORE ISSUING A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS UNILATERALLY, THE DEPARTMENT SHALL PROVIDE A COPY OF THE PROPOSED RESTRICTIVE NOTICE TO ALL PERSONS HOLDING AN INTEREST OF RECORD IN THE REAL PROPERTY THAT WILL BE SUBJECT TO THE RESTRICTIVE NOTICE, ALL PERSONS KNOWN TO THE DEPARTMENT TO HAVE AN UNRECORDED INTEREST IN SUCH PROPERTY, AND ALL AFFECTED PERSONS IN POSSESSION OF SUCH PROPERTY, AND SHALL OFFER SUCH PERSONS A MINIMUM OF THIRTY DAYS TO COMMENT ON THE PROPOSED RESTRICTIVE NOTICE, UNLESS NOTICE HAS ALREADY BEEN PROVIDED PURSUANT TO SUBSECTION (1) OF THIS SECTION. IN DETERMINING WHETHER TO ISSUE THE RESTRICTIVE NOTICE UNILATERALLY, THE DEPARTMENT SHALL CONSIDER ANY COMMENTS RECEIVED.

(3) THE DEPARTMENT SHALL REVIEW AND MAKE A DETERMINATION REGARDING ALL REQUESTS TO CREATE, MODIFY, OR TERMINATE A RESTRICTIVE NOTICE WITHIN SIXTY DAYS AFTER RECEIPT OF SUCH REQUEST, INCLUDING THE INFORMATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(4) UPON ISSUANCE OR APPROVAL OF THE RESTRICTIVE NOTICE, THE DEPARTMENT SHALL RECORD THE RESTRICTIVE NOTICE IN THE CLERK AND RECORDER'S OFFICE FOR THE COUNTY OR COUNTIES IN WHICH THE AFFECTED LAND IS SITUATED. FOR APPROVED RESTRICTIVE NOTICES, THE DEPARTMENT MAY ALLOW THE OWNER OF THE PROPERTY TO RECORD THE NOTICE. NO PERSON MAY RECORD A RESTRICTIVE NOTICE THAT DOES NOT HAVE THE DEPARTMENT'S WRITTEN APPROVAL.

(5) THE DEPARTMENT MAY AUTHORIZE ANY NOTICE OF ENVIRONMENTAL USE RESTRICTIONS CREATED IN ACCORDANCE WITH THIS SECTION TO BE REPLACED BY AN ENVIRONMENTAL COVENANT AS DESCRIBED IN SECTION 25-15-319. THE DEPARTMENT MAY CONDITION ITS AUTHORIZATION AND APPROVAL OF THE TERMINATION OF THE NOTICE OF ENVIRONMENTAL USE RESTRICTIONS ON THE PRIOR CREATION, DEPARTMENT APPROVAL AND ACCEPTANCE, AND EFFECTIVE RECORDING OF THE ENVIRONMENTAL COVENANT.

(6) MODIFICATIONS OR TERMINATIONS OF RESTRICTIVE NOTICES SHALL BE RECORDED AS PROVIDED IN SUBSECTION (4) OF THIS SECTION. NO PERSON MAY RECORD A MODIFICATION OR TERMINATION OF A RESTRICTIVE NOTICE THAT DOES NOT HAVE THE DEPARTMENT'S WRITTEN APPROVAL.

(7) ANY DETERMINATION BY THE DEPARTMENT TO ISSUE, APPROVE, MODIFY, OR TERMINATE A NOTICE OF ENVIRONMENTAL USE RESTRICTIONS SHALL BE SUBJECT TO APPEAL IN ACCORDANCE WITH SECTION 25-15-305.

SECTION 9. 25-15-322, Colorado Revised Statutes, is amended to read:

25-15-322. Enforcement - remedies. (1) An environmental covenant OR RESTRICTIVE NOTICE imposed at any environmental remediation project shall be enforceable as provided in this section, even if the environmental remediation project is not otherwise subject to this part 3.

(2) In the event of an actual or threatened failure to comply with an environmental covenant OR RESTRICTIVE NOTICE, the department may issue an order under this section requiring compliance with the terms of the environmental covenant OR RESTRICTIVE NOTICE and may request the attorney general to bring suit in district court to enforce the terms of the environmental covenant OR RESTRICTIVE NOTICE, to enforce the order issued pursuant to this section, or to seek other appropriate injunctive relief. An administrative order issued under this subsection (2) shall be subject to appeal in accordance with section 25-15-308.

(3) If a court of competent jurisdiction determines that an environmental covenant OR RESTRICTIVE NOTICE is void or otherwise unenforceable, the department may take such action as may be authorized by any other law.

(4) The grantor of an environmental covenant may file suit in district court to enjoin actual or threatened violations of the covenant. Any third-party beneficiary

specifically named in an environmental covenant OR RESTRICTIVE NOTICE may file suit in district court to enjoin actual or threatened violations of the covenant OR RESTRICTIVE NOTICE. THE PERSON WHO REQUESTED CREATION OF A RESTRICTIVE NOTICE MAY FILE SUIT IN DISTRICT COURT TO ENJOIN ACTUAL OR THREATENED VIOLATIONS OF THE RESTRICTIVE NOTICE.

(5) An affected local government, as defined in section 25-15-324, may file suit in district court to enjoin actual or threatened violations of any environmental covenant OR RESTRICTIVE NOTICE that applies to land within its jurisdiction.

~~(6) No environmental covenant shall be unenforceable because of lack of privity of contract or lack of benefit to a particular parcel of land, because the environmental covenant does not expressly state that it runs with the land, or because of any other inconsistency with common law requirements applicable to common law covenants.~~

(7) A court of competent jurisdiction is authorized to issue orders requiring compliance with an environmental covenant OR RESTRICTIVE NOTICE, to enjoin actual or threatened violations of environmental covenants OR RESTRICTIVE NOTICES, and to grant such other injunctive relief as it may deem appropriate.

SECTION 10. 25-15-323, Colorado Revised Statutes, is amended to read:

25-15-323. Registry of environmental covenants and notices of environmental use restrictions. The department shall create and maintain a registry of all environmental covenants AND NOTICES OF ENVIRONMENTAL USE RESTRICTIONS, including any modification or termination thereof.

SECTION 11. 25-15-324, Colorado Revised Statutes, is amended to read:

25-15-324. Coordination with affected local governments. (1) For purposes of this part 3, "affected local government" means every county, city and county, or municipality in which land subject to an environmental covenant OR RESTRICTIVE NOTICE is located. The department shall provide each affected local government with a copy of every environmental covenant AND RESTRICTIVE NOTICE within such local government's jurisdiction and shall also provide a copy of any documents modifying or terminating such environmental covenant OR RESTRICTIVE NOTICE.

(2) Whenever an affected local government receives an application affecting land use or development of land that is subject to an environmental covenant OR RESTRICTIVE NOTICE and that may relate to or impact such covenant OR RESTRICTIVE NOTICE, the affected local government shall notify the department of the application. The department shall evaluate whether the application is consistent with the environmental covenant OR RESTRICTIVE NOTICE and shall notify the affected local government of the department's determination in a timely fashion, considering the time frame for the local government's review of the application.

SECTION 12. 25-15-325, Colorado Revised Statutes, is amended to read:

25-15-325. Other interests not impaired. Except as specifically provided in an environmental covenant OR RESTRICTIVE NOTICE or pursuant to section 25-15-326,

no transfer of a water right or any change of a point of diversion at any time, nor any interest in real property cognizable under statute, common law, or custom in effect in this state prior to July 1, 2001, nor any lease or sublease thereof at any time shall be impaired, invalidated, or in any way adversely affected by sections 25-15-317 to 25-15-326. All interests not transferred or conveyed in the environmental covenant shall remain in the grantor of the environmental covenant, including the right to engage in all uses of the lands affected by the environmental covenant that are not inconsistent with the environmental covenant and not expressly prohibited by the environmental covenant or by law.

SECTION 13. 25-15-302 (3.5) (b) (I) and (3.5) (b) (II), Colorado Revised Statutes, are amended to read:

25-15-302. Solid and hazardous waste commission - creation - membership - rules - fees - administration. (3.5) The commission shall promulgate rules pertaining to the assessment of fees to offset program costs from facilities that treat, store, or dispose of hazardous waste pursuant to a permit or interim status and from generators of hazardous waste in accordance with the following:

(b) On or after July 1, 2002, the commission may adjust the fees then in effect if the department has demonstrated that it has developed, implemented, and is continuing to improve policies and procedures for carrying out its statutory responsibilities at the lowest possible cost without jeopardizing the intent set out in section 25-15-301.5 (1), and that, despite these efforts or as a result of these efforts, the fee adjustments are necessary; except that the adjusted fees shall be subject to the following limitations:

(I) Annual fees for facilities that treat, store, or dispose of hazardous waste pursuant to a permit or interim status shall be established ~~to generate no more than thirty percent of~~ AT A LEVEL THAT WILL, WHEN COMBINED WITH AN APPROPRIATE SHARE OF AVAILABLE FEDERAL GRANT MONEYS, GENERATE REVENUES APPROXIMATING the actual reasonable program costs attributable to such facilities. Such annual fees shall take into account equitable factors including, without limitation, the quantity and degree of hazard of the hazardous waste involved and whether the hazardous waste is to be disposed of, stored, or treated.

(II) Annual fees for generators of hazardous waste who are subject to regulation under this part 3 during any calendar month of the year for which the annual fee is being assessed shall be established ~~to generate no more than fifty percent of~~ AT A LEVEL THAT WILL, WHEN COMBINED WITH AN APPROPRIATE SHARE OF AVAILABLE FEDERAL GRANT MONEYS, GENERATE REVENUES APPROXIMATING the actual reasonable program costs attributable to generators with an appropriate differentiation between generators described in subparagraphs (II) and (III) of paragraph (a) of this subsection (3.5);

SECTION 14. 24-30-1404 (7) (c) (II), Colorado Revised Statutes, is amended, and the said 24-30-1404 (7) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-30-1404. Contracts. (7) (c) This subsection (7) shall not apply to:

(II) The acquisition of any easement by ~~such divisions, or~~ THE DIVISION OF PARKS AND OUTDOOR RECREATION OR THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES;

(IV) PROJECTS INCLUDED IN THE CAPITAL CONSTRUCTION SECTION OF THE GENERAL APPROPRIATION ACT FOR THE HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR IN ANY SUPPLEMENTAL APPROPRIATION ACT, WHICH PROJECTS ARE LISTED AS REMEDIATION PURSUANT TO THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980", 42 U.S.C. SECS. 9601 TO 9674, AS AMENDED, BROWNFIELDS REDEVELOPMENT, OR NATURAL RESOURCE DAMAGE REPAIR, REPLACEMENT, OR RESTORATION.

SECTION 15. 24-75-102 (1), Colorado Revised Statutes, is amended to read:

24-75-102. When appropriations expended - balance. (1) (a) Except as otherwise provided by law, INCLUDING PARAGRAPH (b) OF THIS SUBSECTION (1), all moneys appropriated by the general assembly may be expended or encumbered, if authorized by the controller, only in the fiscal year for which appropriated. Except as otherwise provided by law, any moneys unexpended or not encumbered from the appropriation to each department for any fiscal year shall revert to the general fund or, if made from a special fund, to such special fund. Determination of such expenditures or encumbrances shall be made no later than thirty-five days after the close of the fiscal year and pursuant to the provisions of section 24-30-202 (11).

(b) (I) APPROPRIATIONS FOR THE SUPERFUND, BROWNFIELDS, AND NATURAL RESOURCE DAMAGE PROGRAMS ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO ARTICLE 15 OF TITLE 25, C.R.S., SHALL BE ENCUMBERED WITHIN EIGHTEEN MONTHS AFTER THE BEGINNING OF THE FISCAL YEAR FOR WHICH THEY WERE APPROPRIATED.

(II) AS USED IN THIS PARAGRAPH (b), "SUPERFUND" MEANS THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980", 42 U.S.C. SECS. 9601 TO 9674, AS AMENDED.

SECTION 16. Repeal. 25-17-106, Colorado Revised Statutes, is repealed as follows:

25-17-106. Repeal of part. ~~This part 1 is repealed, effective July 1, 2008.~~

SECTION 17. Repeal. 25-17-203, Colorado Revised Statutes, is repealed as follows:

25-17-203. Repeal of part. ~~This part 2 is repealed, effective July 1, 2008.~~

SECTION 18. Repeal. 30-20-120 (7), Colorado Revised Statutes, is repealed as follows:

30-20-120. Imminent and substantial endangerment from solid waste - definitions - repeal. (7) ~~This section is repealed, effective January 1, 2009.~~

SECTION 19. Applicability. This act shall apply to acts occurring on or after the effective date of this act.

SECTION 20. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 24, 2008