
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Session of
1995

INTRODUCED BY BRIGHTBILL, PORTERFIELD, SHAFFER, LAVALLE, MUSTO,
STEWART, BELAN, JUBELIRER, LOEPER, ROBBINS, STAPLETON, STOUT,
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PETERSON, PUNT, RHOADES, SALVATORE, SHUMAKER, TILGHMAN,
ULIANA, WENGER, MADIGAN, DELP AND ARMSTRONG, JANUARY 17, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 2, 1995

AN ACT

1 Providing for the recycling of existing industrial and
2 commercial sites; further defining the cleanup liability of
3 new industries and tenants; establishing a framework for
4 setting environmental remediation standards; establishing the
5 Voluntary Cleanup Loan Fund and, the Industrial Land <—
6 Recycling Fund AND THE INDUSTRIAL SITES CLEANUP FUND to aid <—
7 industrial site cleanups; assigning powers and duties to the
8 Environmental Quality Board and the Department of
9 Environmental Resources; and making repeals.

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6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 CHAPTER 1
9 GENERAL PROVISIONS

10 Section 101. Short title.

11 This act shall be known and may be cited as the Land
12 Recycling and Environmental Remediation Standards Act.

13 Section 102. Declaration of policy.

14 The General Assembly finds and declares as follows:

15 (1) The elimination of public health and environmental
16 hazards on existing commercial and industrial land across
17 this Commonwealth is vital to their use and reuse as sources
18 of employment, housing, recreation and open-space areas. The
19 reuse of industrial land is an important component of a sound
20 land-use policy that will help prevent the needless
21 development of prime farmland, open-space areas and natural
22 areas and reduce public costs for installing new water, sewer
23 and highway infrastructure.

24 (2) Incentives should be put in place to encourage
25 responsible persons to voluntarily develop and implement
26 cleanup plans without the use of taxpayer funds or the need
27 for adversarial enforcement actions by the Department of
28 Environmental Resources which frequently only serve to delay
29 cleanups and increase their cost.

30 (3) Public health and environmental hazards cannot be

1 eliminated without clear, predictable environmental
2 remediation standards and a process for developing those
3 standards. Any remediation standards adopted by this
4 Commonwealth must provide for the protection of public health
5 and the environment.

6 (4) It is necessary for the General Assembly to adopt a
7 statute which sets environmental remediation standards to
8 provide a uniform framework for cleanup decisions because few
9 environmental statutes set cleanup standards and to avoid
10 potentially conflicting and confusing environmental
11 standards. The General Assembly also has a duty to implement
12 the provisions of section 27 of Article I of the Constitution
13 of Pennsylvania with respect to environmental remediation
14 activities.

15 (5) IT IS NECESSARY FOR THE GENERAL ASSEMBLY TO ADOPT A <—
16 STATUTE WHICH PROVIDES A MECHANISM TO ESTABLISH CLEANUP
17 STANDARDS WITHOUT RELIEVING A PERSON FROM ANY LIABILITY FOR
18 ADMINISTRATIVE, CIVIL OR CRIMINAL FINES OR PENALTIES
19 OTHERWISE AUTHORIZED BY LAW AND IMPOSED AS A RESULT OF
20 ILLEGAL DISPOSAL OF WASTE OR FOR POLLUTION OF THE LAND, AIR
21 OR WATERS OF THIS COMMONWEALTH ON AN IDENTIFIED SITE.

22 ~~(5)~~ (6) Cleanup plans should be based on the actual risk <—
23 that contamination on the site may pose to public health and
24 the environment, taking into account its current and future
25 use and the degree to which contamination can spread offsite
26 and expose the public or the environment to risk, not on
27 cleanup policies requiring every site in this Commonwealth to
28 be returned to a pristine condition.

29 (7) CLEANUP PLANS SHOULD HAVE AS A GOAL REMEDIES WHICH <—
30 TREAT, DESTROY OR REMOVE REGULATED SUBSTANCES WHENEVER

1 TECHNICALLY AND ECONOMICALLY FEASIBLE AS DETERMINED UNDER THE <—
2 PROVISIONS OF THIS ACT.

3 ~~(6)~~ (8) The Department of Environmental Resources now <—
4 routinely through its permitting policies determines when
5 contamination will and will not pose a significant risk to
6 public health or the environment. Similar concepts should be
7 used in establishing cleanup policies.

8 ~~(7)~~ (9) The public is entitled to understand how <—
9 remediation standards are applied to a site through a plain
10 language description of contamination present on a site, the
11 risk it poses to public health and the environment and any
12 proposed cleanup measure.

13 Section 103. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Agricultural chemical." A substance defined as a
18 fertilizer, soil conditioner or plant growth substance under the
19 act of May 29, 1956 (P.L.1795, No.598), known as the
20 Pennsylvania Fertilizer, Soil Conditioner and Plant Growth
21 Substance Law, or a substance regulated under the act of March
22 1, 1974 (P.L.90, No.24), known as the Pennsylvania Pesticide
23 Control Act of 1973.

24 "Agricultural chemical facility." A facility where
25 agricultural chemicals are held, stored, blended, formulated,
26 sold or distributed. The term does not include facilities
27 identified by SIC 2879 where agricultural chemicals are
28 manufactured.

29 "Aquifer." A geologic formation, group of formations or part
30 of a formation capable of a sustainable yield of significant

1 amount of water to a well or spring.

2 "Background." The concentration of a regulated substance
3 determined by appropriate statistical methods that is present at
4 the site, but is not related to the release of regulated
5 substances at the site.

6 "BADCT" or "Best Available Demonstrated Control Technology."
7 The commercially available engineering technology which has
8 demonstrated at full scale on a consistent basis that it most
9 effectively achieves the standard for a remediation action for a
10 regulated substance at a contaminated site under similar
11 applications.

12 "Board." The Cleanup Standards Scientific Advisory Board
13 established in section 105.

14 "Carcinogen." A chemical, biological or physical agent
15 defined by the Environmental Protection Agency as a human
16 carcinogen.

17 "Cleanup or remediation." To clean up, mitigate, correct,
18 abate, minimize, eliminate, control or prevent a release of a
19 regulated substance into the environment in order to protect the
20 present or future public health, safety, welfare or the
21 environment, including preliminary actions to study or assess
22 the release.

23 "Contaminant." A regulated substance released into the
24 environment.

25 "Control." To apply engineering measures, such as capping or
26 treatment, or institutional measures, such as deed restrictions,
27 to sites with contaminated media.

28 "Department." The Department of Environmental Resources of
29 the Commonwealth or its successor agency.

30 "Engineering controls." Remedial actions directed

1 exclusively toward containing or controlling the migration of
2 regulated substances through the environment. These include, but
3 are not limited to, slurry walls, liner systems, caps, leachate
4 collection systems and groundwater recovery trenches.

5 "EPA." The Environmental Protection Agency or its successor
6 agency.

7 "Fate and transport." A term used to describe the
8 degradation of a chemical over time, and where chemicals are
9 likely to move given their physical and other properties and the
10 environmental medium they are moving through.

11 "Groundwater." Water below the land surface in a zone of
12 saturation.

13 "Hazard index." The sum of more than one hazard quotient for
14 multiple substances and multiple exposure pathways. The hazard
15 index is calculated separately for chronic, subchronic and
16 shorter duration exposures.

17 "Hazard quotient." The ratio of a single substance exposure
18 level over a specified period, e.g. subchronic, to a reference
19 dose for that substance derived from a similar exposure period.

20 "Hazardous Sites Cleanup Fund." The fund established under
21 the act of October 18, 1988 (P.L.756, No.108), known as the
22 Hazardous Sites Cleanup Act.

23 "Health advisory levels" or "HALs." The health advisory
24 levels published by the United States Environmental Protection
25 Agency for particular substances.

26 "Industrial activity." Commercial, manufacturing, public
27 utility, mining or any other activity done to further either the
28 development, manufacturing or distribution of goods and
29 services, intermediate and final products and solid waste
30 created during such activities, including, but not limited to,

1 administration of business activities, research and development,
2 warehousing, shipping, transport, remanufacturing, stockpiling
3 of raw materials, storage, repair and maintenance of commercial
4 machinery and equipment and solid waste management.

5 "Institutional controls." A measure undertaken to limit or
6 prohibit certain activities that may interfere with the
7 integrity of a remedial action or result in exposure to
8 regulated substances at a site. These include, but are not
9 limited to, fencing or restrictions on the future use of the
10 site.

11 "Medium-specific concentration." The concentration
12 associated with a specified environmental medium for potential
13 risk exposures.

14 "Mitigation measures." Any remediation action performed by a
15 person prior to or during implementation of a remediation plan
16 with the intent to protect human health and the environment.

17 "Municipality." A township, borough, city, incorporated
18 village or home rule municipality. This term shall not include a
19 county.

20 "Nonresidential property." Any real property on which
21 commercial, industrial, manufacturing or any other activity is
22 done to further either the development, manufacturing or
23 distribution of goods and services, intermediate and final
24 products, including, but not limited to, administration of
25 business activities, research and development, warehousing,
26 shipping, transport, remanufacturing, stockpiling of raw
27 materials, storage, repair and maintenance of commercial
28 machinery and equipment, and solid waste management. This term
29 shall not include schools, nursing homes or other residential-
30 style facilities or recreational areas.

1 "Person." An individual, firm, corporation, association,
2 partnership, consortium, joint venture, commercial entity,
3 authority, nonprofit corporation, interstate body or other legal
4 entity which is recognized by law as the subject of rights and
5 duties. The term includes the Federal Government, State
6 government, political subdivisions and Commonwealth
7 instrumentalities.

8 "Point of compliance." For the purposes of determining
9 compliance with groundwater standards, the property boundary at
10 the time the contamination is discovered or such point beyond
11 the property boundary as the Department of Environmental
12 Resources may determine to be appropriate.

13 "Practical quantitation limit." The lowest limit that can be
14 reliably achieved within specified limits of precision and
15 accuracy under routine laboratory conditions for a specified
16 matrix and based on quantitation, precision and accuracy, normal
17 operation of a laboratory and the practical need in a
18 compliance-monitoring program to have a sufficient number of
19 laboratories available to conduct the analyses.

20 "Public utility." The term shall have the same meaning as
21 given to it in 66 Pa.C.S. (relating to public utilities).

22 "Regulated substance." The term shall include hazardous
23 substances and contaminants regulated under the act of October
24 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
25 Act, and substances covered by the act of June 22, 1937
26 (P.L.1987, No.394), known as The Clean Streams Law, the act of
27 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
28 Pollution Control Act, the act of July 7, 1980 (P.L.380, No.97),
29 known as the Solid Waste Management Act, the act of July 13,
30 1988 (P.L.525, No.93), referred to as the Infectious and

1 Chemotherapeutic Waste Law, and the act of July 6, 1989
2 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
3 Act.

4 "Release." Spilling, leaking, pumping, pouring, emitting,
5 emptying, discharging, injecting, escaping, leaching, dumping or
6 disposing of a regulated substance into the environment in a
7 manner not authorized by the Department of Environmental
8 Resources. The term includes the abandonment or discarding of
9 barrels, containers, vessels and other receptacles containing a
10 regulated substance.

11 "Residential property." Any property or portion of the
12 property which does not meet the definition of "nonresidential
13 property."

14 "Responsible person." The term shall have the same meaning
15 as given to it in the act of October 18, 1988 (P.L.756, No.108),
16 known as the Hazardous Sites Cleanup Act, and shall include a
17 person subject to enforcement actions for substances covered by
18 the act of June 22, 1937 (P.L.1987, No.394), known as The Clean
19 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),
20 known as the Air Pollution Control Act, the act of July 7, 1980
21 (P.L.380, No.97), known as the Solid Waste Management Act, the
22 act of July 13, 1988 (P.L.525, No.93), referred to as the
23 Infectious and Chemotherapeutic Waste Law, and the act of July
24 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill
25 Prevention Act.

26 "Secretary." The Secretary of Environmental Resources of the
27 Commonwealth.

28 "Site." The extent of contamination originating within the
29 property boundaries and all areas in close proximity to the
30 contamination necessary for the implementation of remediation

1 activities to be conducted under this act.

2 "Systemic toxicant." A material that manifests its toxic
3 effect in humans in a form other than cancer.

4 "Treatment." The term shall have the same meaning as given
5 to it in the act of October 18, 1988 (P.L.756, No.108), known as
6 the Hazardous Sites Cleanup Act.

7 Section 104. Powers and duties.

8 (a) Environmental Quality Board.--The Environmental Quality
9 Board shall have the power and its duty shall be to adopt and
10 amend periodically thereafter by regulation Statewide health
11 standards, appropriate mathematically valid statistical tests to
12 define compliance with this act and other regulations that may
13 be needed to implement the provisions of this act. Any
14 regulations needed to implement this act shall be proposed no
15 later than 12 months after the effective date of this act and
16 shall be finalized no later than 24 months after the effective
17 date of this act, unless otherwise specified in this act.

18 (b) Department.--The department shall have the power and its
19 duty shall be to implement the provisions of this act.

20 Section 105. Cleanup Standards Scientific Advisory Board.

21 (a) Establishment.--There is hereby created a 13-member
22 Cleanup Standards Scientific Advisory Board for the purpose of
23 assisting the department and the Environmental Quality Board in
24 developing Statewide health standards, determining the
25 appropriate statistically and scientifically valid procedures to
26 be used, determining the appropriate risk factors and providing
27 other technical and scientific advice as needed to implement the
28 provisions of this act.

29 (b) Membership.--Five members shall be appointed by the
30 secretary and two members each by the President pro tempore of

1 the Senate, the Minority Leader of the Senate, the Speaker of
2 the House of Representatives and the Minority Leader of the
3 House of Representatives. Members shall have a background in
4 engineering, biology, hydrogeology, statistics, medicine,
5 chemistry, toxicology or other related scientific education or
6 experience that relates to problems and issues likely to be
7 encountered in developing health-based cleanup standards and
8 other procedures needed to implement the provisions of this act.
9 The board membership shall include representatives of local
10 government, the public, the academic community, professionals
11 with the appropriate background and the regulated community
12 (manufacturing, small business and other members of the business
13 community). The members shall serve for a period of four years.
14 The initial terms of the members shall be staggered so that at
15 least one-half of the members' terms expire in two years.

16 (c) Organization.--The board shall elect a chairperson by
17 majority vote and may adopt any bylaws or procedures it deems
18 necessary to accomplish its purpose. Recommendations, positions
19 or other actions of the board shall be by a majority of its
20 members.

21 (d) Expenses.--Members of the board shall be reimbursed for
22 their travel expenses to attend meetings as authorized by the
23 executive board.

24 (e) Support.--The department shall provide the appropriate
25 administrative and technical support needed by the board in
26 order to accomplish its purpose, including support for surveys
27 and technical studies the board may wish to undertake. The
28 department shall publish a notice of meeting dates, times and
29 locations and a list of topics to be discussed at any meeting no
30 less than 14 days prior to the meeting, published in the same

1 manner as required by the act of July 3, 1986 (P.L.388, No.84),
2 known as the Sunshine Act.

3 (f) Interested persons list.--The department shall maintain
4 a mailing list of persons interested in receiving notice of
5 meetings and the activities of the board. The department shall
6 name a contact person to be responsible for board meetings and
7 to serve as a contact for the public to ask questions and get
8 information about the board.

9 (g) Access to documents.--The board shall have access to all
10 policies and procedures, draft proposed or final regulations or
11 issue papers which the board determines are necessary to
12 achieving its purpose.

13 Section 106. Scope.

14 (A) REMEDIATION STANDARDS.--The environmental remediation <—
15 standards established under this act shall be used whenever site
16 remediation is voluntarily conducted or is required under the
17 act of June 22, 1937 (P.L.1987, No.394), known as The Clean
18 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),
19 known as the Air Pollution Control Act, the act of July 7, 1980
20 (P.L.380, No.97), known as the Solid Waste Management Act, the
21 act of July 13, 1988 (P.L.525, No.93), referred to as the
22 Infectious and Chemotherapeutic Waste Law, the act of October
23 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
24 Act, and the act of July 6, 1989 (P.L.169, No.32), known as the
25 Storage Tank and Spill Prevention Act, to be eligible for
26 cleanup liability protection under Chapter 5. In addition, the
27 remediation standards established under this act shall be
28 considered as applicable, relevant and appropriate requirements
29 for this Commonwealth under the Comprehensive Environmental
30 Response, Compensation, and Liability Act of 1980 (Public Law

1 96-510, 94 Stat. 2767) and the Hazardous Sites Cleanup Act.

2 (B) DISCLAIMER.--NOTHING IN THIS ACT IS INTENDED TO NOR <—
3 SHALL IT BE CONSTRUED TO AMEND, MODIFY, REPEAL OR OTHERWISE
4 ALTER ANY PROVISION OF ANY ACT CITED IN THIS SECTION RELATING TO
5 CIVIL AND CRIMINAL PENALTIES OR ENFORCEMENT ACTIONS AND REMEDIES
6 AVAILABLE TO THE DEPARTMENT, OR, IN ANY WAY, TO AMEND, MODIFY,
7 REPEAL OR ALTER THE AUTHORITY OF THE DEPARTMENT TO TAKE
8 APPROPRIATE CIVIL AND CRIMINAL ACTION UNDER THESE STATUTES.

9 Section 107. Existing standards.

10 (a) General rule.--The department may continue to use
11 remediation standards not adopted under the provisions of this
12 act for a period of up to three years after the effective date
13 of this act, unless such existing standards are revised or
14 replaced by regulations adopted under this act. All regulations,
15 policies, guidance documents and procedures relating to
16 remediation standards which were not adopted under the
17 provisions of this act shall expire three years after the
18 effective date of this act. The standards AND PROCEDURES <—
19 established in sections ~~302, 303(b)(3)~~ 301, 302, 303(B) and 304 <—
20 shall be available for use on the effective date of this act and
21 shall supersede existing regulations, policies, guidance
22 documents and procedures.

23 (b) Agreements and consent orders.--The standards
24 established under this act are not intended to impose more
25 stringent cleanup standards than those which are contained in
26 any prior administrative consent order, consent adjudication,
27 judicially approved consent order, or other settlement agreement
28 entered into with the department under the authority of any of
29 the statutes referred to in section 106 and which were entered
30 into with the department on or before the effective date of this

1 act, unless all parties thereto agree to such change.

2 CHAPTER 3

3 REMEDIATION STANDARDS AND REVIEW PROCEDURES

4 Section 301. Remediation standards.

5 (a) Standards.--Any person who proposes or is required to
6 respond to the release of a regulated substance at a site and
7 who wants to be eligible for the cleanup liability protection
8 under Chapter 5 shall select and attain compliance with one or
9 more of the following environmental standards when conducting
10 remediation activities:

11 (1) a background standard which achieves background as
12 further specified in section 302;

13 (2) a Statewide health standard adopted by the
14 Environmental Quality Board which achieves a uniform
15 Statewide health-based level so that any substantial present
16 or probable future risk to human health and the environment
17 is eliminated as specified in section 303; or

18 (3) a site-specific standard which achieves remediation
19 levels based on a site-specific risk assessment so that any
20 substantial present or probable future risk to human health
21 and the environment is eliminated or reduced to protective
22 levels based upon the present or currently planned future use
23 of the property comprising the site as specified in section
24 304.

25 (b) Combination of standards.--A person may use a
26 combination of the remediation standards to implement a site
27 remediation plan and may propose to use the site-specific
28 standard whether or not efforts have been made to attain the
29 background or Statewide health standard.

30 (c) Determining attainment.--For the purposes of determining

1 attainment of any one or a combination of remediation standards,
2 the concentration of a regulated substance shall not be required
3 to be less than the practical quantitation limit for a regulated
4 substance as determined from time to time by the EPA. The
5 department may, in consultation with the board, establish by
6 regulation procedures for determining attainment of remediation
7 standards when practical quantitation limits set by the EPA have
8 a health risk that is greater than the risk levels set in
9 sections 303(c) and 304(b) and (c). The department shall not
10 establish procedures for determining attainment of remediation
11 standards where maximum contaminant levels and health advisory
12 levels have already been established for regulated substances.
13 Section 302. Background standard.

14 (a) Standard.--Persons selecting the background standard
15 shall meet background for each regulated substance in each
16 environmental medium.

17 (b) Attainment.--Final certification that a site or portion
18 of a site meets the background standard shall be documented in
19 the following manner:

20 (1) Attainment of the background standard shall be
21 demonstrated by collection and analysis of representative
22 samples from environmental media of concern, including soils
23 and groundwater in aquifers in the area where the
24 contamination occurs through the application of statistical
25 tests set forth in regulation or, if no regulations have been
26 adopted, in a demonstration of a mathematically valid
27 application of statistical tests. The Department of
28 Environmental Resources shall also recognize those methods of
29 attainment demonstration generally recognized as appropriate
30 for that particular remediation.

1 (2) A final report that documents attainment of the
2 background standard shall be submitted to the department
3 which includes, as appropriate:

4 (i) The descriptions of procedures and conclusions
5 of the site investigation to characterize the nature,
6 extent, direction, volume and composition or regulated
7 substances.

8 (ii) The basis for selecting environmental media of
9 concern, descriptions of removal or decontamination
10 procedures performed in remediation, summaries of
11 sampling methodology and analytical results which
12 demonstrate that remediation has attained the background
13 standard.

14 (3) Where remediation measures do not involve removal or
15 treatment of a contaminant to the background standard, the
16 final report shall demonstrate that any remaining
17 contaminants on the site will meet Statewide health standards
18 and show compliance with any postremediation care
19 requirements that may be needed to maintain compliance with
20 the Statewide health standards.

21 (4) Institutional controls such as fencing and future
22 land use restrictions on a site may not be used to attain the
23 background standard. Institutional controls may be used to
24 maintain the background standard after remediation occurs.

25 (c) Authority reserved.--If a person fails to demonstrate
26 attainment of the background standard, the department may
27 require that additional remediation measures be taken in order
28 to meet the background standard or the person may select to meet
29 the requirements of section 303 or 304.

30 (d) Deed notice.--Persons attaining and demonstrating

1 compliance with the background standard for all regulated
2 substances ~~throughout a site~~ shall not be subject to the deed <—
3 acknowledgment requirements of the act of July 7, 1980 (P.L.380,
4 No.97), known as the Solid Waste Management Act, or the act of
5 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites
6 Cleanup Act. An existing acknowledgment contained in a deed
7 prior to demonstrating compliance with the background standard
8 may be removed.

9 (e) Notice and review provisions.--Persons utilizing the
10 background standard shall comply with the following requirements
11 for notifying the public and the department of planned
12 remediation activities:

13 (1) Notice of intent to initiate remediation activities
14 shall be made in the following manner:

15 (i) A notice of intent to remediate a site shall be
16 submitted to the department which, to the extent known,
17 provides a brief description of the location of the site,
18 a listing of the contaminant or contaminants involved, a
19 description of the intended future use of the property
20 for employment opportunities, housing, open space,
21 recreation or other uses, and the proposed remediation
22 measures. The department shall publish an acknowledgment
23 noting receipt of the notice of intent in the
24 Pennsylvania Bulletin.

25 (ii) At the same time a notice of intent to
26 remediate a site is submitted to the department, a copy
27 of the notice shall be provided to the municipality in
28 which the site is located and a summary of the notice of
29 intent shall be published in a newspaper of general
30 circulation serving the area in which the site is

1 located.

2 (2) Notice of the submission of the final report
3 demonstrating attainment of the background standard shall be
4 given to the municipality in which the remediation site is
5 located, published in a newspaper of general circulation
6 serving the area and in the Pennsylvania Bulletin.

7 (3) The department shall review the final report
8 demonstrating attainment of the background standard within 60
9 days of its receipt or notify the person submitting the
10 report of substantive deficiencies. If the department does
11 not respond with deficiencies within 60 days, the final
12 report shall be deemed approved.

13 (4) The notices provided for in paragraphs (1) and (2)
14 are not required to be made or published if the person
15 conducting the remediation submits the final report
16 demonstrating attainment of the background standard as
17 required by this section within 90 days of the release. If
18 the final report demonstrating attainment is not submitted to
19 the department within 90 days of the release, all notices and
20 procedures required by this section shall apply. This
21 paragraph is only applicable to releases occurring after the
22 effective date of this act.

23 Section 303. Statewide health standard.

24 (a) Standard.--The Environmental Quality Board shall
25 promulgate Statewide health standards for regulated substances
26 for each environmental medium. The standards shall include any
27 existing numerical residential and nonresidential health-based
28 standards adopted by the department and by the Federal
29 Government by regulation or statute, and health advisory levels.
30 For those health-based standards not already established by

1 regulation or statute, the Environmental Quality Board shall, by
2 regulation, propose residential and nonresidential standards as
3 medium-specific concentrations within 12 months of the effective
4 date of this act. The Environmental Quality Board shall also
5 promulgate, along with the standards, the methods used to
6 calculate the standards. Standards adopted under this section
7 shall be no more stringent than those standards adopted by the
8 Federal Government.

9 (b) Medium-specific concentrations.--The following
10 requirements shall be used to establish a medium-specific
11 concentration:

12 (1) Any regulated discharge into surface water occurring
13 during or after attainment of the Statewide health standard
14 shall comply with applicable laws and regulations relating to
15 surface water discharges.

16 (2) Any regulated emissions to the outdoor air occurring
17 during or after attainment of the Statewide health standard
18 shall comply with applicable laws and regulations relating to
19 emissions into the outdoor air.

20 (3) The concentration of a regulated substance in
21 groundwater in aquifers used or currently planned to be used
22 for drinking water or for agricultural purposes shall comply
23 with the maximum contaminant level or health advisory level
24 established for drinking water. If the groundwater at the
25 site has naturally occurring background total dissolved
26 solids concentrations greater than 2,500 milligrams per
27 liter, the remediation standard for a regulated substance
28 dissolved in the groundwater may be adjusted by multiplying
29 the medium-specific concentration for groundwater in aquifers
30 by 100. The resulting value becomes the maximum contaminant

1 level for groundwater.

2 (4) For the residential standard, the concentration of a
3 regulated substance in soil shall not exceed either the
4 direct contact soil medium-specific concentration based on
5 residential exposure factors within a depth of up to 15 feet
6 from the existing ground surface, or the soil-to-groundwater
7 pathway numeric value throughout the soil column, the latter
8 to be determined by any one of the following methods:

9 (i) A value which is 100 times the medium-specific
10 concentration for groundwater.

11 (ii) A concentration in soil at the site that does
12 not produce a leachate in excess of the medium-specific
13 concentrations for groundwater in the aquifer when
14 subjected to the Synthetic Precipitation Leaching
15 Procedures, Method 1312 of SW 846, Test Methods for
16 Evaluating Solid Waste, promulgated by the United States
17 Environmental Protection Agency.

18 (iii) A generic value determined not to produce a
19 concentration in groundwater in the aquifer in excess of
20 the medium-specific concentration for groundwater based
21 on a valid, peer-reviewed scientific method which
22 properly accounts for factors affecting the fate,
23 transport and attenuation of the regulated substance
24 throughout the soil column.

25 (5) For the nonresidential standard, the concentration
26 of a regulated substance in soil shall not exceed either the
27 direct contact soil medium-specific concentration based on
28 nonresidential exposure factors within a depth of up to 15
29 feet from the existing ground surface using valid scientific
30 methods reflecting worker exposure or the soil to groundwater

1 pathway numeric value determined in accordance with paragraph
2 (4).

3 (6) Exposure scenarios for medium-specific
4 concentrations for nonresidential conditions shall be
5 established using valid scientific methods reflecting worker
6 exposure.

7 (c) Additional factors.--When establishing a medium-specific
8 concentration, other than those established under subsection
9 (b)(1), (2) or (3), the medium-specific concentration for the
10 ingestion of groundwater, inhalation of soils, ingestion and
11 inhalation of volatiles and particulates shall be calculated by
12 the department using valid scientific methods, reasonable
13 exposure pathway assumptions and exposure factors for
14 residential and nonresidential land use which are no more
15 stringent than the standard default exposure factors established
16 by EPA based on the following levels of risk:

17 (1) For a regulated substance which is a carcinogen, the
18 medium-specific concentration is the concentration which
19 represents an excess upper bound lifetime cancer target risk
20 of between 1 in 10,000 and 1 in 1,000,000.

21 (2) For a regulated substance which is a systemic
22 toxicant, the medium-specific concentration is the
23 concentration to which human populations could be exposed by
24 direct ingestion or inhalation on a daily basis without
25 appreciable risk of deleterious effects for the exposed
26 population.

27 (d) Relationship to background.--The concentration of a
28 regulated substance in an environmental ~~media~~ MEDIUM of concern
29 on a site where the Statewide health standard has been selected
30 shall not be required to meet the Statewide health standard if

<—

1 the Statewide health standard is numerically less than the
2 background standard. In such cases, the background standard
3 shall apply.

4 (e) Attainment.--Final certification that a site or portion
5 of a site meets the Statewide health standard shall be
6 documented in the following manner:

7 (1) Attainment of cleanup levels shall be demonstrated
8 by collection and analysis of representative samples from the
9 environmental medium of concern, including soils, and
10 groundwater in aquifers at the point of compliance through
11 the application of statistical tests set forth in regulation
12 or, if no regulations have been adopted, in a demonstration
13 of a mathematically valid application of statistical tests.
14 The Department of Environmental Resources shall also
15 recognize those methods of attainment demonstration generally
16 recognized as appropriate for that particular remediation.

17 (2) A final report that documents attainment of the
18 Statewide health standard shall be submitted to the
19 department which includes the descriptions of procedures and
20 conclusions of the site investigation to characterize the
21 nature, extent, direction, rate of movement of the site and
22 cumulative effects, if any, volume, composition and
23 concentration of contaminants in environmental media, the
24 basis for selecting environmental media of concern,
25 documentation supporting the selection of residential or
26 nonresidential exposure factors, descriptions of removal or
27 treatment procedures performed in remediation, summaries of
28 sampling methodology and analytical results which demonstrate
29 that contaminants have been removed or treated to applicable
30 levels and documentation of compliance with postremediation

1 care requirements if they are needed to maintain the
2 Statewide health standard.

3 (3) Institutional controls such as fencing and future
4 land use restrictions on a site may not be used to attain the
5 Statewide health standard. Institutional controls may be used
6 to maintain the Statewide health standard after remediation
7 occurs.

8 (f) Authority reserved.--If a person fails to demonstrate
9 attainment of the Statewide health standard, the department may
10 require that additional remediation measures be taken in order
11 to meet the health standard or the person may select to meet the
12 requirements of section 302 or 304.

13 (g) Deed notice.--Persons attaining and demonstrating
14 compliance with the Statewide health standard considering
15 residential exposure factors for a regulated substance ~~on the~~ <—
16 ~~entire site~~ shall not be subject to the deed acknowledgment
17 requirements of the act of July 7, 1980 (P.L.380, No.97), known
18 as the Solid Waste Management Act, or the act of October 18,
19 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
20 Act. An existing acknowledgment contained in a deed prior to
21 demonstrating compliance with the residential Statewide health
22 standard may be removed. The deed acknowledgment requirements
23 shall apply where nonresidential exposure factors were used to
24 comply with the Statewide health standard.

25 (h) Notice and review provisions.--Persons utilizing the
26 Statewide health standard shall comply with the following
27 requirements for notifying the public and the department of
28 planned remediation activities:

29 (1) Notice of intent to initiate remediation activities
30 shall be made in the following manner:

1 (i) A notice of intent to remediate a site shall be
2 submitted to the department which provides, to the extent
3 known, a brief description of the location of the site, a
4 listing of the contaminant or contaminants involved, a
5 description of the intended future use of the property
6 for employment opportunities, housing, open space,
7 recreation or other uses and the proposed remediation
8 measures. The department shall publish an acknowledgment
9 noting receipt of the notice of intent in the
10 Pennsylvania Bulletin.

11 (ii) At the same time a notice of intent to
12 remediate a site is submitted to the department, a copy
13 of the notice shall be provided to the municipality in
14 which the site is located and a summary of the notice of
15 intent shall be published in a newspaper of general
16 circulation serving the area in which the site is
17 located.

18 (2) Notice of the submission of the final report
19 demonstrating attainment of the Statewide health standard
20 shall be given to the municipality in which the remediation
21 site is located, published in a newspaper of general
22 circulation serving the area and in the Pennsylvania
23 Bulletin.

24 (3) The department shall review the final report
25 demonstrating attainment of the Statewide health standard
26 within 60 days of its receipt or notify the person submitting
27 the report of substantive deficiencies. If the department
28 does not respond with deficiencies within 60 days, the final
29 report shall be deemed approved.

30 (4) The notices provided for in paragraphs (1) and (2)

are not required to be made or published if the person conducting the remediation submits the final report demonstrating attainment of the Statewide health standard as required by this section within 90 days of the release. If the final report demonstrating attainment is not submitted to the department within 90 days of the release, all notices and procedures required by this section shall apply. This paragraph is only applicable to releases occurring after the effective date of this act.

Section 304. Site-specific standard.

(a) General.--Where a site-specific standard is selected as the environmental remediation standard or where the background or Statewide health standard is selected but not achieved, remedial investigation, risk assessment, cleanup plans and final reports shall be developed using the procedures and factors established by this section.

(b) Carcinogens.--For known or suspected carcinogens, soil and groundwater cleanup standards shall be established at exposures which represent an excess upper-bound lifetime risk of between 1 in 10,000 and 1 in 1,000,000. The cumulative excess risk to exposed populations, including sensitive subgroups, shall not be greater than 1 in 10,000.

(c) Systemic toxicants.--For systemic toxicants, soil and groundwater cleanup standards shall represent levels to which the human population could be exposed on a daily basis without appreciable risk of deleterious effect to the exposed population. Where several systemic toxicants affect the same target organ or act by the same method of toxicity, the hazard index shall not exceed one. The hazard index is the sum of the hazard quotients for multiple systemic toxicants acting through

1 a single-medium exposure pathway or through multiple-media
2 exposure pathways.

3 (d) Groundwater.--Cleanup standards for groundwater shall be
4 established in accordance with subsections (b) and (c) using the
5 following considerations:

6 (1) For groundwater in aquifers, site-specific standards
7 shall be established using the following procedures:

8 (i) The current and probable future use of
9 groundwater shall be identified and protected.

10 Groundwater that has a background total dissolved solids
11 content greater than 2,500 milligrams per liter or is not
12 capable of transmitting water to a pumping well in usable
13 and sustainable quantities shall not be considered a
14 current or potential source of drinking water.

15 (ii) Site-specific sources of contaminants and
16 potential receptors shall be identified.

17 (iii) Natural environmental conditions affecting the
18 fate and transport of contaminants, such as natural
19 attenuation, shall be determined by appropriate
20 scientific methods.

21 (2) Groundwater not in aquifers shall be evaluated using
22 current or probable future exposure scenarios. Appropriate
23 management actions shall be instituted at the point of
24 exposure where a person is exposed to groundwater by
25 ingestion or other avenues to protect human health and the
26 environment. This shall not preclude taking appropriate
27 source management actions by the responsible party to achieve
28 the equivalent level of protection.

29 (e) Soil.--Concentrations of regulated substances in soil
30 shall not exceed: values calculated in accordance with

1 subsections (b) and (c) based on human ingestion of soil where
2 direct contact exposure to the soil may reasonably occur; values
3 calculated to protect groundwater in aquifers at levels
4 determined in accordance with subsections (b), (c) and (d); and
5 values calculated to satisfy the requirements of subsection (g)
6 with respect to discharges or releases to surface water or
7 emissions to the outdoor air. Such determinations shall take
8 into account the effects of institutional and engineering
9 controls, if any, and shall be based on sound scientific
10 principles, including fate and transport analysis of the
11 migration of a regulated substance in relation to receptor
12 exposures.

13 (f) Factors.--In determining soil and groundwater cleanup
14 standards under subsections (d) and (e), the following factors
15 shall also be considered:

16 (1) Use of appropriate standard exposure factors for the
17 land use of the site with reference to current and currently
18 planned future land use and the effectiveness of
19 institutional or legal controls placed on the future use of
20 the land.

21 (2) Use of appropriate statistical techniques,
22 including, but not limited to, Monte Carlo simulations, to
23 establish statistically valid cleanup standards.

24 (3) The potential of human ingestion of regulated
25 substances in surface water or other site-specific surface
26 water exposure pathways, if applicable.

27 (4) The potential of human inhalation of regulated
28 substances from the outdoor air and other site-specific air
29 exposure pathways, if applicable.

30 (g) Air and surface water.--Any regulated discharge into

1 surface water or any regulated emissions to the outdoor air
2 which occur during or after attainment of the site-specific
3 standard shall comply with applicable laws and regulations
4 relating to surface water discharges or emissions into the
5 outdoor air.

6 (h) Relationship to background.--The concentration of a
7 regulated substance in an environmental medium of concern on a
8 site where the site-specific standard has been selected shall
9 not be required to meet the site-specific standard if the site-
10 specific standard is numerically less than the background
11 standard. In such cases, the background standard shall apply.

12 (i) Combination of measures.--The standards may be attained
13 through a combination of remediation activities that can include
14 treatment, removal, engineering or institutional controls and
15 can include innovative or other demonstrated measures. The
16 department ~~may~~ SHALL disapprove a site-specific remediation plan <—
17 that consists solely of ~~fencing~~ FENCES, warning signs or future <—
18 land use restrictions UNLESS THE SITE-SPECIFIC STANDARD IS <—
19 DEVELOPED ON THE BASIS OF EXPOSURE FACTORS WHICH ARE NO LESS
20 STRINGENT THAN THOSE WHICH WOULD APPLY TO THE SITE AT THE TIME
21 THE CONTAMINATION IS DISCOVERED.

22 (j) Remedy evaluation.--The final remediation plan for a
23 site submitted to the department shall include remediation
24 alternatives and a final remedy which consider each of the
25 following factors:

26 (1) Long-term risks and effectiveness of the proposed
27 remedy that includes an evaluation of:

28 (i) The magnitude of risks remaining after
29 completion of the remedial action.

30 (ii) The type, degree and duration of

1 postremediation care required, including, but not limited
2 to, operation and maintenance, monitoring, inspections
3 and reports and their frequencies or other activities
4 which will be necessary to protect human health and the
5 environment.

6 (iii) Potential for exposure of human and
7 environmental receptors to regulated substances remaining
8 at the site.

9 (iv) Long-term reliability of any engineering and
10 voluntary institutional controls.

11 (v) Potential need for repair, maintenance or
12 replacement of components of the remedy.

13 (vi) Time to achieve cleanup standards.

14 (2) Reduction of the toxicity, mobility or volume of
15 regulated substances, including the amount of regulated
16 substances that will be removed, contained, treated or
17 destroyed, the degree of expected reduction in toxicity,
18 mobility or volume and the type, quantity, toxicity and
19 mobility of regulated substances remaining after
20 implementation of the remedy.

21 (3) Short-term risks and effectiveness of the remedy,
22 including the short-term risks that may be posed to the
23 community, workers or the environment during implementation
24 of the remedy and the effectiveness and reliability of
25 protective measures to address short-term risks.

26 (4) The ease or difficulty of implementing the proposed
27 remedy, including commercially available remedial measures
28 which are BADCT, degree of difficulty associated with
29 constructing the remedy, expected operational reliability,
30 available capacity and location of needed treatment, storage

1 and disposal services for wastes, time to initiate remedial
2 efforts and approvals necessary to implement the remedial
3 efforts.

4 (5) The cost of the remediation measure, including
5 capital costs, operation and maintenance costs, net present
6 value of capital and operation and maintenance costs and the
7 total costs and effectiveness of the system.

8 (6) The incremental health and economic benefits shall
9 be evaluated by comparing those benefits to the incremental
10 health and economic costs associated with implementation of
11 remedial measures.

12 (k) Attainment.--Compliance with the site-specific standard
13 is attained for a site or portion of a site when a remedy
14 approved by the department has been implemented in compliance
15 with the following criteria:

16 (1) Soil, groundwater, surface water and air emission
17 standards as determined under subsections (a) through (h)
18 have been attained.

19 (2) Attainment of the site-specific standard shall be
20 demonstrated by collection and analysis of samples from
21 affected media, as applicable, such as surface water, soil,
22 groundwater in aquifers at the point of compliance through
23 the application of statistical tests set forth in regulation
24 or, if no regulations have been adopted, in a demonstration
25 of a mathematically valid application of statistical tests.
26 The Department of Environmental Resources shall also
27 recognize those methods of attainment demonstration generally
28 recognized as appropriate for that particular remediation.

29 (l) Site investigation and remedy selection.--Any person
30 selecting to comply with site-specific standards established by

1 this section shall submit the following reports and evaluations,
2 as required under this section, for review and approval by the
3 department:

4 (1) A remedial investigation report which includes:

5 (i) Documentation and descriptions of procedures and
6 conclusions from the site investigation to characterize
7 the nature, extent, direction, rate of movement, volume
8 and composition of regulated substances.

9 (ii) The concentration of regulated substances in
10 environmental media of concern, including summaries of
11 sampling methodology and analytical results, and
12 information obtained from attempts to comply with the
13 background or Statewide health standards, if any.

14 (iii) A description of the existing or potential
15 public benefits of the use or reuse of the property for
16 employment opportunities, housing, open space, recreation
17 or other uses.

18 (iv) A fate and transport analysis may be included
19 in the report to demonstrate that no present or future
20 exposure pathways exist.

21 (v) If no exposure pathways exist, a risk assessment
22 report and cleanup plan are not required and no remedy is
23 required to be proposed or completed.

24 (2) If required, a risk assessment report which
25 describes the potential adverse effects under both current
26 and planned future conditions caused by the presence of a
27 regulated substance in the absence of any further control,
28 remediation or mitigation measures. A baseline risk
29 assessment report is not required where it is determined that
30 a specific remediation measure can be implemented to attain

1 the site-specific standard.

2 (3) A cleanup plan which evaluates the relative
3 abilities and effectiveness of potential remedies to achieve
4 the requirements for remedies described in subsection (k)
5 when considering the evaluation factors described in
6 subsection (j). The plan shall select a remedy which achieves
7 the requirements for remedies described in subsection (k).

8 The department may require a further evaluation of the
9 selected remedy or an evaluation of one or more additional
10 remedies in response to comments received from the community
11 surrounding the site as a result of the community involvement
12 plan established in subsection (o) which are based on the
13 factors described in subsection (j) or as a result of its own
14 analysis which are based on the evaluation factors described
15 in subsection (j).

16 (4) A final report demonstrating that the approved
17 remedy has been completed in accordance with the cleanup
18 plan.

19 (5) Nothing in this section shall preclude a person from
20 submitting a remedial investigation report, risk assessment
21 report and cleanup plan at one time to the department for
22 review.

23 (m) Deed notice.--Persons attaining and demonstrating
24 compliance with site-specific standards for a regulated
25 substance ~~on a site~~ shall be subject to the deed acknowledgment <—
26 requirements of the act of July 7, 1980 (P.L.380, No.97), known
27 as the Solid Waste Management Act, or the act of October 18,
28 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
29 Act. The notice shall include whether residential or
30 nonresidential exposure factors were used to comply with the

1 site-specific standard.

2 (n) Notice and review provisions.--Persons utilizing the
3 site-specific standard shall comply with the following
4 requirements for notifying the public and the department of
5 planned remediation activities:

6 (1) (i) A notice of intent to remediate a site shall be
7 submitted to the department which provides, to the extent
8 known, a brief description of the location of the site, a
9 listing of the contaminant or contaminants involved and
10 the proposed remediation measures. The department shall
11 publish an acknowledgment noting receipt of the notice of
12 intent in the Pennsylvania Bulletin. At the same time a
13 notice of intent to remediate a site is submitted to the
14 department, a copy of the notice shall be provided to the
15 municipality in which the site is located and a summary
16 of the notice of intent shall be published in a newspaper
17 of general circulation serving the area in which the site
18 is located.

19 (ii) The notices required by this paragraph shall
20 include a 30-day public and municipal comment period
21 during which the municipality can request to be involved
22 in the development of the remediation and reuse plans for
23 the site. If requested by the municipality, the person
24 undertaking the remediation shall develop and implement a
25 public involvement program plan which meets the
26 requirements of subsection (o). Persons undertaking the
27 remediation are encouraged to develop a proactive
28 approach to working with the municipality in developing
29 and implementing remediation and reuse plans.

30 (2) The following notice and review provisions apply

1 each time a remedial investigation report, risk assessment
2 report, cleanup plan and final report demonstrating
3 compliance with the site-specific standard is submitted to
4 the department:

5 (i) When the report or plan is submitted to the
6 department, a notice of its submission shall be provided
7 to the municipality in which the site is located and a
8 notice summarizing the findings and recommendations of
9 the report or plan shall be published in a newspaper of
10 general circulation serving the area in which the site is
11 located. If the municipality requested to be involved in
12 the development of the remediation and reuse plans, the
13 reports and plans shall also include the comments
14 submitted by the municipality, the public and the
15 responses from the persons preparing the reports and
16 plans.

17 (ii) The department shall review the report or plan
18 within no more than 90 days of its receipt or notify the
19 person submitting the report of deficiencies. If the
20 department does not respond with deficiencies within 90
21 days, the report shall be deemed approved.

22 (3) If the remedial investigation report, risk
23 assessment report and cleanup plan are submitted at the same
24 time to the department, the department shall notify persons
25 of any deficiencies in 90 days. If the department does not
26 respond with deficiencies within 90 days, the reports are
27 deemed approved.

28 (o) Community involvement.--Persons using site-specific
29 standards are required to develop a public involvement plan
30 which involves the public in the cleanup and use of the property

1 if the municipality requests to be involved in the remediation
2 and reuse plans for the site. The plan shall propose measures to
3 involve the public in the development and review of the remedial
4 investigation report, risk assessment report, cleanup plan and
5 final report. Depending on the site involved, measures may
6 include: techniques such as developing a proactive community
7 information and consultation program that includes door step
8 notice of activities related to remediation, public meetings and
9 roundtable discussions, convenient locations where documents
10 related to a remediation can be made available to the public and
11 designating a single contact person to whom community residents
12 can ask questions; the formation of a community-based group
13 which is used to solicit suggestions and comments on the various
14 reports required by this section; and if needed, the retention
15 of trained, independent third parties to facilitate meetings and
16 discussions and perform mediation services.

17 Section 305. Special industrial areas.

18 (a) Special sites.--For property used for industrial
19 activities where there is no financially viable responsible
20 person to clean up contamination or for land located within
21 enterprise zones designated pursuant to the requirements of the
22 Department of Community Affairs, the review procedures of this
23 section shall apply for persons conducting remediation
24 activities who did not cause or contribute to contamination on
25 the property. Any environmental remediation undertaken pursuant
26 to this section shall comply with one or more of the standards
27 established in this chapter.

28 (b) Baseline report.--A baseline remedial investigation
29 shall be conducted on the property based on a work plan approved
30 by the department and a baseline environmental report shall be

1 submitted to the department to establish a reference point
2 showing existing contamination on the site. The report shall
3 describe the proposed remediation measures to be undertaken
4 within the limits of cleanup liability found in section 502. The
5 report shall also include a description of the existing or
6 potential public benefits of the use or reuse of the property
7 for employment opportunities, housing, open space, recreation or
8 other use.

9 (c) Public review.--Persons undertaking the cleanup and
10 reuse of sites under this section shall comply with the
11 following public notice and review requirements:

12 (1) A notice of intent to remediate a site shall be
13 submitted to the department which provides, to the extent
14 known, a brief description of the location of the site, a
15 listing of the contaminant or contaminants involved and the
16 proposed remediation measures. The department shall publish
17 an acknowledgment noting receipt of the notice of intent in
18 the Pennsylvania Bulletin. At the same time a notice of
19 intent to remediate a site is submitted to the department, a
20 copy of the notice shall be provided to the municipality in
21 which the site is located and a summary of the notice of
22 intent shall be published in a newspaper of general
23 circulation serving the area in which the site is located.

24 (2) The notices required by this subsection shall
25 include a 30-day public and municipal comment period during
26 which the municipality can request to be involved in the
27 development of the remediation and reuse plans for the site.
28 If requested by the municipality, the person undertaking the
29 remediation shall develop and implement a public involvement
30 program plan which meets the requirements of section 304(o).

Persons undertaking the remediation are encouraged to develop a proactive approach to working with the municipality in developing and implementing remediation and reuse plans.

(d) Department review.--No later than 90 days after the completed environmental report is submitted for review, the department shall determine whether the report adequately identifies the environmental hazards and risks posed by the site. The comments obtained as a result of a public involvement plan developed under section 304(o) shall also be considered by the department. The department shall notify the person submitting the report of deficiencies within 90 days. If the department does not respond within 90 days, the report is considered approved.

(e) Agreement.--The department and the person undertaking the reuse of a special industrial site shall enter into an agreement based on the environmental report which outlines cleanup liability for the property.

(f) Department actions.--A person entering into an agreement pursuant to this section shall not interfere with any subsequent remediation efforts by the department or others to deal with contamination identified in the baseline environmental report so long as it does not disrupt the use of the property.

(g) Deed notice.--Persons entering into agreements pursuant to this section shall be subject to the deed acknowledgment requirements of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, or the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, where applicable.

~~Section 306.--Privatization.~~

~~(a) General.--The department shall develop a program to use~~

~~private firms to undertake a portion of the technical reviews
required under this act. As part of the program, the department
may:~~

~~(1) Develop a system of prequalified firms which
supervise the development and implementation of cleanup plans
and certify properties as meeting the environmental
remediation standards established in this chapter.~~

~~(2) Develop programs in which private firms perform the
technical review of remedial investigation reports, risk
assessment reports, cleanup plans and final reports required
to be submitted under this chapter.~~

~~(b) Audits. The department shall develop an auditing
program sufficient to insure that private firms meet the
requirements of the program.~~

~~(c) Report. The department shall on October 1 of each year
report to the General Assembly on the activities the department
has undertaken pursuant to this section.~~

~~(d) Private firm. Private firms undertaking a portion of
the technical reviews under this section shall be subject to the
same requirements as the department.~~

Section ~~307~~ 306. Local land development controls. <—

This act shall not affect the ability of local governments to
regulate land development under the act of July 31, 1968
(P.L.805, No.247), known as the Pennsylvania Municipalities
Planning Code. The use of the identified property and any deed
restrictions used as part of a remediation plan shall comply
with local land development controls adopted under the
Pennsylvania Municipalities Planning Code.

Section ~~308~~ 307. Immediate response. <—

(a) Emergency response.--The provisions of this chapter

1 shall not prevent or impede the immediate response of the
2 department or responsible person to an emergency which involves
3 an imminent or actual release of a regulated substance which
4 threatens public health or the environment. The final
5 remediation of the site shall comply with the provisions of this
6 chapter which shall not be prejudiced by the mitigation measures
7 undertaken to that point.

8 (b) Interim response.--The provisions of this chapter shall
9 not prevent or impede a responsible person from undertaking
10 mitigation measures to prevent significant impacts on human
11 health or the environment. Those mitigation measures may include
12 limiting public access to the release area, installing drainage
13 controls to prevent runoff, stabilization and maintenance of
14 containment structures, actions to prevent the migration of
15 regulated substances, on-site treatment or other measures not
16 prohibited by the department. The final remediation of the site
17 shall comply with the provisions of this chapter which shall not
18 be prejudiced by the mitigation measures undertaken to that
19 point.

20 Section ~~309~~ 308. Appealable actions.

<—

21 Decisions by the department involving the reports and
22 evaluations required under this chapter shall be considered
23 appealable actions under the act of July 13, 1988 (P.L.530,
24 No.94), known as the Environmental Hearing Board Act.

25 CHAPTER 5

26 CLEANUP LIABILITY PROTECTION

27 Section 501. Cleanup liability protection.

28 (a) General.--Any person demonstrating compliance with the
29 environmental remediation standards established in Chapter 3
30 shall be relieved of further liability for the remediation of

1 the site under the statutes outlined in section 106 for any
2 contamination identified in reports submitted to and approved by
3 the department to demonstrate compliance with these standards
4 and shall not be subject to citizen suits or other contribution
5 actions brought by responsible persons. The cleanup liability
6 protection provided by this chapter applies to the following
7 persons:

8 (1) The current or future owner of the identified
9 property or any other person, who participated in the
10 remediation of the site.

11 (2) A person who develops or otherwise occupies the
12 identified site.

13 (3) A successor or assign of any person to whom the
14 liability protection applies.

15 (4) A public utility to the extent the public utility
16 performs activities on the identified site.

17 (b) Assessments.--A person shall not be considered a person
18 responsible for a release or a threatened release of a regulated
19 substance simply by virtue of conducting an environmental
20 assessment or transaction screen on a property. Nothing in this
21 section relieves a person of any liability for failure to
22 exercise due diligence in performing an environmental assessment
23 or transaction screen.

24 ~~(c) Illegal activities. The provisions of this chapter do~~ <—
25 ~~not create a defense against the imposition of criminal and~~
26 ~~civil fines and penalties or administrative penalties otherwise~~
27 ~~authorized by law and imposed as the result of the illegal~~
28 ~~disposal of waste or for the pollution of the land, air or~~
29 ~~waters of this Commonwealth on the identified site.~~

30 Section 502. Special industrial areas.

1 (a) Agreement.--The department and the person undertaking
2 the reuse in a special industrial area under section 305 shall
3 enter into an agreement based on the environmental report which
4 outlines cleanup liability for the property. Any person included
5 in such an agreement shall not be subject to a citizen suit,
6 other contribution actions brought by responsible persons not
7 participating in the remediation of the property or other
8 actions brought by the department with respect to the property
9 except those which may be necessary to enforce the terms of the
10 agreement.

11 (b) Liability.--The cleanup liabilities for the person
12 undertaking the reuse of the property shall include the
13 following:

14 (1) The person shall only be responsible for remediation
15 of any immediate, direct or imminent threats to public health
16 or the environment, such as drummed waste, which would
17 prevent the property from being occupied for its intended
18 purpose.

19 (2) The person shall not be held responsible for the
20 remediation of any contamination identified in the
21 environmental report, other than the contamination noted in
22 paragraph (1).

23 (3) Nothing in this act shall relieve the person from
24 any cleanup liability for contamination later caused by that
25 person on the property.

26 (c) Developer or occupier.--A person who develops or
27 occupies the property shall not be considered a responsible
28 person for purposes of assigning cleanup liability.

29 (d) Successor or assign.--A successor or assign of any
30 person to whom cleanup liability protection applies for a

1 property shall not be considered a responsible person for
2 purposes of assigning cleanup liability, provided the successor
3 or assign is not a person responsible for contamination on the
4 property who did not participate in the environmental
5 remediation action.

6 (e) Public utility.--A public utility shall not be
7 considered a responsible person for purposes of assigning
8 cleanup liability to the extent the public utility performs
9 activities on the identified property, provided the public
10 utility is not a person responsible for contamination on the
11 property.

12 Section 503. Existing exclusions.

13 The protection from cleanup liability afforded under this act
14 shall be in addition to the exclusions from being a responsible
15 person under the statutes listed in section 106.

16 Section 504. New liability.

17 Nothing in this act shall relieve a person receiving
18 protection from cleanup liability under this chapter from any
19 cleanup liability for contamination later caused by that person
20 on a site which has demonstrated compliance with one or more of
21 the environmental remediation standards established in Chapter
22 3.

23 Section 505. Reopeners.

24 Any person who completes remediation in compliance with this
25 act shall not be required to undertake additional remediation
26 actions unless the department demonstrates that:

27 (1) fraud was committed in demonstrating attainment of a
28 standard at the site that resulted in avoiding the need for
29 further cleanup of the site;

30 (2) new information confirms the existence of an area of

1 previously unknown contamination which contains regulated
2 substances that have been shown to exceed the standards
3 applied to previous remediation at the site;

4 (3) the remediation method failed to meet one or a
5 combination of the three cleanup standards; ~~or~~ <—

6 (4) the level of risk is increased beyond the acceptable
7 risk range at a site due to substantial changes in exposure
8 conditions, such as in a change in land use from
9 nonresidential to a residential use, or new information is
10 obtained about a regulated substance associated with the site
11 which revises exposure assumptions beyond the acceptable
12 range. Any person who changes the use of the property causing
13 the level of risk to increase beyond the acceptable risk
14 range shall be required by the department to undertake
15 additional remediation measures under the provisions of this
16 ~~act.~~ ACT; OR <—

17 (5) (I) THE RELEASE OCCURRED AFTER THE EFFECTIVE DATE
18 OF THIS ACT ON A SITE NOT USED FOR INDUSTRIAL ACTIVITY
19 PRIOR TO THE EFFECTIVE DATE OF THIS ACT;

20 (II) THE REMEDY RELIED IN WHOLE OR IN PART UPON
21 INSTITUTIONAL OR ENGINEERING CONTROLS INSTEAD OF
22 TREATMENT OR REMOVAL OF CONTAMINATION; AND

23 (III) TREATMENT, REMOVAL OR DESTRUCTION HAS BECOME
24 TECHNICALLY AND ECONOMICALLY FEASIBLE ON THAT PART.

25 Section 506. Authority reserved.

26 Except for the performance of further remediation of the
27 site, nothing in this act shall affect the ability or authority
28 of any person to seek any relief available against any party who
29 may have liability with respect to this site. This act shall not
30 affect the ability or authority to seek contribution from any

1 person who may have liability with respect to the site and did
2 not receive cleanup liability protection under this chapter.

3 CHAPTER 7

4 INDUSTRIAL LAND RECYCLING FUND

5 Section 701. Industrial Land Recycling Fund.

6 (a) Fund.--There is hereby established a separate account in
7 the State Treasury, to be known as the Industrial Land Recycling
8 Fund, which shall be a special fund administered by the
9 department.

10 (b) Purpose.--The moneys deposited in this fund shall be
11 used by the department for the purpose of implementing the
12 provisions of this act.

13 (c) Funds.--In addition to any funds appropriated by the
14 General Assembly, Federal funds and private contributions and
15 any fines and penalties assessed under this act shall be
16 deposited into the fund. Moneys in the fund are hereby
17 appropriated, upon the approval of the Governor, for the
18 purposes of this act.

19 (d) Annual report.--The department shall on October 1 of
20 each year report to the General Assembly on the expenditures and
21 commitments made from the Industrial Land Recycling Fund.

22 ~~Section 702. Voluntary Cleanup Loan Program.~~

<—

23 ~~(a) Establishment. There is hereby established a separate~~
24 ~~account in the State Treasury, to be known as the Voluntary~~
25 ~~Cleanup Loan Fund, which shall be a special fund administered by~~
26 ~~the Department of Commerce. Within 60 days of the effective date~~
27 ~~of this act, the Department of Commerce shall finalize~~
28 ~~guidelines and issue application forms to administer this fund.~~
29 ~~The Department of Commerce, in conjunction with the Department~~
30 ~~of Environmental Resources may establish funding priorities~~

~~under this program.~~

~~(b) Purpose. The Voluntary Cleanup Loan Fund is to help provide funding to persons undertaking the voluntary remediation of a property. The funding shall be in the form of low interest loans and grants for up to 75% of the costs incurred for completing an environmental study and for implementing a cleanup plan for the following categories of applicants:~~

~~(1) Local economic development agencies, public agencies and local governments and persons not responsible for contamination on a site shall be eligible for grants for the purpose of completing environmental studies and implementing cleanup plans.~~

~~(2) Low interest loans shall be available at a rate of not more than 2% for the purpose of completing environmental studies and implementing cleanup plans to local governments, public agencies and persons undertaking site remediation under this act.~~

~~(c) Funds. In addition to any funds appropriated by the General Assembly, up to \$5,000,000 shall be transferred upon approval of the Governor each year from the Hazardous Sites Cleanup Fund established by the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, to the Voluntary Cleanup Loan Fund for the purpose of implementing the program established in this section. Moneys received by the Department of Commerce as repayment of outstanding loans shall be deposited in the fund. Any interest earned by moneys in the fund shall remain in the fund. The first transfer of funds from the Hazardous Sites Cleanup Fund required by this subsection shall occur within 60 days of the effective date of this act. Moneys in the fund are hereby appropriated, upon the approval of~~

1 ~~the Governor, for the purposes of this section.~~

2 ~~(d) Annual report. The Department of Commerce shall on~~
3 ~~October 1 of each year report to the General Assembly on the~~
4 ~~grants, loans, expenditures and commitments made from the fund.~~

5 SECTION ~~703~~ 702. INDUSTRIAL SITES CLEANUP FUND. <—

6 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A SEPARATE
7 ACCOUNT IN THE STATE TREASURY, TO BE KNOWN AS THE INDUSTRIAL
8 SITES CLEANUP FUND, WHICH SHALL BE A SPECIAL FUND ADMINISTERED
9 BY THE DEPARTMENT OF COMMERCE. WITHIN 60 DAYS OF THE EFFECTIVE
10 DATE OF THIS ACT, THE DEPARTMENT OF COMMERCE SHALL FINALIZE
11 GUIDELINES AND ISSUE APPLICATION FORMS TO ADMINISTER THIS FUND.

12 (B) PURPOSE.--THE INDUSTRIAL SITES CLEANUP FUND IS TO
13 PROVIDE FINANCIAL ASSISTANCE TO PERSONS WHO DID NOT CAUSE OR
14 CONTRIBUTE TO THE CONTAMINATION ON PROPERTY USED FOR INDUSTRIAL
15 ACTIVITY ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT AND WHO
16 PROPOSE TO UNDERTAKE A VOLUNTARY CLEANUP OF THE PROPERTY. THE
17 FINANCIAL ASSISTANCE SHALL BE IN AN AMOUNT OF UP TO 75% OF THE
18 COSTS INCURRED FOR COMPLETING AN ENVIRONMENTAL STUDY AND
19 IMPLEMENTING A CLEANUP PLAN BY AN ELIGIBLE APPLICANT. FINANCIAL
20 ASSISTANCE MAY BE IN THE FORM OF GRANTS AS PROVIDED IN THIS
21 SECTION OR LOW-INTEREST LOANS, TO BE LENT AT A RATE NOT TO
22 EXCEED 2%.

23 (C) GRANTS.--GRANTS MAY BE MADE TO POLITICAL SUBDIVISIONS OR
24 THEIR INSTRUMENTALITIES OR LOCAL ECONOMIC DEVELOPMENT AGENCIES
25 FOR THE PURPOSES OF THIS SECTION IF THE GRANTEE OWNS THE SITE ON
26 WHICH THE CLEANUP IS BEING CONDUCTED AND THE GRANTEE IS
27 OVERSEEING THE CLEANUP. THE TOTAL AMOUNT OF GRANTS AWARDED UNDER
28 THIS SECTION IN ANY ONE FISCAL YEAR SHALL NOT EXCEED 20% OF THE
29 TOTAL AMOUNT OF THE INDUSTRIAL SITES CLEANUP FUND.

30 (D) LOANS.--LOANS MEETING THE REQUIREMENTS OF SUBSECTION (B)

1 MAY BE MADE TO THE FOLLOWING CATEGORIES OF APPLICANTS:

2 (1) LOCAL ECONOMIC DEVELOPMENT AGENCIES.

3 (2) POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES.

4 (3) OTHER PERSONS DETERMINED TO BE ELIGIBLE BY THE
5 DEPARTMENT OF COMMERCE.

6 (E) PRIORITY FOR FINANCIAL ASSISTANCE.--THE DEPARTMENT OF
7 COMMERCE SHALL TAKE ALL OF THE FOLLOWING FACTORS INTO
8 CONSIDERATION WHEN DETERMINING WHICH APPLICANTS SHALL RECEIVE
9 FINANCIAL ASSISTANCE UNDER THIS SECTION:

10 (1) THE BENEFIT OF THE REMEDY TO PUBLIC HEALTH, SAFETY
11 AND THE ENVIRONMENT.

12 (2) THE PERMANENCE OF THE REMEDY.

13 (3) THE COST EFFECTIVENESS OF THE REMEDY IN COMPARISON
14 WITH OTHER ALTERNATIVES.

15 (4) THE FINANCIAL CONDITION OF THE APPLICANT.

16 (5) THE FINANCIAL OR ECONOMIC DISTRESS OF THE AREA IN
17 WHICH THE CLEANUP IS BEING CONDUCTED.

18 (6) THE POTENTIAL FOR ECONOMIC DEVELOPMENT.

19 THE DEPARTMENT OF COMMERCE SHALL CONSULT WITH THE DEPARTMENT
20 WHEN DETERMINING PRIORITIES FOR FUNDING UNDER THIS SECTION.

21 (F) TERMS AND CONDITIONS.--THE DEPARTMENT OF COMMERCE SHALL
22 HAVE THE POWER TO SET TERMS AND CONDITIONS APPLICABLE TO LOANS
23 AND GRANTS IT DEEMS APPROPRIATE. THE DEPARTMENT OF COMMERCE MAY
24 CONSIDER SUCH FACTORS AS IT DEEMS RELEVANT, INCLUDING CURRENT
25 MARKET INTEREST RATES AND THE NECESSITY TO MAINTAIN THE MONEYS
26 IN THIS FUND IN A FINANCIALLY SOUND MANNER. LOANS MAY BE MADE
27 BASED UPON THE ABILITY TO REPAY FROM FUTURE REVENUE TO BE
28 DERIVED FROM THE CLEANUP, BY A MORTGAGE OR OTHER COLLATERAL, OR
29 ON ANY OTHER FISCAL MATTERS WHICH THE DEPARTMENT OF COMMERCE
30 DEEMS APPROPRIATE.

1 (G) FUNDS.--IN ADDITION TO ANY FUNDS APPROPRIATED BY THE
2 GENERAL ASSEMBLY, \$15,000,000 SHALL BE TRANSFERRED UPON APPROVAL <—
3 OF THE GOVERNOR FROM THE HAZARDOUS SITES CLEANUP FUND
4 ESTABLISHED BY THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108),
5 KNOWN AS THE HAZARDOUS SITES CLEANUP ACT, TO THE INDUSTRIAL
6 SITES CLEANUP FUND FOR THE PURPOSE OF IMPLEMENTING THE PROGRAM
7 ESTABLISHED IN THIS SECTION. MONEYS RECEIVED BY THE DEPARTMENT
8 OF COMMERCE AS REPAYMENT OF OUTSTANDING LOANS SHALL BE DEPOSITED
9 IN THE FUND. ANY INTEREST EARNED BY MONEYS IN THIS FUND SHALL
10 REMAIN IN THIS FUND. ~~THE FIRST TRANSFER OF MONEYS FROM THE~~ <—
11 ~~HAZARDOUS SITES CLEANUP FUND REQUIRED BY THIS SUBSECTION SHALL~~
12 ~~OCCUR WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ACT.~~ MONEYS
13 IN THE FUND ARE HEREBY APPROPRIATED TO THE DEPARTMENT OF
14 COMMERCE FOR THE PURPOSE OF IMPLEMENTING THIS SECTION.

15 (H) ANNUAL REPORT.--THE DEPARTMENT OF COMMERCE SHALL ON
16 OCTOBER 1 OF EACH YEAR REPORT TO THE GENERAL ASSEMBLY ON THE
17 GRANTS, LOANS, EXPENDITURES AND COMMITMENTS MADE FROM THIS FUND.
18 THE ANNUAL REPORT SHALL INCLUDE AN EVALUATION OF THE
19 EFFECTIVENESS OF THIS FUND IN RECYCLING INDUSTRIAL AND
20 COMMERCIAL SITES. THE EVALUATION SHALL INCLUDE ANY
21 RECOMMENDATIONS FOR ADDITIONAL CHANGES, IF NECESSARY TO IMPROVE
22 THE EFFECTIVENESS OF THIS FUND IN RECYCLING SUCH SITES.
23 Section ~~703-704~~ 703. Fees. <—

24 (a) Amount.--The department shall collect the following fees
25 for the review of reports required to be submitted to implement
26 the provisions of this act:

27 (1) A person utilizing the background or Statewide
28 health standards for environmental remediation shall pay a
29 fee of \$250 upon submission of the report certifying
30 compliance with the standards.

(b) Applicable requirements.--The department may waive in whole or in part, in writing, otherwise applicable requirements where responsible persons demonstrate that any of the following apply:

(1) Compliance with a requirement at a site will result in greater risk to human health, safety and welfare and the environment than alternative options.

(2) Compliance with a requirement at a site will substantially interfere with natural or artificial structures or features.

(3) The proposed remedial action will attain a standard of performance that is equivalent to that required under the otherwise applicable requirement through the use of an alternative method or approach.

(4) Compliance with a requirement at a site will not provide for a cost-effective remedial action.

The department may not waive the remediation standards established under sections 301, 302, 303 and 304.

Section 903. Future actions.

At any time, a request may be made to the department to change the land use of the site from nonresidential to residential. The department shall only approve the request upon a demonstration that the site meets all the applicable cleanup standards for residential use of the property. Any existing deed acknowledgment contained in the deed prior to the demonstrating compliance with the residential use standard may be removed.

Section 904. Relationship to Federal and State programs.

(a) Federal.--The provisions of this act shall not prevent the Commonwealth from enforcing specific numerical cleanup standards, monitoring or compliance requirements specifically

1 required to be enforced by the Federal Government as a condition
2 to receive program authorization, delegation, primacy or Federal
3 funds.

4 (b) State priority list.--Any remediation undertaken on a
5 site included on the State priority list established under the
6 act of October 18, 1988 (P.L.756, No.108), known as the
7 Hazardous Sites Cleanup Act, shall be performed in compliance
8 with the administrative record and other procedural and public
9 review requirements of the Hazardous Sites Cleanup Act.

10 (c) Storage tanks.--The environmental remediation standards
11 established under this act shall be used in corrective actions
12 undertaken pursuant to the act of July 6, 1989 (P.L.169, No.32),
13 known as the Storage Tank and Spill Prevention Act. However, the
14 procedures in the Storage Tank and Spill Prevention Act for
15 reviewing and approving corrective actions shall be used in lieu
16 of the procedures and reviews required by this act.

17 (d) Agricultural chemical facilities.--The environmental
18 remediation standards and procedures established under this act
19 shall be used in any remediation undertaken at an agricultural
20 chemical facility. The Department of Agriculture shall have the
21 power and its duty shall be to promulgate regulations providing
22 for the option of safely reusing soil and groundwater
23 contaminated with agricultural chemicals generated as a result
24 of remediation activities at agricultural chemical facilities
25 through the land application of these materials on agricultural
26 lands. Such regulations shall provide for the appropriate
27 application rates of such materials, either alone or in the
28 combination with other agricultural chemicals, prescribe
29 appropriate operations controls and practices to protect the
30 public health, safety and welfare and the environment at the

1 site of land application.

2 (e) Oil spill response.--This act shall not apply to the
3 removal of a discharge under section 4201 of the Oil Pollution
4 Act of 1990 (Public Law 101-380, 104 Stat. 484) or the act of
5 June 11, 1992 (P.L.303, No.52), known as the Oil Spill Responder
6 Liability Act.

7 Section 905. Enforcement.

8 (a) General.--The department is authorized to use the
9 enforcement and penalty provisions applicable to the
10 environmental medium or activity of concern, as appropriate,
11 established under the act of June 22, 1937 (P.L.1987, No.394),
12 known as The Clean Streams Law, the act of January 8, 1960 (1959
13 P.L.2119, No.787), known as the Air Pollution Control Act, the
14 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
15 Management Act, the act of July 13, 1988 (P.L.525, No.93),
16 referred to as the Infectious and Chemotherapeutic Waste Law,
17 the act of October 18, 1988 (P.L.756, No.108), known as the
18 Hazardous Sites Cleanup Act, or the act of July 6, 1989
19 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
20 Act, to enforce the provisions of this act.

21 (B) NO DEFENSE TO ILLEGAL ACTIVITIES.--THE PROVISIONS OF <—
22 THIS ACT DO NOT CREATE A DEFENSE AGAINST THE IMPOSITION OF
23 CRIMINAL AND CIVIL FINES OR PENALTIES OR ADMINISTRATIVE
24 PENALTIES OTHERWISE AUTHORIZED BY LAW AND IMPOSED AS THE RESULT
25 OF THE ILLEGAL DISPOSAL OF WASTE OR FOR THE POLLUTION OF THE
26 LAND, AIR OR WATERS OF THIS COMMONWEALTH ON THE IDENTIFIED SITE.

27 ~~(b)~~ (C) Fraud.--Any person who willfully commits fraud <—
28 demonstrating attainment with one or more standards established
29 under this act shall, upon conviction, be subject to an
30 additional penalty of \$50,000 for each separate offense or to

1 imprisonment for a period of not more than one year for each
2 separate offense, or both. Each day shall be a separate offense.

3 (D) CRIMINAL CONVICTIONS.--IF A PERSON IS CONVICTED IN A <—
4 COURT OF COMPETENT JURISDICTION OF A VIOLATION OF THE CRIMINAL
5 PROVISIONS OF AN ACT IDENTIFIED IN SECTION 106 IN THE DEGREE OF
6 MISDEMEANOR OR FELONY AND THE VIOLATION ARISES FROM UNLAWFUL
7 CONDUCT WHICH RESULTS IN A RELEASE AT A SITE, THE COURT MAY, IN
8 ADDITION TO ANY FINES, IMPRISONMENT OR OTHER PENALTIES IMPOSED
9 UNDER THE APPROPRIATE ACT, ORDER THE PERSON TO PERFORM
10 REMEDIATION AT THE SITE CONSISTENT WITH THE PROVISIONS AND
11 STANDARDS ESTABLISHED UNDER SECTION 302 OR 303.

12 Section 906. Past penalties.

13 Persons who have no responsibility for contamination on a
14 site and participate in environmental remediation activities
15 under this act shall not be responsible for paying any fines or
16 penalties levied against any person responsible for
17 contamination on the property.

18 Section 907. Evaluation.

19 Beginning three years after the effective date of this act
20 and every two years thereafter, the department shall conduct and
21 submit to the General Assembly an evaluation of the
22 effectiveness of this act in recycling existing industrial and
23 commercial sites. The evaluation shall include any
24 recommendations for additional incentives or changes, if needed,
25 to improve the effectiveness of this act in recycling such
26 sites.

27 Section 908. Repeals.

28 (a) Absolute.--Section 504(b) through (d) of the act of
29 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites
30 Cleanup Act, are repealed.

1 (b) General.--All other acts and parts of acts are repealed
2 insofar as they are inconsistent with this act and related to
3 environmental remediation.

4 Section 909. Effective date.

5 This act shall take effect in 60 days.