

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 972 Session of
1993

INTRODUCED BY BRIGHTBILL, MUSTO, STEWART, SHAFFER, BELAN,
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LAVALLE, WENGER, CORMAN, LEMMOND, STOUT, O'PAKE, BAKER,
REIBMAN, PORTERFIELD, AFFLERBACH, BODACK, BORTNER AND
STINSON, APRIL 22, 1993

SENATOR MUSTO, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
MARCH 15, 1994

AN ACT

1 ~~Providing for the voluntary cleanup of existing industrial~~ <—
2 ~~sites; further defining the cleanup liability of new~~
3 ~~industries, financial institutions and tenants; providing for~~
4 ~~the voluntary cleanup of industrial sites by responsible~~
5 ~~owners; establishing the Voluntary Cleanup Loan Fund and the~~
6 ~~Industrial Land Recycling Fund to aid industrial site~~
7 ~~cleanups; and providing for the registration of environmental~~
8 ~~consulting professionals.~~

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9 PROVIDING FOR THE RECYCLING OF EXISTING INDUSTRIAL AND
10 COMMERCIAL SITES; FURTHER DEFINING THE CLEANUP LIABILITY OF
11 NEW INDUSTRIES AND TENANTS; ESTABLISHING A FRAMEWORK FOR
12 SETTING ENVIRONMENTAL REMEDIATION STANDARDS; ESTABLISHING THE
13 VOLUNTARY CLEANUP LOAN FUND AND THE INDUSTRIAL LAND RECYCLING
14 FUND TO AID INDUSTRIAL SITE CLEANUPS; ASSIGNING POWERS AND
15 DUTIES TO THE ENVIRONMENTAL QUALITY BOARD AND THE DEPARTMENT
16 OF ENVIRONMENTAL RESOURCES; AND MAKING REPEALS.

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3 SECTION 1108. EFFECTIVE DATE.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

<—

7 PRELIMINARY PROVISIONS

8 ~~Section 101. Short title.~~

9 ~~This act shall be known and may be cited as the Industrial~~
10 ~~and Commercial Land Recycling Act.~~

11 ~~Section 102. Declaration of policy.~~

12 ~~The General Assembly finds and declares as follows:~~

13 ~~(1) The reuse and redevelopment of existing industrial~~
14 ~~and commercial land should be encouraged as a sound land use~~
15 ~~management policy to prevent the needless development of~~
16 ~~prime farmland, open space, natural and recreation areas and~~
17 ~~to prevent urban sprawl.~~

18 ~~(2) Hundreds of abandoned and underutilized industrial~~
19 ~~and commercial sites should be returned to being useful, tax-~~
20 ~~producing properties to protect existing employment~~
21 ~~opportunities and to provide new opportunities.~~

22 ~~(3) Persons interested in redeveloping existing~~
23 ~~industrial sites must have a method of determining with~~
24 ~~certainty what their legal liabilities and cleanup~~
25 ~~responsibilities will be when they plan the reuse of existing~~
26 ~~sites. Financial institutions which invest in the reuse of~~
27 ~~existing sites and the subsequent owners or lease holders~~
28 ~~must also be given this same degree of certainty.~~

29 ~~(4) Incentives should be put in place to encourage~~
30 ~~companies to voluntarily develop and implement cleanup plans~~

~~without the use of taxpayer funds or the need for adversarial enforcement actions by the Department of Environmental Resources which frequently only serve to delay cleanups and increase their cost.~~

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

~~(6) The Department of Environmental Resources now routinely through its permitting policies determines when contamination will and will not pose a significant risk to public health or the environment. Similar concepts should be used in establishing cleanup policies for industrial and commercial property.~~

~~Section 103. Definitions.~~

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

~~"ASTM." American Society for Testing and Materials.~~

~~"CERCLA." The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510, 94 Stat. 2767).~~

~~"Department." The Department of Environmental Resources of the Commonwealth.~~

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

1 ~~"Hazardous substance." The term shall have the same meaning~~
2 ~~as given to it in the act of October 18, 1988 (P.L.756, No.108),~~
3 ~~known as the Hazardous Sites Cleanup Act, and shall include a~~
4 ~~regulated substance under the act of July 6, 1989 (P.L.169,~~
5 ~~No.32), known as the Storage Tank and Spill Prevention Act, and~~
6 ~~pollution regulated under the act of June 22, 1937 (P.L.1987,~~
7 ~~No.394), known as The Clean Streams Law, the act of January 8,~~
8 ~~1960 (1959 P.L.2119, No.787), known as the Air Pollution Control~~
9 ~~Act, and the act of July 7, 1980 (P.L.380, No.97), known as the~~
10 ~~Solid Waste Management Act.~~

11 ~~"Industrial activity." Commercial, manufacturing or any~~
12 ~~other activity done to further either the development,~~
13 ~~manufacturing or distribution of goods and services, including,~~
14 ~~but not limited to, administration of business activities,~~
15 ~~research and development, warehousing, shipping, transport,~~
16 ~~remanufacturing, stockpiling, storage, solid waste management,~~
17 ~~repair and maintenance of raw materials, intermediate and final~~
18 ~~products and solid waste created during such activities,~~
19 ~~commercial machinery and equipment.~~

20 ~~"Local economic development agency." Any industrial and~~
21 ~~commercial development authority created under the act of August~~
22 ~~23, 1967 (P.L.251, No.102), known as the Industrial and~~
23 ~~Commercial Development Authority Law, any industrial development~~
24 ~~agency as that term is defined in the act of May 17, 1956 (1955~~
25 ~~P.L.1609, No.537), known as the Pennsylvania Industrial~~
26 ~~Development Authority Act, any redevelopment authority created~~
27 ~~under the act of May 24, 1945 (P.L.991, No.385), known as the~~
28 ~~Urban Redevelopment Law, any area loan organization as that term~~
29 ~~is defined in the act of July 2, 1984 (P.L.545, No.109), known~~
30 ~~as the Capital Loan Fund Act, and any other municipal authority~~

~~which acquires title or an interest in property.~~

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

~~"Remediate." Clean up, mitigate, correct, abate, minimize, eliminate, prevent, study or assess a release of a regulated substance into the environment in order to protect the present or future public health, safety and welfare or the environment.~~

~~"Responsible person." The term shall have the same meaning as given to it in the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, and shall include a person subject to enforcement actions under the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, and the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.~~

~~Section 104. Powers and duties.~~

~~(a) Board. The Environmental Quality Board shall have the power and its duty shall be to adopt any regulations needed to implement the provisions of this act. Any regulations needed to implement this act shall be proposed by the department no later than six months after the effective date of this act and shall be finalized no later than 18 months after the effective date of this act.~~

~~(b) Department. The department shall have the power and its~~

~~duty shall be to implement the letter and intent of this act.~~

~~Section 105.—General scope.~~

~~The provisions of this act shall not apply to properties listed or proposed on the National Priorities List established under CERCLA or the State Priorities List established under the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, except those properties which may be owned by local economic development agencies on the effective date of this act.~~

~~CHAPTER 3~~

~~INNOCENT LANDOWNER CLEANUPS~~

~~Section 301.—Scope.~~

~~(a) Applicability.—This chapter applies to a person who:~~

~~(1) either intends to own, has expressed an option to buy or other formal agreement, or who now owns a parcel of real property used for industrial activities;~~

~~(2) did not, by act or omission, cause or contribute to any contamination or to the release or threatened release of a hazardous substance on the identified real property; and~~

~~(3) will reuse or redevelop the property for industrial activities or other compatible uses, such as open space or greenways, to retain or expand employment or who is now using the property for industrial activities which will create or retain employment opportunities. For purposes of this chapter, "employment retention or creation" shall mean employment at a level or levels specified for the property beginning at the time of certification under section 302(e) and extending over the next five years.~~

~~(b) Site preparation.—Notwithstanding any other provision of this section, the department may approve voluntary cleanup~~

~~plans to prepare a property for development of industrial activities or compatible uses as part of an organized economic development activity endorsed by a local economic development agency.~~

~~Section 302. Voluntary cleanup plans.~~

~~(a) General. Innocent landowners meeting the requirements of section 301 may submit a voluntary cleanup plan to the department for review and approval based on a workplan previously approved by the department. The department shall review and make a decision on whether the plan meets the requirements of this section within no more than 120 days.~~

~~(b) Contents. A voluntary cleanup plan shall include:~~

~~(1) A baseline environmental study of the property which describes the contamination, if any, on the property and the actual risk it poses to public health and the environment.~~

~~(2) Proposals, if needed, to remediate any contamination or condition which has or could lead to a release or threatened release which poses an immediate, direct or imminent actual risk to public health and the environment, considering the present or future use of the property, a timetable for implementing the measures and for monitoring the site and any cleanup measures after they have been completed.~~

~~(3) Proposals, if needed, to eliminate significant actual risks to public health and the environment considering the present and future use of the property, a timetable for implementing the measures and for monitoring the site and any cleanup measures after they have been completed.~~

~~(4) Describe any proposed deed or operating restrictions on the present or future use of the property designed to~~

~~prevent contamination or protect the integrity of cleanup measures installed on the site.~~

~~(5) The level of employment that will be created or retained when the plan is completed.~~

~~(c) Remediation alternatives.—~~

~~(1) Remediation alternatives shall be based on the actual risk to human health and the environment posed by contaminants on the property considering these factors:~~

~~(i) The intended and allowable use or subsequent uses of the property.~~

~~(ii) The ability of the contaminants to move in a form and manner which would result in exposure to humans and the surrounding environment at levels considered to be a significant health risk.~~

~~(iii) Consideration of the potential environment risks of proposed cleanup alternatives and their economic and technical feasibility and reliability.~~

~~(2) Remediation alternatives are not required to provide for the removal or remediation of the conditions or contaminants causing a release or threatened release on the identified property if:~~

~~(i) The plan demonstrates contaminants pose no significant risk to employees, public health and the environment or the remediation actions proposed in the plan and the subsequent uses of the property will eliminate significant risks to employees, public health and the environment.~~

~~(ii) Activities required to undertake the proposed reuse or redevelopment of the property are in a manner which will protect public health and the environment.~~

1 ~~(iii) Any reuse or redevelopment of the property is~~
2 ~~not likely to aggravate or contribute to contamination of~~
3 ~~the air, land or water or to a release or threatened~~
4 ~~release that may not require removal or remediation and~~
5 ~~which is not likely to interfere with or substantially~~
6 ~~increase the cost of any response actions which may be~~
7 ~~needed to address any remaining contamination.~~

8 ~~(iv) The owner of the property agrees to cooperate~~
9 ~~with the department or other persons acting at the~~
10 ~~direction of the department in taking response actions~~
11 ~~which may be necessary to address any contamination or~~
12 ~~release or threatened releases not identified in the~~
13 ~~voluntary cleanup plan or required to be removed or~~
14 ~~remediated at a later date.~~

15 ~~(d) Public review. A proposed voluntary cleanup plan shall~~
16 ~~be subject to a 30 day public review and comment period. Notice~~
17 ~~of the proposed plan shall be published in the Pennsylvania~~
18 ~~Bulletin and a newspaper of general circulation serving the area~~
19 ~~in which the identified property is located. The department may~~
20 ~~hold a public hearing on the plan if one is requested. The~~
21 ~~department shall consult with the Department of Commerce on the~~
22 ~~adequacy of the employment opportunities to be created or~~
23 ~~retained on the identified property.~~

24 ~~(e) Certifications. The department shall provide a formal~~
25 ~~written certification that the voluntary cleanup plan has been~~
26 ~~completed to the satisfaction of the department within no more~~
27 ~~than 30 days of a request by the property owner. The person~~
28 ~~submitting the voluntary cleanup plan shall certify that it will~~
29 ~~retain the same or expand employment opportunities of a specific~~
30 ~~number for at least five years after certification.~~

~~(f) Deed restriction. If required by the department, a restriction shall be placed on the deed for the property covered by a voluntary cleanup plan which restricts the use of the property to industrial activities as specified in the voluntary cleanup plan or to protect the integrity of cleanup measures. The deed restriction shall be placed on the property at the time the department issues its certification under subsection (e).~~

~~Section 303. Protection from liability.~~

~~(a) Protection. Any person acting in accordance with an approved voluntary cleanup plan shall not be considered a responsible person, including in legal actions involving a contribution action or a citizen suit, for any contamination included in or not identified in the plan for the subject property, if the person undertakes and the department certifies the voluntary cleanup plan has been completed and any actions needed to remove or remediate contamination or releases or threatened releases of hazardous substances on the identified property as required by the voluntary cleanup plan have been implemented. The liability protection provided by this section applies to the following persons:~~

~~(1) The owner of the identified property, if the owner is not responsible for any contamination or release or threatened release identified in the approved voluntary cleanup plan.~~

~~(2) A person providing financing for the identified property and to the person who undertakes and completes the activities required under the voluntary cleanup plan.~~

~~(3) A person who develops or occupies the identified property as a result of a lease or rent agreement.~~

~~(4) A successor or assigned of any person to whom the~~

~~liability protection applies, provided the successor or assigned is not a person responsible for contamination on the property~~

~~(b) Exclusions. The protection from liability provided by this section does not apply to a property owner who, after the voluntary cleanup plan is certified as complete under section 302(c) does any of the following:~~

~~(1) Aggravates or contributes to a release or threatened release identified but not remediated under an approved voluntary cleanup plan on the identified property.~~

~~(2) Obtains approval of a voluntary cleanup plan on the identified property by fraud or misrepresentation or by knowingly failing to disclose material information that would have made the person responsible for a release or threatened release.~~

~~(3) Fails to fulfill the certification requirement under section 302(c) to create or retain employment, unless the reasons for not fulfilling the employment commitments meets one of the criteria established under 13 Pa. Code § 303.62 (relating to criteria).~~

~~(c) Past penalties. Property owners who submit a voluntary cleanup plan shall not be responsible for paying any fines or penalties levied against any person responsible for contamination on the property.~~

~~Section 304. Cleanup guarantee.~~

~~(a) Guarantee. Any person with an approved voluntary cleanup plan shall submit to the department a cleanup guarantee fee upon certification that the plan has been completed. The guarantee shall be in the amount of 25% of the cost of preparing and implementing the voluntary cleanup plan. The guarantee is to~~

~~be held in the Industrial Land Recycling Fund for a period of two years.~~

~~(b) Form. The cleanup guarantee fee can be in a form acceptable to the department, which shall include collateral bonds, cash or other marketable securities, certificates of deposit, letters of credit or other acceptable financial guarantees. The department may also accept phased deposits of collateral to meet this requirement.~~

~~(c) Use. The cleanup guarantee fee is to be earmarked specifically for the use of the department in the event the cleanup measures approved by the department in a voluntary cleanup plan fail to contain or prevent a release or do not result in reducing the risks presented by the site.~~

~~(d) Disposition. The cleanup guarantee fee will be returned to the person implementing the voluntary cleanup plan at the end of two years if the property owner satisfies any monitoring or other postcertification requirements described in the voluntary cleanup plan and if the measures taken to deal with the contamination required by the plan performed as expected. Any successor to the property owner shall maintain the guarantee for the remainder of the two year period. The cleanup guarantee fee shall be forfeited if the property owner is excluded from liability protection under section 303(b).~~

~~Section 305. Voluntary Cleanup Loan Program.~~

~~(a) Establishment. There is hereby established a separate account in the State Treasury to be known as the Voluntary Cleanup Loan Fund which shall be a special fund administered by the Department of Commerce. Within 60 days of the effective date of this act, the Department of Commerce shall finalize guidelines and issue application forms to administer this fund.~~

~~(b) Purpose. The Voluntary Cleanup Loan Fund is to help provide funding to persons undertaking an environmental study of a site as part of a voluntary cleanup plan and for implementing an approved voluntary cleanup plan. 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 voluntary cleanup plan for the following categories of applicants:~~

~~(1) Local economic development agencies shall be eligible for grants and for low interest loans at a rate not to exceed 2% for the purpose of completing environmental studies and implementing voluntary cleanup plans.~~

~~(2) Low interest loans shall be available at a rate not to exceed 2% for the purpose of completing environmental studies and implementing voluntary cleanup plans by other applicants.~~

~~(c) Funds. In addition to any funds appropriated by the General Assembly, at least \$5,000,000 shall be transferred on July 1 of 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.~~

~~(d) Annual report. The Department of Commerce shall on October 1 of each year report to the General Assembly on the~~

~~grants, loans, expenditures and commitments made from the fund.~~

~~CHAPTER 5~~

~~RESPONSIBLE OWNER CLEANUPS~~

~~Section 501. Scope.~~

~~(a) Responsible owners. This chapter applies to owners of property on which industrial activities are or have taken place who are considered responsible persons, but who, on a voluntary basis, cooperate with the department to identify, develop, implement and complete a responsible owner cleanup plan and who create or retain employment opportunities on the property or develop other compatible uses such as open space or greenways.~~

~~(b) Voluntary actions. For the purposes of this chapter, "voluntary basis" shall mean the responsible owner brought the possible contamination on the property to the attention of the department. The responsible owner must certify to the department the contamination was not the result of willful actions or gross negligence by that person which resulted in the illegal disposal of waste and pollution of the land, air or waters of this Commonwealth.~~

~~(c) Employment opportunities. For purposes of this chapter, "employment expansion or retention" shall mean employment at a level or levels specified for the property at the time of certification under section 502(e) and extending over the next five years.~~

~~(d) Site preparation. Notwithstanding any other provision of this section, the department may approve responsible owner cleanup plans to prepare a property for development of industrial activities or compatible uses as part of an organized economic development activity endorsed by a local economic development agency.~~

~~Section 502. Responsible owner cleanup plan.~~

~~(a) General. Responsible property owners meeting the requirements of section 501 may submit a responsible owner cleanup plan to the department for review and approval based on a workplan previously approved by the department. The department shall review and make a decision on whether the plan meets the requirements of this section within no more than 120 days.~~

~~(b) Contents. A responsible owner cleanup plan shall include:~~

~~(1) A baseline environmental study of the property which describes the contamination, if any, on the property and the actual risk it poses to public health and the environment.~~

~~(2) Proposals, if needed, to remediate any contamination or condition which has or could lead to a release or threatened release which poses an immediate, direct or imminent actual risk to public health and the environment, considering the present and future use of the property, a timetable for implementing the measures and for monitoring the site and any cleanup measures after they have been completed.~~

~~(3) Proposals, if needed, to eliminate significant actual risks to public health and the environment considering the present and future use of the property, a timetable for implementing the measures and for monitoring the site and any cleanup measures after they have been completed.~~

~~(4) A description of any proposed deed or operating restrictions on the present or future use of the property designed to prevent contamination or protect the integrity of cleanup measures installed on the site.~~

~~(5) The level of employment that will be created or~~

1 ~~retained when the plan is completed.~~

2 ~~(c) Remediation alternatives.—~~

3 ~~(1) Remediation alternatives are to be based on the~~
4 ~~actual risk to human health and the environment posed by~~
5 ~~contaminants on the property considering these factors:~~

6 ~~(i) The intended and allowable use or subsequent~~
7 ~~uses of the property.~~

8 ~~(ii) The ability of the contaminants to move in a~~
9 ~~form and manner which would result in exposure to humans~~
10 ~~and the surrounding environment at levels considered to~~
11 ~~be a significant health risk.~~

12 ~~(iii) Consideration of the potential environmental~~
13 ~~risks of proposed cleanup alternatives and their economic~~
14 ~~and technical feasibility and reliability.~~

15 ~~(2) Remediation alternatives are not required to provide~~
16 ~~for the removal or remediation of the conditions or~~
17 ~~contaminants causing a release or threatened release on the~~
18 ~~identified property if:~~

19 ~~(i) The plan demonstrates contaminants pose no~~
20 ~~significant risk to employees, public health and the~~
21 ~~environment or the remediation actions proposed in the~~
22 ~~plan and subsequent uses of the property will eliminate~~
23 ~~significant risks to employees, public health and the~~
24 ~~environment.~~

25 ~~(ii) Activities required to undertake the proposed~~
26 ~~reuse or redevelopment of the property are in a manner~~
27 ~~which will protect public health and the environment.~~

28 ~~(iii) Any reuse or redevelopment of the property is~~
29 ~~not likely to aggravate or contribute to contamination of~~
30 ~~the air, land or water or to a release or threatened~~

1 ~~release that may not require removal or remediation and~~
2 ~~which is not likely to interfere with or substantially~~
3 ~~increase the cost of any response actions which may be~~
4 ~~needed to address any remaining contamination.~~

5 ~~(iv) The owner of the property agrees to cooperate~~
6 ~~with the department in taking response actions which may~~
7 ~~be necessary to address any contamination or releases or~~
8 ~~threatened releases not identified in the responsible~~
9 ~~owner cleanup plan or required to be removed or~~
10 ~~remediated at a later date.~~

11 ~~(d) Public review. A proposed responsible owner cleanup~~
12 ~~plan shall be subject to a 30 day public review and comment~~
13 ~~period. Notice of the proposed plan shall be published in the~~
14 ~~Pennsylvania Bulletin and a newspaper of general circulation~~
15 ~~serving the area in which the identified property is located.~~
16 ~~The department may hold a public hearing on the plan if one is~~
17 ~~requested. The department shall consult with the Department of~~
18 ~~Commerce on the adequacy of the employment opportunities created~~
19 ~~or retained on the identified property.~~

20 ~~(e) Certifications. The department shall provide a formal~~
21 ~~written certification whether or not the responsible owner~~
22 ~~cleanup plan has been completed to the satisfaction of the~~
23 ~~department within no more than 30 days of a request by the~~
24 ~~property owner. The property owner shall certify that it will~~
25 ~~provide the same or expanded employment opportunities of a~~
26 ~~specific number for at least five years after certification.~~

27 ~~(f) Deed restriction. If required by the department, a~~
28 ~~restriction shall be placed on the deed for the property covered~~
29 ~~by a responsible owner cleanup plan which restricts the use of~~
30 ~~the property to industrial activities as specified in the~~

~~responsible owner cleanup plan or to protect the integrity of
cleanup measures. The deed restriction shall be placed on the
property at the time the department issues its certification
under subsection (c).~~

~~Section 503. Protection from liability.~~

~~(a) Protection. Any person acting in accordance with an
approved responsible owner cleanup plan shall not be considered
a responsible person, including in legal actions involving a
contribution action or a citizen suit, for any contamination
included in the plan for the subject property, if the department
certifies the responsible owner cleanup plan has been completed
and any actions needed to remove or remediate contamination or
releases or threatened releases of hazardous substances on the
identified property as required by the responsible owner cleanup
plan have been implemented. The liability protection provided by
this section applies to the following persons:~~

~~(1) A person providing financing for the identified
property and to the person who undertakes and completes the
activities required under the responsible owner cleanup plan.~~

~~(2) A person who develops or occupies the identified
property as a result of a lease or rent agreement.~~

~~(3) A successor or assigned of any person to whom the
liability protection applies, provided the successor or
assigned is not a person responsible for contamination on the
property.~~

~~(b) Exclusions. The protection from liability provided by
this section does not apply to a property owner who:~~

~~(1) Aggravates or contributes to a release or threatened
release identified but not remediated under an approved
responsible owner cleanup plan on the identified property.~~

1 ~~(2) Obtains approval of a responsible owner cleanup plan~~
2 ~~on the identified property by fraud or misrepresentation or~~
3 ~~by knowingly failing to disclose material information on a~~
4 ~~release or threatened release.~~

5 ~~(3) Does not fulfill the certification requirement under~~
6 ~~section 502(c) to create or retain employment opportunities~~
7 ~~unless the reason for not fulfilling the employment~~
8 ~~commitment meets one of the criteria established in 13 Pa.~~
9 ~~Code § 303.62 (relating to criteria).~~

10 ~~Section 504. Cleanup guarantee.~~

11 ~~(a) Guarantee. Any person with an approved responsible~~
12 ~~owner cleanup plan shall submit to the department a cleanup~~
13 ~~guarantee fee upon certification that the plan has been~~
14 ~~completed. The guarantee shall be in the amount of 25% of the~~
15 ~~cost of preparing and implementing the responsible owner cleanup~~
16 ~~plan. The guarantee is to be held in the Industrial Land~~
17 ~~Recycling Fund for a period of two years.~~

18 ~~(b) Form. The cleanup guarantee fee can be in a form~~
19 ~~acceptable to the department, which shall include collateral~~
20 ~~bonds, cash or other marketable securities, certificates of~~
21 ~~deposit, letters of credit or other acceptable guarantees. The~~
22 ~~department may also accept phased deposits of collateral to meet~~
23 ~~this requirement.~~

24 ~~(c) Use. The cleanup guarantee fee is to be earmarked~~
25 ~~specifically for the use of the department in the event the~~
26 ~~cleanup measures approved by the department in a responsible~~
27 ~~owner cleanup plan fail to contain or prevent a release or do~~
28 ~~not result in reducing the risks presented by the site.~~

29 ~~(d) Disposition. The cleanup guarantee fee will be returned~~
30 ~~to the property owner at the end of two years if the property~~

~~owner satisfies any monitoring or other postcertification requirements described in the responsible owner cleanup plan and if the measures taken to deal with contamination required by the plan to perform as expected. Any successor to the property owner shall maintain the guarantee for the time remaining during the two year guarantee period. The cleanup guarantee fee shall be forfeited if the property owner is excluded from liability protection under section 503(b).~~

~~CHAPTER 7~~

~~ABANDONED INDUSTRIAL LAND REDEVELOPMENT~~

~~Section 701. Scope.~~

~~This chapter applies to a person who:~~

~~(1) Intends to own a parcel of real property used for industrial activities where there is no financially viable responsible person to clean up contamination on the property.~~

~~(2) Did not, by act or omission, cause or contribute to any contamination or to the release or threatened release of a hazardous substance on the identified real property.~~

~~(3) Will reuse or redevelop the property for industrial activities or compatible uses, such as open space or greenways, to create or expand employment opportunities. For purposes of this chapter, "employment expansion" shall mean providing employment opportunities for a period of five years after the agreement is signed under section 702(d).~~

~~Section 702. Environmental study.~~

~~(a) Baseline study. The prospective purchaser or property owner shall conduct a baseline environmental study on the identified property based on a workplan approved by the department to establish a baseline of existing contamination on the site. The study shall also include the level of employment~~

~~that will be created or retained.~~

~~(b) Public review. The proposed environmental study shall be subject to a 30 day public review and comment period. Notice of the availability of the completed study shall be published in the Pennsylvania Bulletin and a newspaper of general circulation serving the area in which the identified property is located. The department may hold a public hearing on the study if one is requested. The department shall consult with the Department of Commerce on the adequacy of the employment opportunities created or retained on the identified property.~~

~~(c) Department review. Within 120 days after the completed environmental study is accepted for review, the department shall determine whether the study adequately identifies the environmental hazards and risks posed by the site.~~

~~(d) Agreement. The department and the prospective purchaser or property owner shall enter into an agreement based on the environmental study which outlines cleanup liabilities for the identified property.~~

~~Section 703. Cleanup liability.~~

~~(a) Immediate threats. The prospective purchaser after purchase or property owner shall be responsible for remediation of any immediate, direct or imminent threats to public health or the environment, such as drummed waste, which would prevent the property from being occupied for its intended purpose.~~

~~(b) Identified contamination. The prospective purchaser after purchase or property owner shall not be held responsible for the remediation of any contamination identified in the completed environmental study accepted by the department, other than the contamination identified in subsection (a).~~

~~(c) New liability. Nothing in this act shall relieve the~~

~~prospective purchaser after purchase or property owner of any
cleanup liability for contamination later caused by the
prospective purchaser or property owner.~~

~~(d) Remediation alternatives.—~~

~~(1) Remediation alternatives are to be based on the
actual risk to human health and the environment posed by
contaminants on the property considering these factors:~~

~~(i) The intended and allowable use or subsequent
uses of the property.~~

~~(ii) The ability of the contaminants to move in a
form and manner which would result in exposure to humans
and the surrounding environment at levels considered to
be a significant health risk.~~

~~(iii) The consideration of the potential
environmental risks of proposed cleanup alternatives and
their economic and technical feasibility and reliability.~~

~~(2) Remediation alternatives are not required to provide
for the removal or remediation of the conditions or
contaminants causing a release or threatened release on the
identified property if:~~

~~(i) Contaminants pose no significant risk to
employees, public health and the environment or the
remediation actions proposed in the plan and subsequent
uses of the property will eliminate significant risks to
employees, public health and the environment.~~

~~(ii) Activities required to undertake the proposed
reuse or redevelopment of the property are in a manner
which will protect public health and the environment.~~

~~(iii) Any reuse or redevelopment of the property is
not likely to aggravate or contribute to contamination of~~

1 ~~the air, land or water or to a release or threatened~~
2 ~~release that may not require removal or remediation and~~
3 ~~which is not likely to interfere with or substantially~~
4 ~~increase the cost of any response actions which may be~~
5 ~~needed to address any remaining contamination.~~

6 ~~(c) Liability of other parties. A person providing~~
7 ~~financing for the identified property and to the prospective~~
8 ~~purchaser or property owner or a person who develops or occupies~~
9 ~~the identified property as a result of a lease or rent agreement~~
10 ~~shall not be considered a responsible person for cleaning up~~
11 ~~contamination on property covered by an agreement developed~~
12 ~~under this chapter.~~

13 ~~(f) Past penalties. A prospective purchaser or property~~
14 ~~owner submitting an environmental study under this chapter shall~~
15 ~~not be responsible for paying any fines or penalties levied~~
16 ~~against any person responsible for contamination on the~~
17 ~~identified property prior to the agreement with the department.~~

18 ~~Section 704. Owner responsibilities.~~

19 ~~(a) Prevention. The prospective purchaser or property owner~~
20 ~~shall take the steps necessary to prevent any existing~~
21 ~~contamination on the site from becoming worse as the result of~~
22 ~~its activities.~~

23 ~~(b) Noninterference. The prospective purchaser or property~~
24 ~~owner shall not interfere with any subsequent remediation~~
25 ~~efforts by the department or others to deal with contamination~~
26 ~~identified in the baseline environmental study.~~

27 ~~(c) Deed restriction. If needed, a restriction shall be~~
28 ~~placed on the deed for the property covered by this chapter~~
29 ~~which restricts the use of the property to industrial activities~~
30 ~~and compatible uses which will protect the integrity of any~~

~~cleanup measures implemented on the property or prevent
contaminated portions of the property from being disturbed.~~

~~Section 705. Transferability.~~

~~The agreement on cleanup liabilities entered into by the
department and the prospective purchaser or property owner under
this chapter is transferable without review by the department in
its entirety to any and all subsequent owners of the property
who did not, by act or omission, cause or contribute to any
contamination or to the release or threatened release of a
hazardous substance on the identified property.~~

~~Section 706. Third parties.~~

~~No person who submits an environmental study accepted under
this chapter by the department or who is granted liability
protection under section 703(c) shall be subject to citizen
suits or other contribution actions brought by responsible
persons for a release or potential release on the identified
property.~~

~~Section 707. Funding.~~

~~Prospective purchasers and property owners redeveloping
abandoned property under this chapter shall be eligible for
funding under the Voluntary Cleanup Loan Program established
under section 305 to perform environmental studies or to
implement any remediation actions required of the prospective
purchaser or property owner under this chapter.~~

~~CHAPTER 9~~

~~NO ACTION DETERMINATIONS~~

~~Section 901. No action determinations.~~

~~Property owners may request and the department shall issue
written determinations that it will take no enforcement or
cleanup actions against an innocent landowner who owns real~~

~~property and is otherwise not responsible for any identified contamination or a release or threatened release of a hazardous substance where either of the following occurs:~~

~~(1) An environmental assessment or transaction screen analysis performed by a registered environmental professional indicates no significant contamination or contamination which does not pose significant actual risk to public health and the environment.~~

~~(2) Where the department finds that contamination or a release or threatened release of a hazardous substance originates from a source on an adjacent or nearby real property.~~

~~Section 902. Assessment standards.~~

~~(a) Standards. Environmental assessments as required by this chapter shall follow the Standard E.50.02.2 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process as adopted by ASTM. Property transaction screens as required by this chapter shall follow Standard E.50.02.1 Standard Practice for Environmental Sites Assessments: Transaction Screen Process as adopted by ASTM.~~

~~(b) Liability. A person shall not be considered a person responsible for a release or a threatened release of a hazardous substance simply by virtue of conducting an environmental assessment or transaction screen on a property. Nothing in this section relieves a person of any liability for failure to exercise due diligence in performing an environmental assessment or transaction screen.~~

~~Section 903. Review deadline.~~

~~The department shall make a decision on whether or not to~~

~~issue a no action determination no later than 90 days after a request is made, unless the department and the person requesting the determination agree to an extension of the review to a date certain.~~

~~Section 904.— Applicability.~~

~~The no action determination shall also apply to any person providing financing to the person named in the determination for the identified property and to any person developing or occupying the identified property as the result of a lease or rent agreement.~~

~~Section 905.— Entry.~~

~~The property owner must allow entry to the property by the department or its representatives for the purpose of taking any remediation and response actions needed to address contamination on the adjacent site and not interfere with any response action.~~

~~Section 906.— Transferability.~~

~~A no action determination may be transferred by the property owner to successors and assigns, if the successors and assigns are not otherwise responsible for any contamination on the adjacent property. A no action determination shall also be extended to the successors and assigns of parties identified in section 904.~~

~~Section 907.— Third parties.~~

~~No person who is the subject of a no action determination issued by the department or who is granted liability protection under section 903 shall be subject to either citizen suits or other contribution actions brought by responsible persons for a release or potential release identified in the no action determination.~~

1 ~~REGISTRATION OF ENVIRONMENTAL PROFESSIONALS~~

2 ~~Section 1101. Registration.~~

3 ~~(a) General rule. The department may only accept baseline~~
4 ~~environmental studies, environmental assessments or transaction~~
5 ~~screen analyses required under this act that are prepared by~~
6 ~~environmental professionals registered with the department~~
7 ~~starting one year after the department establishes~~
8 ~~qualifications for registration. Both individual environmental~~
9 ~~professionals and corporations can be registered under this~~
10 ~~chapter.~~

11 ~~(b) Registration period. Registration for an environmental~~
12 ~~professional shall be valid for a period of one year and shall~~
13 ~~be renewed annually.~~

14 ~~(c) Interim reviews. Nothing in this section shall prevent~~
15 ~~the department from accepting environmental assessments or~~
16 ~~transaction screen reviews immediately on the effective date of~~
17 ~~this act if they comply with section 902.~~

18 ~~Section 1102. Qualifications.~~

19 ~~The department shall establish qualifications for~~
20 ~~environmental professionals requesting registration. The~~
21 ~~qualifications shall include the following:~~

22 ~~(1) Education, training and experience in preparing~~
23 ~~environmental studies and assessments.~~

24 ~~(2) Certification or accreditation by professional~~
25 ~~groups such as the National Association of Environmental~~
26 ~~Professionals and the National Association of Safety and~~
27 ~~Health Professionals.~~

28 ~~(3) An evaluation of the ability to meet best~~
29 ~~professional and technical standards for preparing~~
30 ~~environmental studies and assessments.~~

1 ~~Section 1103. Withholding registration.~~

2 ~~The department may deny, withhold, withdraw or not renew the~~
3 ~~registration of an environmental professional if the applicant~~
4 ~~does not meet the qualifications to be registered or if the~~
5 ~~department determines the environmental studies and assessments~~
6 ~~submitted by the environmental professional do not meet best~~
7 ~~professional and technical standards.~~

8 ~~Section 1104. Registration fee.~~

9 ~~The initial fee for registering environmental professionals~~
10 ~~for the first time shall be \$150. The registration renewal fee~~
11 ~~shall be \$100. The department may by regulation change the~~
12 ~~initial registration and registration renewal fees.~~

13 ~~CHAPTER 13~~

14 ~~MISCELLANEOUS PROVISIONS~~

15 ~~Section 1301. Industrial Land Recycling Fund.~~

16 ~~(a) Fund. There is hereby established a separate account in~~
17 ~~the State Treasury to be known as the Industrial Land Recycling~~
18 ~~Fund, which shall be a special fund administered by the~~
19 ~~department.~~

20 ~~(b) Purpose. The moneys deposited in this fund shall be~~
21 ~~used by the department to remediate a release or threatened~~
22 ~~release that poses a significant risk to public health or the~~
23 ~~environment where the department has certified a voluntary~~
24 ~~cleanup plan or a responsible owner cleanup plan has been~~
25 ~~completed but has not reduced or eliminated the risk as~~
26 ~~projected. Moneys from the Hazardous Sites Cleanup Fund shall~~
27 ~~also be available to the department to remediate a release or~~
28 ~~threatened release on a property covered by a completed~~
29 ~~voluntary cleanup plan or a responsible owner cleanup plan.~~

30 ~~(c) Funds. In addition to any funds appropriated by the~~

1 ~~General Assembly, Federal funds and private contributions and~~
2 ~~any fines and penalties assessed under this act and the cleanup~~
3 ~~guarantees assessed or forfeited under sections 304 and 504~~
4 ~~shall be deposited into the fund.~~

5 ~~(d) Annual report. The department shall on October 1 of~~
6 ~~each year report to the General Assembly on the expenditures and~~
7 ~~commitments made from the Industrial Land Recycling Fund.~~

8 ~~Section 1302. Enforcement.~~

9 ~~The department may issue orders to persons and municipalities~~
10 ~~it considers necessary to aid in the enforcement of the~~
11 ~~provisions of this act. An order issued under this act shall~~
12 ~~take effect upon service, unless the order specifies otherwise.~~
13 ~~An appeal to the Environmental Hearing Board shall not act as a~~
14 ~~supersedeas. The power of the department to issue an order under~~
15 ~~this act is in addition to any other remedy which may be~~
16 ~~afforded to the department under this act or any other act.~~

17 ~~Section 1303. Penalties.~~

18 ~~(a) General authority. The department shall utilize the~~
19 ~~civil and criminal penalties of the act of July 7, 1980~~
20 ~~(P.L.380, No.97), known as the Solid Waste Management Act, to~~
21 ~~enforce the provisions of this act.~~

22 ~~(b) Fraud. Any person who willfully commits fraud to obtain~~
23 ~~cleanup liability protection under this act shall, upon~~
24 ~~conviction, be subject to an additional penalty of \$50,000 for~~
25 ~~each separate offense or to imprisonment for a period of not~~
26 ~~more than one year for each separate offense, or both. Each day~~
27 ~~shall be considered a separate offense.~~

28 ~~Section 1304. Authority reserved.~~

29 ~~Nothing in this act shall affect the ability or authority of~~
30 ~~the department or any person to seek any relief available under~~

~~this act or any other act against any party who is not subject to the liability protection provided under this act.~~

~~Section 1305. Construction.~~

~~(a) Existing exclusions. The protection from cleanup liability afforded under this act shall be in addition to the exclusions from being a responsible person under other existing State environmental statutes.~~

~~(b) Federal standards. The provisions of this act shall not prevent the Commonwealth from enforcing specific cleanup standards required to be enforced by the Federal Government as a condition of primacy or to receive Federal funds.~~

~~Section 1306. Transfer of funds.~~

~~The complement of the department is increased by seven positions for the purpose of implementing this act. The sum of \$500,000 is hereby appropriated to the Department of Environmental Resources for fiscal year 1993-1994 from the Hazardous Sites Cleanup Fund for the purpose of implementing this act.~~

~~Section 1307. Effective date.~~

~~This act shall take effect in 60 days.~~

CHAPTER 1

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GENERAL PROVISIONS

SECTION 101. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE LAND RECYCLING AND ENVIRONMENTAL REMEDIATION STANDARDS ACT.

SECTION 102. DECLARATION OF POLICY.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) THE ELIMINATION OF PUBLIC HEALTH AND ENVIRONMENTAL HAZARDS ON EXISTING COMMERCIAL AND INDUSTRIAL LAND ACROSS

THIS COMMONWEALTH IS VITAL TO THEIR USE AND REUSE AS SOURCES

1 OF EMPLOYMENT, HOUSING, RECREATION AND OPEN-SPACE AREAS. THE
2 REUSE OF INDUSTRIAL LAND IS AN IMPORTANT COMPONENT OF A SOUND
3 LAND-USE POLICY THAT WILL HELP PREVENT THE NEEDLESS
4 DEVELOPMENT OF PRIME FARMLAND, OPEN-SPACE AREAS AND NATURAL
5 AREAS AND REDUCE PUBLIC COSTS FOR INSTALLING NEW WATER, SEWER
6 AND HIGHWAY INFRASTRUCTURE.

7 (2) INCENTIVES SHOULD BE PUT IN PLACE TO ENCOURAGE
8 RESPONSIBLE PERSONS TO VOLUNTARILY DEVELOP AND IMPLEMENT
9 CLEANUP PLANS WITHOUT THE USE OF TAXPAYER FUNDS OR THE NEED
10 FOR ADVERSARIAL ENFORCEMENT ACTIONS BY THE DEPARTMENT OF
11 ENVIRONMENTAL RESOURCES WHICH FREQUENTLY ONLY SERVE TO DELAY
12 CLEANUPS AND INCREASE THEIR COST.

13 (3) PUBLIC HEALTH AND ENVIRONMENTAL HAZARDS CANNOT BE
14 ELIMINATED WITHOUT CLEAR, PREDICTABLE ENVIRONMENTAL
15 REMEDIATION STANDARDS AND A PROCESS FOR DEVELOPING THOSE
16 STANDARDS. ANY REMEDIATION STANDARDS ADOPTED BY THIS
17 COMMONWEALTH MUST PROVIDE FOR THE PROTECTION OF PUBLIC HEALTH
18 AND THE ENVIRONMENT.

19 (4) IT IS NECESSARY FOR THE GENERAL ASSEMBLY TO ADOPT A
20 STATUTE WHICH SETS ENVIRONMENTAL REMEDIATION STANDARDS TO
21 PROVIDE A UNIFORM FRAMEWORK FOR CLEANUP DECISIONS BECAUSE FEW
22 ENVIRONMENTAL STATUTES SET CLEANUP STANDARDS AND TO AVOID
23 POTENTIALLY CONFLICTING AND CONFUSING ENVIRONMENTAL
24 STANDARDS. THE GENERAL ASSEMBLY ALSO HAS A DUTY TO IMPLEMENT
25 THE PROVISIONS OF SECTION 27 OF ARTICLE I OF THE CONSTITUTION
26 OF PENNSYLVANIA WITH RESPECT TO ENVIRONMENTAL REMEDIATION
27 ACTIVITIES.

28 (5) CLEANUP PLANS SHOULD BE BASED ON THE ACTUAL RISK
29 THAT CONTAMINATION ON THE SITE MAY POSE TO PUBLIC HEALTH AND
30 THE ENVIRONMENT, TAKING INTO ACCOUNT ITS FUTURE USE AND THE

1 DEGREE TO WHICH CONTAMINATION CAN SPREAD OFFSITE AND EXPOSE
2 THE PUBLIC OR THE ENVIRONMENT TO RISK, NOT ON CLEANUP
3 POLICIES REQUIRING EVERY SITE IN THIS COMMONWEALTH TO BE
4 RETURNED TO A PRISTINE CONDITION.

5 (6) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES NOW
6 ROUTINELY THROUGH ITS PERMITTING POLICIES DETERMINES WHEN
7 CONTAMINATION WILL AND WILL NOT POSE A SIGNIFICANT RISK TO
8 PUBLIC HEALTH OR THE ENVIRONMENT. SIMILAR CONCEPTS SHOULD BE
9 USED IN ESTABLISHING CLEANUP POLICIES.

10 (7) THE PUBLIC IS ENTITLED TO UNDERSTAND HOW REMEDIATION
11 STANDARDS ARE APPLIED TO A SITE THROUGH A PLAIN LANGUAGE
12 DESCRIPTION OF CONTAMINATION PRESENT ON A SITE, THE RISK IT
13 POSES TO PUBLIC HEALTH AND THE ENVIRONMENT AND ANY PROPOSED
14 CLEANUP MEASURE.

15 SECTION 103. DEFINITIONS.

16 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
17 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
18 CONTEXT CLEARLY INDICATES OTHERWISE:

19 "ASTM." THE AMERICAN SOCIETY OF TESTING MATERIALS.

20 "AQUIFER." A GEOLOGIC FORMATION, GROUP OF FORMATIONS OR PART
21 OF A FORMATION CAPABLE OF A SUSTAINABLE YIELD OF SIGNIFICANT
22 AMOUNT OF WATER TO A WELL OR SPRING.

23 "BACKGROUND." THE CONCENTRATION OF A REGULATED SUBSTANCE
24 DETERMINED BY APPROPRIATE STATISTICAL METHODS THAT IS PRESENT IN
25 THE IMMEDIATE VICINITY OF THE SITE BUT IS NOT RELATED TO THE
26 RELEASE OF REGULATED SUBSTANCES AT THE SITE.

27 "BADCT" OR "BEST AVAILABLE DEMONSTRATED CONTROL TECHNOLOGY."
28 THE COMMERCIALY AVAILABLE ENGINEERING TECHNOLOGY WHICH HAS
29 DEMONSTRATED AT FULL SCALE ON A CONSISTENT BASIS THAT IT MOST
30 EFFECTIVELY ACHIEVES THE STANDARD FOR A REMEDIATION ACTION FOR A

1 REGULATED SUBSTANCE AT A CONTAMINATED SITE UNDER SIMILAR
2 APPLICATIONS.

3 "BOARD." THE CLEANUP STANDARDS SCIENTIFIC ADVISORY BOARD
4 ESTABLISHED IN SECTION 105.

5 "CARCINOGEN." A CANCER-CAUSING AGENT, CHEMICAL, BIOLOGICAL
6 OR PHYSICAL, DEFINED BY THE ENVIRONMENTAL PROTECTION AGENCY AS A
7 CARCINOGEN.

8 "CONTROL." TO APPLY ENGINEERING MEASURES, SUCH AS CAPPING OR
9 TREATMENT, OR INSTITUTIONAL MEASURES, SUCH AS DEED RESTRICTIONS,
10 TO SITES WITH CONTAMINATED MEDIA.

11 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF
12 THE COMMONWEALTH.

13 "EPA." THE ENVIRONMENTAL PROTECTION AGENCY OR ITS SUCCESSOR
14 AGENCY.

15 "FATE AND TRANSPORT." A TERM USED TO DESCRIBE THE
16 DEGRADATION OF A CHEMICAL OVER TIME, AND WHERE CHEMICALS ARE
17 LIKELY TO MOVE GIVEN THEIR PHYSICAL AND OTHER PROPERTIES AND THE
18 ENVIRONMENTAL MEDIUM THEY ARE MOVING THROUGH.

19 "GROUNDWATER." WATER BELOW THE LAND SURFACE IN A ZONE OF
20 SATURATION.

21 "HAZARD INDEX." THE SUM OF MORE THAN ONE HAZARD QUOTIENT FOR
22 MULTIPLE SUBSTANCES AND MULTIPLE EXPOSURE PATHWAYS. THE HAZARD
23 INDEX IS CALCULATED SEPARATELY FOR CHRONIC, SUBCHRONIC AND
24 SHORTER DURATION EXPOSURES.

25 "HAZARD QUOTIENT." THE RATIO OF A SINGLE SUBSTANCE EXPOSURE
26 LEVEL OVER A SPECIFIED PERIOD, E.G. SUBCHRONIC, TO A REFERENCE
27 DOSE FOR THAT SUBSTANCE DERIVED FROM A SIMILAR EXPOSURE PERIOD.

28 "HAZARDOUS SITES CLEANUP FUND." THE FUND ESTABLISHED UNDER
29 THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE
30 HAZARDOUS SITES CLEANUP ACT.

1 "INDUSTRIAL ACTIVITY." COMMERCIAL, MANUFACTURING, PUBLIC
2 UTILITY, MINING OR ANY OTHER ACTIVITY DONE TO FURTHER EITHER THE
3 DEVELOPMENT, MANUFACTURING OR DISTRIBUTION OF GOODS AND
4 SERVICES, INCLUDING, BUT NOT LIMITED TO, ADMINISTRATION OF
5 BUSINESS ACTIVITIES, RESEARCH AND DEVELOPMENT, WAREHOUSING,
6 SHIPPING, TRANSPORT, REMANUFACTURING, STOCKPILING, STORAGE,
7 SOLID WASTE MANAGEMENT, REPAIR AND MAINTENANCE OF RAW MATERIALS,
8 INTERMEDIATE AND FINAL PRODUCTS AND SOLID WASTE CREATED DURING
9 SUCH ACTIVITIES, COMMERCIAL MACHINERY AND EQUIPMENT.

10 "MEDIUM-SPECIFIC CONCENTRATION." THE CONCENTRATION
11 ASSOCIATED WITH A SPECIFIED ENVIRONMENTAL MEDIUM FOR POTENTIAL
12 RISK EXPOSURES.

13 "MITIGATION MEASURES." ANY REMEDIATION ACTION PERFORMED BY A
14 PERSON PRIOR TO OR DURING IMPLEMENTATION OF A REMEDIATION PLAN
15 WITH THE INTENT TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT.

16 "NONRESIDENTIAL PROPERTY." ANY REAL PROPERTY ON WHICH
17 COMMERCIAL, INDUSTRIAL, MANUFACTURING OR ANY OTHER ACTIVITY IS
18 DONE TO FURTHER EITHER THE DEVELOPMENT, MANUFACTURING OR
19 DISTRIBUTION OF GOODS AND SERVICES, INCLUDING, BUT NOT LIMITED
20 TO, ADMINISTRATION OF BUSINESS ACTIVITIES, RESEARCH AND
21 DEVELOPMENT, WAREHOUSING, SHIPPING, TRANSPORT, REMANUFACTURING,
22 STOCKPILING OF RAW MATERIALS, STORAGE, REPAIR AND MAINTENANCE OF
23 COMMERCIAL MACHINERY AND EQUIPMENT OR INTERMEDIATE AND FINAL
24 PRODUCTS AND SOLID WASTE MANAGEMENT.

25 "PERSON." AN INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION,
26 PARTNERSHIP, CONSORTIUM, JOINT VENTURE, COMMERCIAL ENTITY,
27 AUTHORITY, NONPROFIT CORPORATION, INTERSTATE BODY OR OTHER LEGAL
28 ENTITY WHICH IS RECOGNIZED BY LAW AS THE SUBJECT OF RIGHTS AND
29 DUTIES. THE TERM INCLUDES THE FEDERAL GOVERNMENT, STATE
30 GOVERNMENT, POLITICAL SUBDIVISIONS AND COMMONWEALTH

1 INSTRUMENTALITIES.

2 "POINT OF COMPLIANCE." FOR THE PURPOSES OF DETERMINING
3 COMPLIANCE WITH GROUNDWATER STANDARDS, THE PROPERTY BOUNDARY AT
4 THE TIME THE AREA OF CONTAMINATION IS DEFINED OR SUCH POINT
5 BEYOND THE PROPERTY BOUNDARY AS THE DEPARTMENT OF ENVIRONMENTAL
6 RESOURCES MAY DETERMINE TO BE APPROPRIATE.

7 "PRACTICAL QUANTITATION LIMIT." THE LOWEST LIMIT THAT CAN BE
8 RELIABLY ACHIEVED WITHIN SPECIFIED LIMITS OF PRECISION AND
9 ACCURACY UNDER ROUTINE LABORATORY CONDITIONS FOR A SPECIFIED
10 MATRIX AND BASED ON QUANTITATION, PRECISION AND ACCURACY, NORMAL
11 OPERATION OF A LABORATORY AND THE PRACTICAL NEED IN A
12 COMPLIANCE-MONITORING PROGRAM TO HAVE A SUFFICIENT NUMBER OF
13 LABORATORIES AVAILABLE TO CONDUCT THE ANALYSES.

14 "PUBLIC UTILITY." THE TERM SHALL HAVE THE SAME MEANING AS
15 GIVEN TO IT IN 66 PA.C.S. (RELATING TO PUBLIC UTILITIES).

16 "REGULATED SUBSTANCE." THE TERM SHALL INCLUDE HAZARDOUS
17 SUBSTANCES REGULATED UNDER THE ACT OF OCTOBER 18, 1988 (P.L.756,
18 NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP ACT, AND
19 SUBSTANCES COVERED BY THE ACT OF JUNE 22, 1937 (P.L.1987,
20 NO.394), KNOWN AS THE CLEAN STREAMS LAW, THE ACT OF JANUARY 8,
21 1960 (1959 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL
22 ACT, THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE
23 SOLID WASTE MANAGEMENT ACT, THE ACT OF JULY 13, 1988 (P.L.525,
24 NO.93), REFERRED TO AS THE INFECTIOUS AND CHEMOTHERAPEUTIC WASTE
25 LAW, AND THE ACT OF JULY 6, 1989 (P.L.169, NO.32), KNOWN AS THE
26 STORAGE TANK AND SPILL PREVENTION ACT.

27 "RELEASE." SPILLING, LEAKING, PUMPING, POURING, EMITTING,
28 EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING OR
29 DISPOSING OF A REGULATED SUBSTANCE INTO THE ENVIRONMENT IN
30 VIOLATION OF STATE LAW. THE TERM INCLUDES THE ABANDONMENT OR

1 DISCARDING OF BARRELS, CONTAINERS, VESSELS AND OTHER RECEPTACLES
2 CONTAINING A REGULATED SUBSTANCE.

3 "REMEDIATION." TO CLEAN UP, MITIGATE, CORRECT, ABATE,
4 MINIMIZE, ELIMINATE, CONTROL OR PREVENT A RELEASE OF A REGULATED
5 SUBSTANCE INTO THE ENVIRONMENT IN ORDER TO PROTECT THE PRESENT
6 OR FUTURE PUBLIC HEALTH, SAFETY, WELFARE OR THE ENVIRONMENT,
7 INCLUDING PRELIMINARY ACTIONS TO STUDY OR ASSESS THE RELEASE.

8 "RESIDENTIAL PROPERTY." ANY PROPERTY OR PORTION OF THE
9 PROPERTY WHICH DOES NOT MEET THE DEFINITION OF "NONRESIDENTIAL
10 PROPERTY."

11 "RESPONSIBLE PERSON." THE TERM SHALL HAVE THE SAME MEANING
12 AS GIVEN TO IT IN THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108),
13 KNOWN AS THE HAZARDOUS SITES CLEANUP ACT, AND SHALL INCLUDE A
14 PERSON SUBJECT TO ENFORCEMENT ACTIONS FOR SUBSTANCES COVERED BY
15 THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN
16 STREAMS LAW, THE ACT OF JANUARY 8, 1960 (1959 P.L.2119, NO.787),
17 KNOWN AS THE AIR POLLUTION CONTROL ACT, THE ACT OF JULY 7, 1980
18 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, THE
19 ACT OF JULY 13, 1988 (P.L.525, NO.93), REFERRED TO AS THE
20 INFECTIOUS AND CHEMOTHERAPEUTIC WASTE LAW, AND THE ACT OF JULY
21 6, 1989 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL
22 PREVENTION ACT.

23 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL RESOURCES OF THE
24 COMMONWEALTH.

25 "SITE." THE EXTENT OF CONTAMINATION AND ALL AREAS IN CLOSE
26 PROXIMITY TO THE CONTAMINATION NECESSARY FOR THE IMPLEMENTATION
27 OF REMEDIATION ACTIVITIES.

28 "SYSTEMIC TOXICANT." A MATERIAL THAT MANIFESTS ITS TOXIC
29 EFFECT IN HUMANS IN A FORM OTHER THAN CANCER.

30 "TREATMENT." THE TERM SHALL HAVE THE SAME MEANING AS GIVEN

1 TO IT IN THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS
2 THE HAZARDOUS SITES CLEANUP ACT.

3 SECTION 104. POWERS AND DUTIES.

4 (A) ENVIRONMENTAL QUALITY BOARD.--THE ENVIRONMENTAL QUALITY
5 BOARD SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO ADOPT BY
6 REGULATION STATEWIDE HEALTH STANDARDS, APPROPRIATE
7 MATHEMATICALLY VALID STATISTICAL TESTS TO DEFINE COMPLIANCE WITH
8 THIS ACT AND OTHER REGULATIONS THAT MAY BE NEEDED TO IMPLEMENT
9 THE PROVISIONS OF THIS ACT. ANY REGULATIONS NEEDED TO IMPLEMENT
10 THIS ACT SHALL BE PROPOSED BY THE DEPARTMENT NO LATER THAN 12
11 MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT AND SHALL BE
12 FINALIZED NO LATER THAN 24 MONTHS AFTER THE EFFECTIVE DATE OF
13 THIS ACT, UNLESS OTHERWISE SPECIFIED IN THIS ACT.

14 (B) DEPARTMENT.--THE DEPARTMENT SHALL HAVE THE POWER AND ITS
15 DUTY SHALL BE TO IMPLEMENT THE PROVISIONS OF THIS ACT.

16 SECTION 105. CLEANUP STANDARDS SCIENTIFIC ADVISORY BOARD.

17 (A) ESTABLISHMENT.--THERE IS HEREBY CREATED A 13-MEMBER
18 CLEANUP STANDARDS SCIENTIFIC ADVISORY BOARD FOR THE PURPOSE OF
19 ASSISTING THE DEPARTMENT AND THE ENVIRONMENTAL QUALITY BOARD IN
20 DEVELOPING STATEWIDE HEALTH STANDARDS, DETERMINING THE
21 APPROPRIATE STATISTICALLY AND SCIENTIFICALLY VALID PROCEDURES TO
22 BE USED, DETERMINING THE APPROPRIATE RISK FACTORS AND PROVIDING
23 OTHER TECHNICAL AND SCIENTIFIC ADVICE AS NEEDED TO IMPLEMENT THE
24 PROVISIONS OF THIS ACT.

25 (B) MEMBERSHIP.--FIVE MEMBERS SHALL BE APPOINTED BY THE
26 SECRETARY AND TWO MEMBERS EACH BY THE PRESIDENT PRO TEMPORE OF
27 THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF
28 THE HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE
29 HOUSE OF REPRESENTATIVES. MEMBERS SHALL HAVE A BACKGROUND IN
30 ENGINEERING, BIOLOGY, HYDROGEOLOGY, STATISTICS, MEDICINE,

1 CHEMISTRY, TOXICOLOGY OR OTHER RELATED SCIENTIFIC EDUCATION OR
2 EXPERIENCE THAT RELATES TO PROBLEMS AND ISSUES LIKELY TO BE
3 ENCOUNTERED IN DEVELOPING HEALTH-BASED CLEANUP STANDARDS AND
4 OTHER PROCEDURES NEEDED TO IMPLEMENT THE PROVISIONS OF THIS ACT.
5 THE BOARD MEMBERSHIP SHALL INCLUDE REPRESENTATIVES OF LOCAL
6 GOVERNMENT, THE PUBLIC AND THE REGULATED COMMUNITY. THE MEMBERS
7 SHALL SERVE FOR A PERIOD OF FOUR YEARS. THE INITIAL TERMS OF THE
8 MEMBERS SHALL BE STAGGERED SO THAT AT LEAST ONE-HALF OF THE
9 MEMBERS' TERMS EXPIRE IN TWO YEARS.

10 (C) ORGANIZATION.--THE BOARD SHALL ELECT A CHAIRPERSON BY
11 MAJORITY VOTE AND MAY ADOPT ANY BYLAWS OR PROCEDURES IT DEEMS
12 NECESSARY TO ACCOMPLISH ITS PURPOSE. RECOMMENDATIONS, POSITIONS
13 OR OTHER ACTIONS OF THE BOARD SHALL BE BY A MAJORITY OF ITS
14 MEMBERS.

15 (D) EXPENSES.--MEMBERS OF THE BOARD SHALL BE REIMBURSED FOR
16 THEIR TRAVEL EXPENSES TO ATTEND MEETINGS AS AUTHORIZED BY THE
17 EXECUTIVE BOARD.

18 (E) SUPPORT.--THE DEPARTMENT SHALL PROVIDE THE APPROPRIATE
19 ADMINISTRATIVE AND TECHNICAL SUPPORT NEEDED BY THE BOARD IN
20 ORDER TO ACCOMPLISH ITS PURPOSE, INCLUDING SUPPORT FOR SURVEYS
21 AND TECHNICAL STUDIES THE BOARD MAY WISH TO UNDERTAKE. THE
22 DEPARTMENT SHALL PUBLISH A NOTICE OF MEETING DATES, TIMES AND
23 LOCATIONS AND A LIST OF TOPICS TO BE DISCUSSED AT ANY MEETING NO
24 LESS THAN 14 DAYS PRIOR TO THE MEETING, PUBLISHED IN THE SAME
25 MANNER AS REQUIRED BY THE ACT OF JULY 3, 1986 (P.L.388, NO.84),
26 KNOWN AS THE SUNSHINE ACT.

27 (F) INTERESTED PERSONS LIST.--THE DEPARTMENT SHALL MAINTAIN
28 A MAILING LIST OF PERSONS INTERESTED IN RECEIVING NOTICE OF
29 MEETINGS AND THE ACTIVITIES OF THE BOARD. THE DEPARTMENT SHALL
30 NAME A CONTACT PERSON TO BE RESPONSIBLE FOR BOARD MEETINGS AND

1 TO SERVE AS A CONTACT FOR THE PUBLIC TO ASK QUESTIONS AND GET
2 INFORMATION ABOUT THE BOARD.

3 (G) ACCESS TO DOCUMENTS.--THE BOARD SHALL HAVE ACCESS TO ALL
4 POLICIES AND PROCEDURES, DRAFT PROPOSED OR FINAL REGULATIONS OR
5 ISSUE PAPERS WHICH THE BOARD DETERMINES ARE NECESSARY TO
6 ACHIEVING ITS PURPOSE.

7 SECTION 106. SCOPE.

8 THE ENVIRONMENTAL REMEDIATION STANDARDS ESTABLISHED UNDER
9 THIS ACT SHALL BE USED WHENEVER SITE REMEDIATION AND CLEANUP IS
10 CONDUCTED UNDER THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),
11 KNOWN AS THE CLEAN STREAMS LAW, THE ACT OF JANUARY 8, 1960 (1959
12 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT, THE
13 ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
14 MANAGEMENT ACT, THE ACT OF JULY 13, 1988 (P.L.525, NO.93),
15 REFERRED TO AS THE INFECTIOUS AND CHEMOTHERAPEUTIC WASTE LAW,
16 THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE
17 HAZARDOUS SITES CLEANUP ACT, AND THE ACT OF JULY 6, 1989
18 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL PREVENTION
19 ACT.

20 SECTION 107. EXISTING STANDARDS.

21 THE DEPARTMENT MAY CONTINUE TO USE CLEANUP STANDARDS NOT
22 ADOPTED UNDER TO THE PROVISIONS OF THIS ACT FOR A PERIOD OF UP
23 TO THREE YEARS AFTER THE EFFECTIVE DATE OF THIS ACT, UNLESS SUCH
24 EXISTING STANDARDS ARE REVISED OR REPLACED BY REGULATIONS
25 ADOPTED UNDER THIS ACT. ALL REGULATIONS, POLICIES, GUIDANCE
26 DOCUMENTS AND PROCEDURES WHICH WERE NOT ADOPTED UNDER THE
27 PROVISIONS OF THIS ACT SHALL EXPIRE THREE YEARS AFTER THE
28 EFFECTIVE DATE OF THIS ACT. THE STANDARDS ESTABLISHED IN
29 SECTIONS 302, 303(B)(3) AND 304 SHALL BE AVAILABLE FOR USE ON
30 THE EFFECTIVE DATE OF THIS ACT AND SHALL SUPERSEDE EXISTING

REGULATIONS, POLICIES, GUIDANCE DOCUMENTS AND PROCEDURES.

CHAPTER 3

REMEDIATION STANDARDS AND REVIEW PROCEDURES

SECTION 301. REMEDIATION STANDARDS.

(A) STANDARDS.--ANY PERSON WHO PROPOSES TO RESPOND TO THE RELEASE OF A REGULATED SUBSTANCE AT A SITE AND TO BE ELIGIBLE FOR THE CLEANUP LIABILITY PROTECTION UNDER CHAPTER 5 SHALL SELECT AND ATTAIN COMPLIANCE WITH ONE OR MORE OF THE FOLLOWING ENVIRONMENTAL STANDARDS WHEN CONDUCTING REMEDIATION ACTIVITIES:

(1) A BACKGROUND STANDARD WHICH ACHIEVES BACKGROUND OR THE PRACTICAL QUANTITATION LIMIT AS FURTHER SPECIFIED IN SECTION 302;

(2) A STATEWIDE HEALTH STANDARD ADOPTED BY THE ENVIRONMENTAL QUALITY BOARD WHICH ACHIEVES A UNIFORM STATEWIDE HEALTH-BASED LEVEL SO THAT ANY SUBSTANTIAL PRESENT OR PROBABLE FUTURE RISK TO HUMAN HEALTH AND THE ENVIRONMENT IS ELIMINATED AS SPECIFIED IN SECTION 303; OR

(3) A SITE-SPECIFIC STANDARD WHICH ACHIEVES REMEDIATION LEVELS BASED ON A SITE-SPECIFIC RISK ASSESSMENT SO THAT ANY SUBSTANTIAL PRESENT OR PROBABLE FUTURE RISK TO HUMAN HEALTH AND THE ENVIRONMENT IS ELIMINATED OR REDUCED TO PROTECTIVE LEVELS BASED UPON THE PRESENT OR CURRENTLY PLANNED FUTURE USE OF THE PROPERTY COMPRISING THE SITE AS SPECIFIED IN SECTION 304.

(B) COMBINATION OF STANDARDS.--A PERSON MAY USE A COMBINATION OF THE REMEDIATION STANDARDS TO IMPLEMENT A SITE REMEDIATION PLAN AND MAY PROPOSE TO USE THE SITE-SPECIFIC STANDARD WHETHER OR NOT EFFORTS HAVE BEEN MADE TO ATTAIN THE BACKGROUND OR STATEWIDE HEALTH STANDARD.

SECTION 302. BACKGROUND STANDARD.

(A) STANDARD.--PERSONS SELECTING THE BACKGROUND STANDARD SHALL MEET A STANDARD THAT IS THE GREATER OF EITHER OF THE FOLLOWING CONCENTRATIONS FOR EACH REGULATED SUBSTANCE IN EACH ENVIRONMENTAL MEDIUM:

(1) BACKGROUND AS REPRESENTED BY THE RESULTS OF ANALYSES OF REPRESENTATIVE SAMPLES; OR

(2) THE ACHIEVABLE PRACTICAL QUANTITATION LIMIT.

(B) ATTAINMENT.--FINAL CERTIFICATION THAT A SITE OR PORTION OF A SITE MEETS THE BACKGROUND STANDARD SHALL BE DOCUMENTED IN THE FOLLOWING MANNER:

(1) ATTAINMENT OF THE BACKGROUND STANDARD SHALL BE DEMONSTRATED BY COLLECTION AND ANALYSIS OF REPRESENTATIVE SAMPLES FROM ENVIRONMENTAL MEDIA OF CONCERN, INCLUDING SOILS AND GROUNDWATER IN AQUIFERS IN THE AREA WHERE THE CONTAMINATION OCCURS THROUGH THE APPLICATION OF STATISTICAL TESTS SET FORTH IN REGULATION OR, IF NO REGULATIONS HAVE BEEN ADOPTED, IN A DEMONSTRATION OF A MATHEMATICALLY VALID APPLICATION OF STATISTICAL TESTS.

(2) A FINAL REPORT THAT DOCUMENTS ATTAINMENT OF THE BACKGROUND STANDARD SHALL BE SUBMITTED TO THE DEPARTMENT WHICH INCLUDES, AS APPROPRIATE:

(I) THE DESCRIPTIONS OF PROCEDURES AND CONCLUSIONS OF THE SITE INVESTIGATION TO CHARACTERIZE THE NATURE, EXTENT, DIRECTION, VOLUME AND COMPOSITION.

(II) THE BASIS FOR SELECTING ENVIRONMENTAL MEDIA OF CONCERN, DESCRIPTIONS OF REMOVAL OR DECONTAMINATION PROCEDURES PERFORMED IN REMEDIATION, SUMMARIES OF SAMPLING METHODOLOGY AND ANALYTICAL RESULTS WHICH DEMONSTRATE THAT REMEDIATION HAS ATTAINED THE BACKGROUND STANDARD.

1 (3) WHERE REMEDIATION MEASURES DO NOT INVOLVE REMOVAL OF
2 A CONTAMINANT TO THE ACHIEVABLE PRACTICAL QUANTITATION LIMIT,
3 THE FINAL REPORT SHALL DEMONSTRATE THAT ANY REMAINING
4 CONTAMINANTS ON THE SITE WILL MEET STATEWIDE HEALTH STANDARDS
5 AND SHOW COMPLIANCE WITH ANY POSTREMEDIATION CARE
6 REQUIREMENTS THAT MAY BE NEEDED TO MAINTAIN COMPLIANCE WITH
7 THE STATEWIDE HEALTH STANDARDS.

8 (C) AUTHORITY RESERVED.--IF A PERSON FAILS TO DEMONSTRATE
9 ATTAINMENT OF THE BACKGROUND STANDARD, THE DEPARTMENT MAY
10 REQUIRE THAT ADDITIONAL REMEDIATION MEASURES BE TAKEN IN ORDER
11 TO MEET THE BACKGROUND STANDARD OR THE PERSON MAY SELECT TO MEET
12 THE REQUIREMENTS OF SECTION 303 OR 304.

13 (D) DEED NOTICE.--PERSONS ATTAINING AND DEMONSTRATING
14 COMPLIANCE WITH THE BACKGROUND STANDARD FOR ALL REGULATED
15 SUBSTANCES THROUGHOUT A SITE SHALL NOT BE SUBJECT TO THE DEED
16 ACKNOWLEDGMENT REQUIREMENTS OF THE ACT OF JULY 7, 1980 (P.L.380,
17 NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, OR THE ACT OF
18 OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES
19 CLEANUP ACT. AN EXISTING ACKNOWLEDGMENT CONTAINED IN A DEED
20 PRIOR TO DEMONSTRATING COMPLIANCE WITH THE BACKGROUND STANDARD
21 MAY BE REMOVED.

22 (E) NOTICE AND REVIEW PROVISIONS.--PERSONS UTILIZING THE
23 BACKGROUND STANDARD SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS
24 FOR NOTIFYING THE PUBLIC AND THE DEPARTMENT OF PLANNED
25 REMEDIATION ACTIVITIES:

26 (1) NOTICE OF INTENT TO INITIATE REMEDIATION ACTIVITIES
27 SHALL BE MADE IN THE FOLLOWING MANNER:

28 (I) A NOTICE OF INTENT TO REMEDIATE A SITE SHALL BE
29 SUBMITTED TO THE DEPARTMENT WHICH, TO THE EXTENT KNOWN,
30 PROVIDES A BRIEF DESCRIPTION OF THE LOCATION OF THE SITE,

1 A LISTING OF THE CONTAMINANT OR CONTAMINANTS INVOLVED, A
2 DESCRIPTION OF THE INTENDED FUTURE USE OF THE PROPERTY
3 FOR EMPLOYMENT OPPORTUNITIES, HOUSING, OPEN SPACE,
4 RECREATION OR OTHER USES, AND THE PROPOSED REMEDIATION
5 MEASURES. THE DEPARTMENT SHALL PUBLISH AN ACKNOWLEDGMENT
6 NOTING RECEIPT OF THE NOTICE OF INTENT IN THE
7 PENNSYLVANIA BULLETIN.

8 (II) AT THE SAME TIME A NOTICE OF INTENT TO
9 REMEDIATE A SITE IS SUBMITTED TO THE DEPARTMENT, A COPY
10 OF THE NOTICE SHALL BE PROVIDED TO THE MUNICIPALITY IN
11 WHICH THE SITE IS LOCATED AND A SUMMARY OF THE NOTICE OF
12 INTENT SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL
13 CIRCULATION SERVING THE AREA IN WHICH THE SITE IS
14 LOCATED.

15 (2) NOTICE OF THE SUBMISSION OF THE FINAL REPORT
16 DEMONSTRATING ATTAINMENT OF THE BACKGROUND STANDARD SHALL BE
17 GIVEN TO THE MUNICIPALITY IN WHICH THE REMEDIATION SITE IS
18 LOCATED, PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION
19 SERVING THE AREA AND IN THE PENNSYLVANIA BULLETIN.

20 (3) THE DEPARTMENT SHALL REVIEW THE FINAL REPORT
21 DEMONSTRATING ATTAINMENT OF THE BACKGROUND STANDARD WITHIN 45
22 DAYS OF ITS RECEIPT OR NOTIFY THE PERSON SUBMITTING THE
23 REPORT OF SUBSTANTIVE DEFICIENCIES. IF THE DEPARTMENT DOES
24 NOT RESPOND WITH DEFICIENCIES WITHIN 45 DAYS, THE FINAL
25 REPORT SHALL BE DEEMED APPROVED.

26 SECTION 303. STATEWIDE HEALTH STANDARD.

27 (A) STANDARD.--THE ENVIRONMENTAL QUALITY BOARD SHALL
28 PROMULGATE STATEWIDE HEALTH STANDARDS FOR REGULATED SUBSTANCES
29 FOR EACH ENVIRONMENTAL MEDIUM. THE STANDARDS SHALL INCLUDE ANY
30 EXISTING NUMERICAL RESIDENTIAL AND NONRESIDENTIAL HEALTH-BASED

1 STANDARDS ADOPTED BY THE DEPARTMENT AND BY THE FEDERAL
2 GOVERNMENT BY REGULATION OR STATUTE. FOR THOSE HEALTH-BASED
3 STANDARDS NOT ALREADY ESTABLISHED BY REGULATION, THE DEPARTMENT
4 SHALL, BY REGULATION, PROPOSE RESIDENTIAL AND NONRESIDENTIAL
5 MEDIUM-SPECIFIC CONCENTRATIONS WITHIN 12 MONTHS OF THE EFFECTIVE
6 DATE OF THIS ACT. THE ENVIRONMENTAL QUALITY BOARD SHALL ALSO
7 PROMULGATE, ALONG WITH THE STANDARDS, THE METHODS USED TO
8 CALCULATE THE STANDARDS.

9 (B) MEDIUM-SPECIFIC REQUIREMENTS.--THE FOLLOWING
10 REQUIREMENTS SHALL BE USED IN DEFINING A MEDIUM-SPECIFIC
11 CONCENTRATION LIMIT:

12 (1) ANY DISCHARGE OR RELEASE INTO SURFACE WATER
13 OCCURRING DURING OR AFTER ATTAINMENT OF THE STATEWIDE HEALTH
14 STANDARD SHALL COMPLY WITH APPLICABLE LAWS AND REGULATIONS
15 RELATING TO SURFACE WATER DISCHARGES.

16 (2) ANY EMISSIONS TO THE OUTDOOR AIR OCCURRING DURING OR
17 AFTER ATTAINMENT OF THE STATEWIDE HEALTH STANDARD SHALL
18 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 ESTABLISHED FOR DRINKING
24 WATER. WHERE NO MAXIMUM CONTAMINANT LEVEL HAS BEEN
25 ESTABLISHED, THE INGESTION MEDIUM-SPECIFIC CONCENTRATION
26 LEVEL FOR RESIDENTIAL EXPOSURE SHALL BE USED. IF THE
27 GROUNDWATER AT THE SITE HAS NATURALLY OCCURRING BACKGROUND
28 TOTAL DISSOLVED SOLIDS CONCENTRATIONS GREATER THAN 2,500
29 MILLIGRAMS PER LITER, THE REMEDIATION STANDARD FOR A
30 REGULATED SUBSTANCE DISSOLVED IN THE GROUNDWATER MAY BE

ADJUSTED BY MULTIPLYING THE MEDIUM-SPECIFIC CONCENTRATION FOR
GROUNDWATER IN AQUIFERS BY 100. THE RESULTING VALUE BECOMES
THE MAXIMUM CONTAMINANT LEVEL FOR GROUNDWATER.

(4) THE CONCENTRATION OF A REGULATED SUBSTANCE
THROUGHOUT THE SOIL COLUMN SHALL NOT EXCEED THE LOWER OF THE
SOIL MEDIUM-SPECIFIC CONCENTRATION BASED ON RESIDENTIAL
EXPOSURE FACTORS OR THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC
VALUE DETERMINED BY THE FOLLOWING:

(I) A VALUE WHICH IS 100 TIMES THE MEDIUM-SPECIFIC
CONCENTRATION FOR GROUNDWATER.

(II) A CONCENTRATION IN SOIL THAT DOES NOT PRODUCE A
LEACHATE IN EXCESS OF MEDIUM-SPECIFIC CONCENTRATIONS FOR
GROUNDWATER WHEN SUBJECTED TO THE SYNTHETIC PRECIPITATION
LEACHING PROCEDURES, METHOD 1312 OF SW 846, TEST METHODS
FOR EVALUATING SOLID WASTE, PROMULGATED BY EPA. OTHER
TEST METHODS THAT ACCURATELY SIMULATE CONDITIONS AT THE
SITE MAY BE USED IN THE DEMONSTRATION IN PLACE OF THIS
METHOD.

(5) EXPOSURE SCENARIOS FOR MEDIUM-SPECIFIC
CONCENTRATIONS FOR NONRESIDENTIAL CONDITIONS SHALL BE
ESTABLISHED USING VALID SCIENTIFIC METHODS REFLECTING WORKER
EXPOSURE.

(C) ADDITIONAL LIMITS.--FOR THOSE REGULATED SUBSTANCES WHERE
MEDIUM-SPECIFIC CONCENTRATION LIMITS CANNOT BE ESTABLISHED USING
THE PROCEDURES IN SUBSECTION (B), THE MEDIUM-SPECIFIC
CONCENTRATION LIMITS FOR THE INGESTION OF GROUNDWATER,
INHALATION OF SOILS, INGESTION AND INHALATION OF VOLATILES AND
PARTICULATES FROM THE SOILS SHALL BE CALCULATED BY THE
DEPARTMENT USING VALID SCIENTIFIC METHODS, REASONABLE EXPOSURE
PATHWAY ASSUMPTIONS AND EXPOSURE FACTORS FOR RESIDENTIAL AND

1 NONRESIDENTIAL LAND USE WHICH ARE NO MORE STRINGENT THAN THE
2 STANDARD DEFAULT EXPOSURE FACTORS ESTABLISHED BY EPA BASED ON
3 THE FOLLOWING LEVELS OF RISK:

4 (1) FOR A REGULATED SUBSTANCE WHICH IS A CARCINOGEN, THE
5 MEDIUM-SPECIFIC CONCENTRATION IS THE CONCENTRATION WHICH
6 REPRESENTS AN EXCESS UPPER BOUND LIFETIME CANCER TARGET RISK
7 OF BETWEEN 1 IN 10,000 AND 1 IN 1,000,000 DUE TO CONTINUOUS
8 LIFETIME EXPOSURE FOR RESIDENTIAL SCENARIOS AND A
9 NONCONTINUOUS EXPOSURE FOR NONRESIDENTIAL EXPOSURE SCENARIOS.

10 (2) FOR A REGULATED SUBSTANCE WHICH IS A SYSTEMIC
11 TOXICANT, THE MEDIUM-SPECIFIC CONCENTRATION IS THE
12 CONCENTRATION TO WHICH HUMAN POPULATIONS COULD BE EXPOSED BY
13 DIRECT INGESTION OR INHALATION ON A DAILY BASIS WITHOUT
14 APPRECIABLE RISK OF DELETERIOUS EFFECTS FOR THE EXPOSED
15 POPULATION.

16 (D) RELATIONSHIP TO BACKGROUND.--THE CONCENTRATION OF A
17 REGULATED SUBSTANCE IN AN ENVIRONMENTAL MEDIA OF CONCERN ON A
18 SITE WHERE THE STATEWIDE HEALTH STANDARD HAS BEEN SELECTED SHALL
19 NOT BE REQUIRED TO MEET THE STATEWIDE HEALTH STANDARD IF THE
20 STATEWIDE HEALTH STANDARD IS NUMERICALLY LESS THAN THE
21 ACHIEVABLE PRACTICAL QUANTITATIVE LIMIT. IN SUCH CASES, THE
22 ACHIEVABLE PRACTICAL QUANTITATIVE LIMIT SHALL APPLY.

23 (E) ATTAINMENT.--FINAL CERTIFICATION THAT A SITE OR PORTION
24 OF A SITE MEETS THE STATEWIDE HEALTH STANDARD SHALL BE
25 DOCUMENTED IN THE FOLLOWING MANNER:

26 (1) ATTAINMENT OF CLEANUP LEVELS SHALL BE DEMONSTRATED
27 BY COLLECTION AND ANALYSIS OF REPRESENTATIVE SAMPLES FROM THE
28 ENVIRONMENTAL MEDIUM OF CONCERN, INCLUDING SOILS, AND
29 GROUNDWATER IN AQUIFERS AT THE POINT OF COMPLIANCE THROUGH
30 THE APPLICATION OF STATISTICAL TESTS SET FORTH IN REGULATION

OR, IF NO REGULATIONS HAVE BEEN ADOPTED, IN A DEMONSTRATION
OF A MATHEMATICALLY VALID APPLICATION OF STATISTICAL TESTS.

(2) A FINAL REPORT THAT DOCUMENTS ATTAINMENT OF THE
STATEWIDE HEALTH STANDARD SHALL BE SUBMITTED TO THE
DEPARTMENT WHICH INCLUDES THE DESCRIPTIONS OF PROCEDURES AND
CONCLUSIONS OF THE SITE INVESTIGATION TO CHARACTERIZE THE
NATURE, EXTENT, DIRECTION, RATE OF MOVEMENT OFF THE SITE AND
CUMULATIVE EFFECTS, IF ANY, VOLUME, COMPOSITION,
CONCENTRATION OF CONTAMINANTS IN ENVIRONMENTAL MEDIA, THE
BASIS FOR SELECTING ENVIRONMENTAL MEDIA OF CONCERN,
DOCUMENTATION SUPPORTING THE SELECTION OF RESIDENTIAL OR
NONRESIDENTIAL EXPOSURE FACTORS, DESCRIPTIONS OF REMOVAL OR
DECONTAMINATION PROCEDURES PERFORMED IN REMEDIATION,
SUMMARIES OF SAMPLING METHODOLOGY AND ANALYTICAL RESULTS
WHICH DEMONSTRATE THAT CONTAMINANTS HAVE BEEN REMOVED OR
DECONTAMINATED TO APPLICABLE LEVELS AND DOCUMENTATION OF
COMPLIANCE WITH POSTREMEDIATION CARE REQUIREMENTS IF THEY ARE
NEEDED TO MAINTAIN THE STATEWIDE HEALTH STANDARD.

(F) AUTHORITY RESERVED.--IF A PERSON FAILS TO DEMONSTRATE
ATTAINMENT OF THE STATEWIDE HEALTH STANDARD, THE DEPARTMENT MAY
REQUIRE THAT ADDITIONAL REMEDIATION MEASURES BE TAKEN IN ORDER
TO MEET THE HEALTH STANDARD OR THE PERSON MAY SELECT TO MEET THE
REQUIREMENTS OF SECTION 302 OR 304.

(G) DEED NOTICE.--PERSONS ATTAINING AND DEMONSTRATING
COMPLIANCE WITH THE STATEWIDE HEALTH STANDARD CONSIDERING
RESIDENTIAL EXPOSURE FACTORS FOR A REGULATED SUBSTANCE ON THE
ENTIRE SITE SHALL NOT 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

1 ACT. AN EXISTING ACKNOWLEDGMENT CONTAINED IN A DEED PRIOR TO
2 DEMONSTRATING COMPLIANCE WITH THE RESIDENTIAL STATEWIDE HEALTH
3 STANDARD MAY BE REMOVED. THE DEED ACKNOWLEDGMENT REQUIREMENTS
4 SHALL APPLY WHERE NONRESIDENTIAL EXPOSURE FACTORS WERE USED TO
5 COMPLY WITH THE STATEWIDE HEALTH STANDARD.

6 (H) NOTICE AND REVIEW PROVISIONS.--PERSONS UTILIZING THE
7 STATEWIDE HEALTH STANDARD SHALL COMPLY WITH THE FOLLOWING
8 REQUIREMENTS FOR NOTIFYING THE PUBLIC AND THE DEPARTMENT OF
9 PLANNED REMEDIATION ACTIVITIES:

10 (1) NOTICE OF INTENT TO INITIATE REMEDIATION ACTIVITIES
11 SHALL BE MADE IN THE FOLLOWING MANNER:

12 (I) 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, A
16 DESCRIPTION OF THE INTENDED FUTURE USE OF THE PROPERTY
17 FOR EMPLOYMENT OPPORTUNITIES, HOUSING, OPEN SPACE,
18 RECREATION OR OTHER USES AND THE PROPOSED REMEDIATION
19 MEASURES. THE DEPARTMENT SHALL PUBLISH AN ACKNOWLEDGMENT
20 NOTING RECEIPT OF THE NOTICE OF INTENT IN THE
21 PENNSYLVANIA BULLETIN.

22 (II) AT THE SAME TIME A NOTICE OF INTENT TO
23 REMEDIATE A SITE IS SUBMITTED TO THE DEPARTMENT, A COPY
24 OF THE NOTICE SHALL BE PROVIDED TO THE MUNICIPALITY IN
25 WHICH THE SITE IS LOCATED AND A SUMMARY OF THE NOTICE OF
26 INTENT SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL
27 CIRCULATION SERVING THE AREA IN WHICH THE SITE IS
28 LOCATED.

29 (2) NOTICE OF THE SUBMISSION OF THE FINAL REPORT
30 DEMONSTRATING ATTAINMENT OF THE STATEWIDE HEALTH STANDARD

1 SHALL BE GIVEN TO THE MUNICIPALITY IN WHICH THE REMEDIATION
2 SITE IS LOCATED, PUBLISHED IN A NEWSPAPER OF GENERAL
3 CIRCULATION SERVING THE AREA AND IN THE PENNSYLVANIA
4 BULLETIN.

5 (3) THE DEPARTMENT SHALL REVIEW THE FINAL REPORT
6 DEMONSTRATING ATTAINMENT OF THE STATEWIDE HEALTH STANDARD
7 WITHIN 45 DAYS OF ITS RECEIPT OR NOTIFY THE PERSON SUBMITTING
8 THE REPORT OF SUBSTANTIVE DEFICIENCIES. IF THE DEPARTMENT
9 DOES NOT RESPOND WITH DEFICIENCIES WITHIN 45 DAYS, THE FINAL
10 REPORT SHALL BE DEEMED APPROVED.

11 SECTION 304. SITE-SPECIFIC STANDARD.

12 (A) GENERAL.--WHERE A SITE-SPECIFIC STANDARD IS SELECTED AS
13 THE ENVIRONMENTAL REMEDIATION STANDARD OR WHERE THE BACKGROUND
14 OR STATEWIDE HEALTH STANDARD IS SELECTED BUT NOT ACHIEVED, SITE
15 INVESTIGATION, RISK ASSESSMENT, CLEANUP PLANS AND FINAL REPORTS
16 SHALL BE DEVELOPED USING THE PROCEDURES AND FACTORS ESTABLISHED
17 BY THIS SECTION.

18 (B) CARCINOGENS.--FOR KNOWN OR SUSPECTED CARCINOGENS, SOIL
19 AND GROUNDWATER CLEANUP STANDARDS SHALL BE ESTABLISHED AT
20 EXPOSURES WHICH REPRESENT AN EXCESS UPPER-BOUND LIFETIME RISK OF
21 BETWEEN 1 IN 10,000 AND 1 IN 1,000,000. THE CUMULATIVE EXCESS
22 RISK TO EXPOSED POPULATIONS, INCLUDING SENSITIVE SUBGROUPS,
23 SHALL NOT BE GREATER THAN 1 IN 10,000.

24 (C) SYSTEMIC TOXICANTS.--FOR SYSTEMIC TOXICANTS, SOIL AND
25 GROUNDWATER CLEANUP STANDARDS SHALL REPRESENT LEVELS TO WHICH
26 THE HUMAN POPULATION COULD BE EXPOSED ON A DAILY BASIS WITHOUT
27 APPRECIABLE RISK OF DELETERIOUS EFFECT TO THE EXPOSED
28 POPULATION. WHERE SEVERAL SYSTEMIC TOXICANTS AFFECT THE SAME
29 TARGET ORGAN OR ACT BY THE SAME METHOD OF TOXICITY, THE HAZARD
30 INDEX SHALL NOT EXCEED ONE. THE HAZARD INDEX IS THE SUM OF THE

1 HAZARD QUOTIENTS FOR MULTIPLE SYSTEMIC TOXICANTS ACTING THROUGH
2 A SINGLE-MEDIUM EXPOSURE PATHWAY OR THROUGH MULTIPLE-MEDIA
3 EXPOSURE PATHWAYS.

4 (D) GROUNDWATER.--CLEANUP STANDARDS FOR GROUNDWATER SHALL BE
5 ESTABLISHED USING THE 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 STANDARD EXPOSURE FACTORS FOR THE LAND USE OF
17 THE SITE WITH REFERENCE TO CURRENT AND CURRENTLY PLANNED
18 FUTURE LAND USE AND THE EFFECTIVENESS OF INSTITUTIONAL OR
19 LEGAL CONTROLS PLACED ON THE FUTURE USE OF THE LAND.

20 (2) USE OF APPROPRIATE STATISTICAL TECHNIQUES,
21 INCLUDING, BUT NOT LIMITED TO, MONTE CARLO SIMULATIONS, TO
22 ESTABLISH STATISTICALLY VALID CLEANUP STANDARDS.

23 (3) THE POTENTIAL OF HUMAN INGESTION OF REGULATED
24 SUBSTANCES IN SURFACE WATER OR OTHER SITE-SPECIFIC SURFACE
25 WATER EXPOSURE PATHWAYS, IF APPLICABLE.

26 (4) THE POTENTIAL OF HUMAN INHALATION OF REGULATED
27 SUBSTANCES FROM THE OUTDOOR AIR AND OTHER SITE-SPECIFIC AIR
28 EXPOSURE PATHWAYS, IF APPLICABLE.

29 (G) AIR AND SURFACE WATER.--ANY DISCHARGE INTO SURFACE WATER
30 OR ANY EMISSIONS TO THE OUTDOOR AIR WHICH OCCUR DURING OR AFTER

1 ATTAINMENT OF THE SITE-SPECIFIC STANDARD SHALL COMPLY WITH
2 APPLICABLE LAWS AND REGULATIONS RELATING TO SURFACE WATER
3 DISCHARGES OR EMISSIONS INTO THE OUTDOOR AIR, UNLESS THE SITE
4 INVESTIGATION AND SITE ASSESSMENT DEMONSTRATE, USING THE LATEST
5 PEER-REVIEWED TOXICOLOGICAL DATA, THAT A STANDARD OTHER THAN
6 THOSE IN APPLICABLE LAWS AND REGULATIONS WOULD PROTECT PUBLIC
7 HEALTH AND THE ENVIRONMENT.

8 (H) RELATIONSHIP TO BACKGROUND.--THE CONCENTRATION OF A
9 REGULATED SUBSTANCE IN AN ENVIRONMENTAL MEDIUM OF CONCERN ON A
10 SITE WHERE THE SITE-SPECIFIC STANDARD HAS BEEN SELECTED SHALL
11 NOT BE REQUIRED TO MEET THE SITE-SPECIFIC STANDARD IF THE SITE-
12 SPECIFIC STANDARD IS NUMERICALLY LESS THAN THE ACHIEVABLE
13 PRACTICAL QUANTITATIVE LIMIT. IN SUCH CASES, THE ACHIEVABLE
14 PRACTICAL QUANTITATIVE LIMIT SHALL APPLY.

15 (I) COMBINATION OF MEASURES.--THE STANDARDS MAY BE ATTAINED
16 THROUGH A COMBINATION OF REMEDIATION ACTIVITIES THAT CAN INCLUDE
17 TREATMENT, REMOVAL, ENGINEERING OR INSTITUTIONAL CONTROLS AND
18 CAN INCLUDE INNOVATIVE OR OTHER DEMONSTRATED MEASURES.

19 (J) REMEDY EVALUATION.--THE FINAL REMEDIATION PLAN FOR A
20 SITE SUBMITTED TO THE DEPARTMENT SHALL INCLUDE REMEDIATION
21 ALTERNATIVES AND A FINAL REMEDY WHICH CONSIDER EACH OF THE
22 FOLLOWING FACTORS:

23 (1) LONG-TERM RISKS AND EFFECTIVENESS OF THE PROPOSED
24 REMEDY THAT INCLUDES AN EVALUATION OF:

25 (I) THE MAGNITUDE OF RISKS REMAINING AFTER
26 COMPLETION OF THE REMEDIAL ACTION.

27 (II) THE TYPE, DEGREE AND DURATION OF
28 POSTREMEDIATION CARE REQUIRED, INCLUDING, BUT NOT LIMITED
29 TO, OPERATION AND MAINTENANCE, MONITORING, INSPECTIONS
30 AND REPORTS AND THEIR FREQUENCIES OR OTHER ACTIVITIES

1 WHICH WILL BE NECESSARY TO PROTECT HUMAN HEALTH AND THE
2 ENVIRONMENT.

3 (III) POTENTIAL FOR EXPOSURE OF HUMAN AND
4 ENVIRONMENTAL RECEPTORS TO REGULATED SUBSTANCES REMAINING
5 AT THE SITE.

6 (IV) LONG-TERM RELIABILITY OF ANY ENGINEERING AND
7 VOLUNTARY INSTITUTIONAL CONTROLS.

8 (V) POTENTIAL NEED FOR REPAIR, MAINTENANCE OR
9 REPLACEMENT OF COMPONENTS OF THE REMEDY.

10 (VI) TIME TO ACHIEVE CLEANUP STANDARDS.

11 (2) REDUCTION OF THE TOXICITY, MOBILITY OR VOLUME OF
12 REGULATED SUBSTANCES, INCLUDING THE AMOUNT OF REGULATED
13 SUBSTANCES THAT WILL BE REMOVED, CONTAINED, TREATED OR
14 DESTROYED, THE DEGREE OF EXPECTED REDUCTION IN TOXICITY,
15 MOBILITY OR VOLUME AND THE TYPE, QUANTITY, TOXICITY AND
16 MOBILITY OF REGULATED SUBSTANCES REMAINING AFTER
17 IMPLEMENTATION OF THE REMEDY.

18 (3) SHORT-TERM RISKS AND EFFECTIVENESS OF THE REMEDY,
19 INCLUDING THE SHORT-TERM RISKS THAT MAY BE POSED TO THE
20 COMMUNITY, WORKERS OR THE ENVIRONMENT DURING IMPLEMENTATION
21 OF THE REMEDY AND THE EFFECTIVENESS AND RELIABILITY OF
22 PROTECTIVE MEASURES TO ADDRESS SHORT-TERM RISKS.

23 (4) THE EASE OR DIFFICULTY OF IMPLEMENTING THE PROPOSED
24 REMEDY, INCLUDING COMMERCIALY AVAILABLE REMEDIAL MEASURES
25 WHICH ARE BADCT, DEGREE OF DIFFICULTY ASSOCIATED WITH
26 CONSTRUCTING THE REMEDY, EXPECTED OPERATIONAL RELIABILITY,
27 AVAILABLE CAPACITY AND LOCATION OF NEEDED TREATMENT, STORAGE
28 AND DISPOSAL SERVICES FOR WASTES, TIME TO INITIATE REMEDIAL
29 EFFORTS AND APPROVALS NECESSARY TO IMPLEMENT THE REMEDIAL
30 EFFORTS.

(5) THE COST OF THE REMEDIATION MEASURE, INCLUDING CAPITAL COSTS, OPERATION AND MAINTENANCE COSTS, NET PRESENT VALUE OF CAPITAL AND OPERATION AND MAINTENANCE COSTS AND THE TOTAL COSTS AND EFFECTIVENESS OF THE SYSTEM.

(6) THE INCREMENTAL HEALTH AND ECONOMIC BENEFITS SHALL BE EVALUATED BY COMPARING THOSE BENEFITS TO THE INCREMENTAL HEALTH AND ECONOMIC COSTS ASSOCIATED WITH IMPLEMENTATION OF REMEDIAL MEASURES.

(K) ATTAINMENT.--COMPLIANCE WITH THE SITE-SPECIFIC STANDARD IS ATTAINED FOR A SITE OR PORTION OF A SITE WHEN A REMEDY APPROVED BY THE DEPARTMENT HAS BEEN IMPLEMENTED IN COMPLIANCE WITH THE FOLLOWING CRITERIA:

(1) SOIL, GROUNDWATER, SURFACE WATER AND AIR EMISSION STANDARDS AS DETERMINED UNDER SUBSECTIONS (A) THROUGH (H) HAVE BEEN ATTAINED.

(2) ATTAINMENT OF THE SITE-SPECIFIC STANDARD SHALL BE DEMONSTRATED BY COLLECTION AND ANALYSIS OF SAMPLES FROM AFFECTED MEDIA, AS APPLICABLE, SUCH AS SURFACE WATER, SOIL, GROUNDWATER IN AQUIFERS AT THE POINT OF COMPLIANCE THROUGH THE APPLICATION OF STATISTICAL TESTS SET FORTH IN REGULATION OR, IF NO REGULATIONS HAVE BEEN ADOPTED, IN A DEMONSTRATION OF A MATHEMATICALLY VALID APPLICATION OF STATISTICAL TESTS.

(L) SITE INVESTIGATION AND REMEDY SELECTION.--ANY PERSON SELECTING TO COMPLY WITH SITE-SPECIFIC STANDARDS ESTABLISHED BY THIS SECTION SHALL SUBMIT THE FOLLOWING REPORTS AND EVALUATIONS, AS REQUIRED UNDER THIS SECTION, FOR REVIEW AND APPROVAL BY THE DEPARTMENT:

(1) A REMEDIAL INVESTIGATION REPORT SHALL BE SUBMITTED WHICH INCLUDES:

(I) DOCUMENTATION AND DESCRIPTIONS OF PROCEDURES AND

1 CONCLUSIONS FROM THE SITE INVESTIGATION TO CHARACTERIZE
2 THE NATURE, EXTENT, DIRECTION, RATE OF MOVEMENT, VOLUME
3 AND COMPOSITION OF REGULATED SUBSTANCES.

4 (II) THE CONCENTRATION OF REGULATED SUBSTANCES IN
5 ENVIRONMENTAL MEDIA OF CONCERN, INCLUDING SUMMARIES OF
6 SAMPLING METHODOLOGY AND ANALYTICAL RESULTS, AND
7 INFORMATION OBTAINED FROM ATTEMPTS TO COMPLY WITH THE
8 BACKGROUND OR STATEWIDE HEALTH STANDARDS, IF ANY.

9 (III) A DESCRIPTION OF THE EXISTING OR POTENTIAL
10 PUBLIC BENEFITS OF THE USE OR REUSE OF THE PROPERTY FOR
11 EMPLOYMENT OPPORTUNITIES, HOUSING, OPEN SPACE, RECREATION
12 OR OTHER USES.

13 (IV) A FATE AND TRANSPORT ANALYSIS MAY BE INCLUDED
14 IN THE REPORT TO DEMONSTRATE THAT NO PRESENT OR FUTURE
15 EXPOSURE PATHWAYS EXIST.

16 (V) IF NO EXPOSURE PATHWAYS EXIST, A RISK ASSESSMENT
17 REPORT AND CLEANUP PLAN ARE NOT REQUIRED AND NO REMEDY IS
18 REQUIRED TO BE PROPOSED OR COMPLETED.

19 (2) IF REQUIRED, A RISK ASSESSMENT REPORT SHALL DESCRIBE
20 THE POTENTIAL ADVERSE EFFECTS UNDER BOTH CURRENT AND PLANNED
21 FUTURE CONDITIONS CAUSED BY THE PRESENCE OF A REGULATED
22 SUBSTANCE IN THE ABSENCE OF ANY FURTHER CONTROL, REMEDIATION
23 OR MITIGATION MEASURES. NO REMEDIATION MEASURES ARE REQUIRED
24 TO BE PROPOSED IF IT IS DEMONSTRATED THAT THE USE OF DEED
25 RESTRICTIONS AND OTHER INSTITUTIONAL CONTROLS CAN ATTAIN THE
26 SITE-SPECIFIC CLEANUP STANDARD. A BASELINE RISK ASSESSMENT
27 REPORT IS NOT REQUIRED WHERE IT IS DETERMINED THAT A SPECIFIC
28 REMEDIATION MEASURE CAN BE IMPLEMENTED TO ATTAIN THE SITE-
29 SPECIFIC STANDARD.

30 (3) A CLEANUP PLAN SHALL EVALUATE THE RELATIVE ABILITIES

1 AND EFFECTIVENESS OF POTENTIAL REMEDIES TO ACHIEVE THE
2 REQUIREMENTS FOR REMEDIES DESCRIBED IN SUBSECTION (K) WHEN
3 CONSIDERING THE EVALUATION FACTORS DESCRIBED IN SUBSECTION
4 (J). THE PLAN SHALL SELECT A REMEDY WHICH ACHIEVES THE
5 REQUIREMENTS FOR REMEDIES DESCRIBED IN SUBSECTION (K). THE
6 DEPARTMENT MAY REQUIRE A FURTHER EVALUATION OF THE SELECTED
7 REMEDY OR AN EVALUATION OF ONE OR MORE ADDITIONAL REMEDIES IN
8 RESPONSE TO COMMENTS RECEIVED FROM THE COMMUNITY SURROUNDING
9 THE SITE AS A RESULT OF THE COMMUNITY INVOLVEMENT PLAN
10 ESTABLISHED IN SUBSECTION (O) WHICH ARE BASED ON THE FACTORS
11 DESCRIBED IN SUBSECTION (J) OR AS A RESULT OF ITS OWN
12 ANALYSIS WHICH ARE BASED ON THE EVALUATION FACTORS DESCRIBED
13 IN SUBSECTION (J).

14 (4) A FINAL REPORT DEMONSTRATING THAT THE APPROVED
15 REMEDY HAS BEEN COMPLETED IN ACCORDANCE WITH THE CLEANUP PLAN
16 SHALL BE SUBMITTED TO THE DEPARTMENT.

17 (5) NOTHING IN THIS SECTION SHALL PRECLUDE A PERSON FROM
18 SUBMITTING A REMEDIAL INVESTIGATION REPORT, RISK ASSESSMENT
19 REPORT AND CLEANUP PLAN AT ONE TIME TO THE DEPARTMENT FOR
20 REVIEW.

21 (6) DECISIONS BY THE DEPARTMENT INVOLVING THE REPORTS
22 AND EVALUATIONS REQUIRED UNDER THIS SECTION SHALL BE
23 CONSIDERED APPEALABLE ACTIONS UNDER THE ACT OF JULY 13, 1988
24 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING BOARD
25 ACT.

26 (M) DEED NOTICE.--PERSONS ATTAINING AND DEMONSTRATING
27 COMPLIANCE WITH SITE-SPECIFIC STANDARDS FOR A REGULATED
28 SUBSTANCE ON A SITE SHALL BE SUBJECT TO THE DEED ACKNOWLEDGMENT
29 REQUIREMENTS OF THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN
30 AS THE SOLID WASTE MANAGEMENT ACT, OR THE ACT OF OCTOBER 18,

1 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP
2 ACT. THE NOTICE SHALL INCLUDE WHETHER RESIDENTIAL OR
3 NONRESIDENTIAL EXPOSURE FACTORS WERE USED TO COMPLY WITH THE
4 SITE-SPECIFIC STANDARD.

5 (N) NOTICE AND REVIEW PROVISIONS.--PERSONS UTILIZING THE
6 SITE-SPECIFIC STANDARD SHALL COMPLY WITH THE FOLLOWING
7 REQUIREMENTS FOR NOTIFYING THE PUBLIC AND THE DEPARTMENT OF
8 PLANNED REMEDIATION ACTIVITIES:

9 (1) (I) A NOTICE OF INTENT TO REMEDIATE A SITE SHALL BE
10 SUBMITTED TO THE DEPARTMENT WHICH PROVIDES, TO THE EXTENT
11 KNOWN, A BRIEF DESCRIPTION OF THE LOCATION OF THE SITE, A
12 LISTING OF THE CONTAMINANT OR CONTAMINANTS INVOLVED AND
13 THE PROPOSED REMEDIATION MEASURES. THE DEPARTMENT SHALL
14 PUBLISH AN ACKNOWLEDGMENT NOTING RECEIPT OF THE NOTICE OF
15 INTENT IN THE PENNSYLVANIA BULLETIN. AT THE SAME TIME A
16 NOTICE OF INTENT TO REMEDIATE A SITE IS SUBMITTED TO THE
17 DEPARTMENT, A COPY OF THE NOTICE SHALL BE PROVIDED TO THE
18 MUNICIPALITY IN WHICH THE SITE IS LOCATED AND A SUMMARY
19 OF THE NOTICE OF INTENT SHALL BE PUBLISHED IN A NEWSPAPER
20 OF GENERAL CIRCULATION SERVING THE AREA IN WHICH THE SITE
21 IS LOCATED.

22 (II) THE NOTICES REQUIRED BY THIS PARAGRAPH SHALL
23 INCLUDE A 30-DAY PUBLIC AND MUNICIPAL COMMENT PERIOD
24 DURING WHICH THE COMMUNITY CAN REQUEST TO BE INVOLVED IN
25 THE DEVELOPMENT OF THE CLEANUP AND REUSE PLANS FOR THE
26 SITE. IF REQUESTED BY THE COMMUNITY, THE PERSON
27 UNDERTAKING THE CLEANUP SHALL DEVELOP AND IMPLEMENT A
28 PUBLIC INVOLVEMENT PROGRAM PLAN WHICH MEETS THE
29 REQUIREMENTS OF SUBSECTION (O). PERSONS UNDERTAKING THE
30 CLEANUP ARE ENCOURAGED TO DEVELOP A PROACTIVE APPROACH TO

1 WORKING WITH THE COMMUNITY IN DEVELOPING AND IMPLEMENTING
2 CLEANUP AND REUSE PLANS.

3 (2) THE FOLLOWING NOTICE AND REVIEW PROVISIONS APPLY
4 EACH TIME A REMEDIAL INVESTIGATION REPORT, RISK ASSESSMENT
5 REPORT, CLEANUP PLAN AND FINAL REPORT DEMONSTRATING
6 COMPLIANCE WITH THE SITE-SPECIFIC STANDARD IS SUBMITTED TO
7 THE DEPARTMENT:

8 (I) WHEN THE REPORT OR PLAN IS SUBMITTED TO THE
9 DEPARTMENT, A NOTICE OF ITS SUBMISSION SHALL BE PROVIDED
10 TO THE MUNICIPALITY IN WHICH THE SITE IS LOCATED AND A
11 NOTICE SUMMARIZING THE FINDINGS AND RECOMMENDATIONS OF
12 THE REPORT OR PLAN SHALL BE PUBLISHED IN A NEWSPAPER OF
13 GENERAL CIRCULATION SERVING THE AREA IN WHICH THE SITE IS
14 LOCATED. IF THE COMMUNITY REQUESTED TO BE INVOLVED IN THE
15 DEVELOPMENT OF THE CLEANUP AND REUSE PLANS, THE REPORTS
16 AND PLANS SHALL ALSO INCLUDE THE COMMENTS SUBMITTED BY
17 THE COMMUNITY AND THE RESPONSES FROM THE PERSONS
18 PREPARING THE REPORTS AND PLANS.

19 (II) THE DEPARTMENT SHALL REVIEW THE REPORT OR PLAN
20 WITHIN NO MORE THAN 45 DAYS OF ITS RECEIPT OR NOTIFY THE
21 PERSON SUBMITTING THE REPORT OF DEFICIENCIES. IF THE
22 DEPARTMENT DOES NOT RESPOND WITH DEFICIENCIES WITHIN 45
23 DAYS, THE REPORT SHALL BE DEEMED APPROVED.

24 (3) IF THE REMEDIAL INVESTIGATION REPORT, RISK
25 ASSESSMENT REPORT AND CLEANUP PLAN ARE SUBMITTED AT THE SAME
26 TIME TO THE DEPARTMENT, THE DEPARTMENT SHALL NOTIFY PERSONS
27 OF ANY DEFICIENCIES IN 90 DAYS. IF THE DEPARTMENT DOES NOT
28 RESPOND WITH DEFICIENCIES WITHIN 90 DAYS, THE REPORTS ARE
29 DEEMED APPROVED.

30 (O) COMMUNITY INVOLVEMENT.--PERSONS USING SITE-SPECIFIC

1 STANDARDS ARE REQUIRED TO DEVELOP A COMMUNITY INVOLVEMENT PLAN
2 WHICH INVOLVES THE COMMUNITY IN THE CLEANUP AND USE OF THE
3 PROPERTY IF THE COMMUNITY REQUESTS TO BE INVOLVED IN THE CLEANUP
4 AND REUSE PLANS FOR THE SITE. THE PLAN SHALL PROPOSE MEASURES TO
5 INVOLVE THE COMMUNITY IN THE DEVELOPMENT AND REVIEW OF THE
6 REMEDIAL INVESTIGATION REPORT, RISK ASSESSMENT REPORT, CLEANUP
7 PLAN AND FINAL REPORT. DEPENDING ON THE SITE INVOLVED,
8 TECHNIQUES SUCH AS DEVELOPING A PROACTIVE COMMUNITY INFORMATION
9 AND CONSULTATION PROGRAM THAT INCLUDES PUBLIC MEETINGS AND
10 ROUNDTABLE DISCUSSIONS, CONVENIENT LOCATIONS WHERE DOCUMENTS
11 RELATED TO A CLEANUP CAN BE MADE AVAILABLE TO THE PUBLIC AND
12 DESIGNATING A SINGLE CONTACT PERSON TO WHOM COMMUNITY RESIDENTS
13 CAN ASK QUESTIONS; THE FORMATION OF A COMMUNITY-BASED GROUP
14 WHICH IS USED TO SOLICIT SUGGESTIONS AND COMMENTS ON THE VARIOUS
15 REPORTS REQUIRED BY THIS SECTION; IF NEEDED, THE RETENTION OF
16 TRAINED, INDEPENDENT THIRD PARTIES TO FACILITATE MEETINGS AND
17 DISCUSSIONS AND PERFORM MEDIATION SERVICES.

18 SECTION 305. SPECIAL INDUSTRIAL AREAS.

19 (A) SPECIAL SITES.--FOR PROPERTY USED FOR INDUSTRIAL
20 ACTIVITIES WHERE THERE IS NOW NO FINANCIALLY VIABLE RESPONSIBLE
21 PERSON TO CLEAN UP CONTAMINATION OR FOR LAND LOCATED WITHIN
22 ENTERPRISE ZONES DESIGNATED PURSUANT TO THE REQUIREMENTS OF THE
23 DEPARTMENT OF COMMUNITY AFFAIRS, THE REVIEW PROCEDURES OF THIS
24 SECTION SHALL APPLY. ANY ENVIRONMENTAL REMEDIATION UNDERTAKEN
25 PURSUANT TO THIS SECTION SHALL COMPLY WITH ONE OR MORE OF THE
26 STANDARDS ESTABLISHED IN THIS CHAPTER.

27 (B) BASELINE REPORT.--A BASELINE ENVIRONMENTAL REPORT SHALL
28 BE CONDUCTED ON THE PROPERTY BASED ON A WORK PLAN APPROVED BY
29 THE DEPARTMENT TO ESTABLISH A REFERENCE POINT SHOWING EXISTING
30 CONTAMINATION ON THE SITE. THE REPORT SHALL DESCRIBE THE

1 PROPOSED REMEDIATION MEASURES TO BE UNDERTAKEN WITHIN THE LIMITS
2 OF CLEANUP LIABILITY FOUND IN SECTION 502. THE REPORT SHALL ALSO
3 INCLUDE A DESCRIPTION OF THE EXISTING OR POTENTIAL PUBLIC
4 BENEFITS OF THE USE OR REUSE OF THE PROPERTY FOR EMPLOYMENT
5 OPPORTUNITIES, HOUSING, OPEN SPACE, RECREATION OR OTHER USE.

6 (C) PUBLIC REVIEW.--PERSONS UNDERTAKING THE CLEANUP AND
7 REUSE OF SITES UNDER THIS SECTION SHALL COMPLY WITH THE
8 FOLLOWING PUBLIC NOTICE AND REVIEW REQUIREMENTS:

9 (1) A NOTICE OF INTENT TO REMEDIATE A SITE SHALL BE
10 SUBMITTED TO THE DEPARTMENT WHICH PROVIDES, TO THE EXTENT
11 KNOWN, A BRIEF DESCRIPTION OF THE LOCATION OF THE SITE, A
12 LISTING OF THE CONTAMINANT OR CONTAMINANTS INVOLVED AND THE
13 PROPOSED REMEDIATION MEASURES. THE DEPARTMENT SHALL PUBLISH
14 AN ACKNOWLEDGMENT NOTING RECEIPT OF THE NOTICE OF INTENT IN
15 THE PENNSYLVANIA BULLETIN. AT THE SAME TIME A NOTICE OF
16 INTENT TO REMEDIATE A SITE IS SUBMITTED TO THE DEPARTMENT, A
17 COPY OF THE NOTICE SHALL BE PROVIDED TO THE MUNICIPALITY IN
18 WHICH THE SITE IS LOCATED AND A SUMMARY OF THE NOTICE OF
19 INTENT SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL
20 CIRCULATION SERVING THE AREA IN WHICH THE SITE IS LOCATED.

21 (2) THE NOTICES REQUIRED BY THIS SUBSECTION SHALL
22 INCLUDE A 30-DAY PUBLIC AND MUNICIPAL COMMENT PERIOD DURING
23 WHICH THE COMMUNITY CAN REQUEST TO BE INVOLVED IN THE
24 DEVELOPMENT OF THE CLEANUP AND REUSE PLANS FOR THE SITE. IF
25 REQUESTED BY THE COMMUNITY, THE PERSON UNDERTAKING THE
26 CLEANUP SHALL DEVELOP AND IMPLEMENT A PUBLIC INVOLVEMENT
27 PROGRAM PLAN WHICH MEETS THE REQUIREMENTS OF SECTION 304(O).
28 PERSONS UNDERTAKING THE CLEANUP ARE ENCOURAGED TO DEVELOP A
29 PROACTIVE APPROACH TO WORKING WITH THE COMMUNITY IN
30 DEVELOPING AND IMPLEMENTING CLEANUP AND REUSE PLANS.

1 (D) DEPARTMENT REVIEW.--NO LATER THAN 90 DAYS AFTER THE
2 COMPLETED ENVIRONMENTAL REPORT IS SUBMITTED FOR REVIEW, THE
3 DEPARTMENT SHALL DETERMINE WHETHER THE REPORT ADEQUATELY
4 IDENTIFIES THE ENVIRONMENTAL HAZARDS AND RISKS POSED BY THE
5 SITE. THE COMMENTS OBTAINED AS A RESULT OF A COMMUNITY
6 INVOLVEMENT PLAN DEVELOPED PURSUANT TO SECTION 304(O) SHALL ALSO
7 BE CONSIDERED BY THE DEPARTMENT. THE DEPARTMENT SHALL NOTIFY THE
8 PERSON SUBMITTING THE REPORT OF DEFICIENCIES WITHIN 90 DAYS. IF
9 THE DEPARTMENT DOES NOT RESPOND WITHIN 90 DAYS, THE STUDY IS
10 DEEMED APPROVED.

11 (E) AGREEMENT.--THE DEPARTMENT AND THE PERSON UNDERTAKING
12 THE REUSE OF A SPECIAL INDUSTRIAL SITE SHALL ENTER INTO AN
13 AGREEMENT BASED ON THE ENVIRONMENTAL REPORT WHICH OUTLINES
14 CLEANUP LIABILITY FOR THE PROPERTY.

15 (F) DEPARTMENT ACTIONS.--A PERSON ENTERING INTO AN AGREEMENT
16 PURSUANT TO THIS SECTION SHALL NOT INTERFERE WITH ANY SUBSEQUENT
17 REMEDIATION EFFORTS BY THE DEPARTMENT OR OTHERS TO DEAL WITH
18 CONTAMINATION IDENTIFIED IN THE BASELINE ENVIRONMENTAL REPORT SO
19 LONG AS IT DOES NOT DISRUPT THE USE OF THE PROPERTY.

20 (G) DEED NOTICE.--PERSONS ENTERING INTO AGREEMENTS PURSUANT
21 TO THIS SECTION SHALL BE SUBJECT TO THE DEED ACKNOWLEDGMENT
22 REQUIREMENTS OF THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN
23 AS THE SOLID WASTE MANAGEMENT ACT, OR THE ACT OF OCTOBER 18,
24 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP
25 ACT, WHERE APPLICABLE.

26 SECTION 306. PRIVATIZATION.

27 (A) GENERAL.--THE DEPARTMENT SHALL DEVELOP A PROGRAM TO USE
28 PRIVATE FIRMS TO UNDERTAKE A PORTION OF THE TECHNICAL REVIEWS
29 AND TO CERTIFY COMPLIANCE WITH ENVIRONMENTAL REMEDIATION
30 STANDARDS IN A PORTION OF THE CASES 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 PURSUANT TO 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.

SECTION 307. DEED RESTRICTIONS.

IF DEED RESTRICTIONS ARE USED AS PART OF A REMEDIATION PLAN, THEY SHALL BE COMPATIBLE WITH LOCAL LAND DEVELOPMENT CONTROLS IN EXISTENCE AT THE TIME A FINAL REPORT CERTIFYING ATTAINMENT OF A STANDARD OR CLEANUP PLAN IS SUBMITTED TO THE DEPARTMENT FOR REVIEW.

SECTION 308. IMMEDIATE RESPONSE.

(A) EMERGENCY RESPONSE.--THE PROVISIONS OF THIS CHAPTER SHALL NOT PREVENT OR IMPEDE THE IMMEDIATE RESPONSE OF THE DEPARTMENT OR RESPONSIBLE PERSON TO AN EMERGENCY WHICH INVOLVES AN IMMINENT OR ACTUAL RELEASE OF A REGULATED SUBSTANCE WHICH THREATENS PUBLIC HEALTH OR THE ENVIRONMENT. THE FINAL REMEDIATION OF THE SITE SHALL COMPLY WITH THE PROVISIONS OF THIS CHAPTER WHICH SHALL NOT BE PREJUDICED BY THE MITIGATION MEASURES UNDERTAKEN TO THAT POINT.

1 (B) INTERIM RESPONSE.--THE PROVISIONS OF THIS CHAPTER SHALL
2 NOT PREVENT OR IMPEDE A RESPONSIBLE PERSON FROM UNDERTAKING
3 MITIGATION MEASURES TO PREVENT SIGNIFICANT IMPACTS ON HUMAN
4 HEALTH OR THE ENVIRONMENT. THOSE MITIGATION MEASURES MAY INCLUDE
5 LIMITING PUBLIC ACCESS TO THE RELEASE AREA, INSTALLING DRAINAGE
6 CONTROLS TO PREVENT RUNOFF, STABILIZATION AND MAINTENANCE OF
7 CONTAINMENT STRUCTURES, ACTIONS TO PREVENT THE MIGRATION OF
8 REGULATED SUBSTANCES, ON-SITE TREATMENT OR OTHER MEASURES NOT
9 PROHIBITED BY THE DEPARTMENT. THE FINAL REMEDIATION OF THE SITE
10 SHALL COMPLY WITH THE PROVISIONS OF THIS CHAPTER WHICH SHALL NOT
11 BE PREJUDICED BY THE MITIGATION MEASURES UNDERTAKEN TO THAT
12 POINT.

13 CHAPTER 5

14 CLEANUP LIABILITY PROTECTION

15 SECTION 501. CLEANUP LIABILITY PROTECTION.

16 (A) GENERAL.--ANY PERSON DEMONSTRATING COMPLIANCE WITH THE
17 ENVIRONMENTAL REMEDIATION STANDARDS ESTABLISHED IN CHAPTER 3
18 SHALL BE RELIEVED OF FURTHER LIABILITY FOR THE REMEDIATION OF
19 THE SITE UNDER THE STATUTES OUTLINED IN SECTION 106 FOR ANY
20 CONTAMINATION IDENTIFIED IN REPORTS SUBMITTED TO AND APPROVED BY
21 THE DEPARTMENT TO DEMONSTRATE COMPLIANCE WITH THESE STANDARDS.
22 THE CLEANUP LIABILITY PROTECTION PROVIDED BY THIS CHAPTER
23 APPLIES TO THE FOLLOWING PERSONS:

24 (1) THE CURRENT OR FUTURE OWNER OF THE IDENTIFIED
25 PROPERTY, WHO PARTICIPATED IN THE REMEDIATION OF THE
26 PROPERTY.

27 (2) A PERSON WHO DEVELOPS OR OTHERWISE OCCUPIES THE
28 IDENTIFIED PROPERTY.

29 (3) A SUCCESSOR OR ASSIGN OF ANY PERSON TO WHOM THE
30 LIABILITY PROTECTION APPLIES.

(4) A PUBLIC UTILITY TO THE EXTENT THE PUBLIC UTILITY
PERFORMS ACTIVITIES ON THE IDENTIFIED PROPERTY.

(B) ILLEGAL ACTIVITIES.--THE PROVISIONS OF THIS CHAPTER DO
NOT CREATE A DEFENSE AGAINST THE IMPOSITION OF CRIMINAL AND
CIVIL FINES AND PENALTIES OR ADMINISTRATIVE PENALTIES IMPOSED AS
THE RESULT OF THE ILLEGAL DISPOSAL OF WASTE OR FOR THE POLLUTION
OF THE LAND, AIR OR WATERS OF THIS COMMONWEALTH ON THE
IDENTIFIED SITE.

SECTION 502. SPECIAL INDUSTRIAL SITES.

(A) AGREEMENT.--THE DEPARTMENT AND THE PERSON UNDERTAKING
THE REUSE OF AN ABANDONED INDUSTRIAL SITE UNDER SECTION 305
SHALL ENTER INTO AN AGREEMENT BASED ON THE ENVIRONMENTAL REPORT
WHICH OUTLINES CLEANUP LIABILITY FOR THE PROPERTY. ANY PERSON
INCLUDED IN SUCH AN AGREEMENT SHALL NOT BE SUBJECT TO A CITIZEN
SUIT OR OTHER CONTRIBUTION ACTIONS BROUGHT BY RESPONSIBLE
PERSONS NOT PARTICIPATING IN THE ENVIRONMENTAL REMEDIATION OF
THE SITE.

(B) LIABILITY.--THE CLEANUP LIABILITIES FOR THE PERSON
UNDERTAKING THE REPORT SHALL INCLUDE THE FOLLOWING:

(1) THE PERSON SHALL ONLY BE RESPONSIBLE FOR REMEDIATION
OF ANY IMMEDIATE, DIRECT OR IMMINENT THREATS TO PUBLIC HEALTH
OR THE ENVIRONMENT, SUCH AS DRUMMED WASTE, WHICH WOULD
PREVENT THE PROPERTY FROM BEING OCCUPIED FOR ITS INTENDED
PURPOSE.

(2) THE PERSON SHALL NOT BE HELD RESPONSIBLE FOR THE
REMEDiation OF ANY CONTAMINATION IDENTIFIED IN THE
ENVIRONMENTAL REPORT, OTHER THAN THE CONTAMINATION NOTED IN
PARAGRAPH (1).

(3) NOTHING IN THIS ACT SHALL RELIEVE THE PERSON FROM
ANY CLEANUP LIABILITY FOR CONTAMINATION LATER CAUSED BY THAT

PERSON ON THE SITE.

(C) DEVELOPER OR OCCUPIER.--A PERSON WHO DEVELOPS OR OCCUPIES THE PROPERTY SHALL NOT BE CONSIDERED A RESPONSIBLE PERSON FOR PURPOSES OF ASSIGNING CLEANUP LIABILITY.

(D) SUCCESSOR OR ASSIGN.--A SUCCESSOR OR ASSIGN OF ANY PERSON TO WHOM CLEANUP LIABILITY PROTECTION APPLIES FOR A SITE SHALL NOT BE CONSIDERED A RESPONSIBLE PERSON FOR PURPOSES OF ASSIGNING CLEANUP LIABILITY, PROVIDED THE SUCCESSOR OR ASSIGN IS NOT A PERSON RESPONSIBLE FOR CONTAMINATION ON THE PROPERTY WHO DID NOT PARTICIPATE IN THE ENVIRONMENTAL REMEDIATION ACTION.

(E) PUBLIC UTILITY.--A PUBLIC UTILITY SHALL NOT BE CONSIDERED A RESPONSIBLE PERSON FOR PURPOSES OF ASSIGNING CLEANUP LIABILITY TO THE EXTENT THE PUBLIC UTILITY PERFORMS ACTIVITIES ON THE IDENTIFIED PROPERTY, PROVIDED THE PUBLIC UTILITY IS NOT A PERSON RESPONSIBLE FOR CONTAMINATION ON THE PROPERTY.

SECTION 503. EXISTING EXCLUSIONS.

THE PROTECTION FROM CLEANUP LIABILITY AFFORDED UNDER THIS ACT SHALL BE IN ADDITION TO THE EXCLUSIONS FROM BEING A RESPONSIBLE PERSON UNDER THE STATUTES LISTED IN SECTION 106.

SECTION 504. NEW LIABILITY.

NOTHING IN THIS ACT SHALL RELIEVE A PERSON RECEIVING PROTECTION FROM CLEANUP LIABILITY UNDER THIS CHAPTER FROM ANY CLEANUP LIABILITY FOR CONTAMINATION LATER CAUSED BY THAT PERSON ON A SITE WHICH HAS DEMONSTRATED COMPLIANCE WITH ONE OR MORE OF THE ENVIRONMENTAL REMEDIATION STANDARDS ESTABLISHED IN CHAPTER 3.

SECTION 505. REOPENERS.

ANY PERSON WHO COMPLETES REMEDIATION IN COMPLIANCE WITH THIS ACT SHALL NOT BE REQUIRED TO UNDERTAKE ADDITIONAL REMEDIATION

ACTIONS UNLESS:

(1) FRAUD WAS COMMITTED IN THE CERTIFICATION OF THE SITE THAT RESULTED IN AVOIDING THE NEED FOR FURTHER CLEANUP OF THE SITE;

(2) NEW INFORMATION CONFIRMS THE EXISTENCE OF AN AREA OF PREVIOUSLY UNKNOWN CONTAMINATION;

(3) THE REMEDIATION METHOD FAILED TO MEET ONE OR A COMBINATION OF THE THREE CLEANUP STANDARDS; OR

(4) SUBSTANTIAL CHANGES IN EXPOSURE CONDITIONS OR NEW INFORMATION ABOUT REGULATED SUBSTANCES ASSOCIATED WITH THE SITE RESULTS IN THE LEVEL OF RISK BEING INCREASED BEYOND THE ACCEPTABLE RISK RANGE.

SECTION 506. AUTHORITY RESERVED.

EXCEPT FOR THE PERFORMANCE OF FURTHER REMEDIATION OF THE SITE, NOTHING IN THIS ACT SHALL AFFECT THE ABILITY OR AUTHORITY OF ANY PERSON TO SEEK ANY RELIEF AVAILABLE AGAINST ANY PARTY WHO MAY HAVE LIABILITY WITH RESPECT TO THIS SITE. THIS ACT SHALL NOT AFFECT THE ABILITY OR AUTHORITY TO SEEK A CONTRIBUTION FROM ANY PERSON WHO MAY HAVE LIABILITY WITH RESPECT TO THE SITE AND DID NOT PARTICIPATE IN THE ENVIRONMENTAL REMEDIATION ACTIONS.

CHAPTER 7

NO-ACTION DETERMINATIONS

SECTION 701. NO-ACTION DETERMINATIONS.

PROPERTY OWNERS MAY REQUEST AND THE DEPARTMENT SHALL ISSUE WRITTEN DETERMINATIONS THAT IT WILL TAKE NO ENFORCEMENT OR CLEANUP ACTIONS AGAINST AN INNOCENT LANDOWNER WHO OWNS REAL PROPERTY AND IS OTHERWISE NOT RESPONSIBLE FOR ANY IDENTIFIED CONTAMINATION OR A RELEASE OR THREATENED RELEASE OF A REGULATED SUBSTANCE WHERE EITHER OF THE FOLLOWING OCCURS:

(1) AN ENVIRONMENTAL ASSESSMENT OR TRANSACTION SCREEN

1 ANALYSIS INDICATES NO SIGNIFICANT CONTAMINATION OR
2 CONTAMINATION WHICH DOES NOT POSE SIGNIFICANT ACTUAL RISK TO
3 PUBLIC HEALTH AND THE ENVIRONMENT.

4 (2) WHERE THE DEPARTMENT FINDS THAT CONTAMINATION OR A
5 RELEASE OR THREATENED RELEASE OF A REGULATED SUBSTANCE
6 ORIGINATES FROM A SOURCE ON AN ADJACENT OR NEARBY REAL
7 PROPERTY.

8 SECTION 702. ASSESSMENT STANDARDS.

9 (A) STANDARDS.--THE DEPARTMENT SHALL, AFTER AN OPPORTUNITY
10 FOR PUBLIC REVIEW AND COMMENT, ADOPT STANDARDS FOR CONDUCTING
11 ENVIRONMENTAL ASSESSMENTS. UNTIL SUCH STANDARDS ARE ADOPTED, THE
12 DEPARTMENT SHALL FOLLOW THE MOST RECENT VERSIONS OF STANDARD E-
13 15-27-93-STANDARD PRACTICE FOR ENVIRONMENTAL SITE ASSESSMENTS:
14 PHASE I ENVIRONMENTAL SITE ASSESSMENT PROCESS AS ADOPTED BY
15 ASTM. PROPERTY TRANSACTION SCREENS AS REQUIRED BY THIS CHAPTER
16 SHALL FOLLOW STANDARD E-15-28-93-STANDARD PRACTICE FOR
17 ENVIRONMENTAL SITES ASSESSMENTS: TRANSACTION SCREEN PROCESS AS
18 ADOPTED BY ASTM.

19 (B) LIABILITY.--A PERSON SHALL NOT BE CONSIDERED A PERSON
20 RESPONSIBLE FOR A RELEASE OR A THREATENED RELEASE OF A REGULATED
21 SUBSTANCE SIMPLY BY VIRTUE OF CONDUCTING AN ENVIRONMENTAL
22 ASSESSMENT OR TRANSACTION SCREEN ON A PROPERTY. NOTHING IN THIS
23 SECTION RELIEVES A PERSON OF ANY LIABILITY FOR FAILURE TO
24 EXERCISE DUE DILIGENCE IN PERFORMING AN ENVIRONMENTAL ASSESSMENT
25 OR TRANSACTION SCREEN.

26 SECTION 703. REVIEW DEADLINE.

27 THE DEPARTMENT SHALL MAKE A DECISION ON WHETHER OR NOT TO
28 ISSUE A NO-ACTION DETERMINATION NO LATER THAN 90 DAYS AFTER A
29 REQUEST IS MADE UNLESS THE DEPARTMENT AND THE PERSON REQUESTING
30 THE DETERMINATION AGREE TO AN EXTENSION OF THE REVIEW TO A DATE

1 CERTAIN.

2 SECTION 704. APPLICABILITY.

3 THE NO-ACTION DETERMINATION SHALL ALSO APPLY TO ANY PERSON
4 PROVIDING FINANCING TO THE PERSON NAMED IN THE DETERMINATION FOR
5 THE IDENTIFIED PROPERTY AND TO ANY PERSON DEVELOPING OR
6 OCCUPYING THE IDENTIFIED PROPERTY AS THE RESULT OF A LEASE OR
7 RENT AGREEMENT OR TO THE ACTIVITIES OF A PUBLIC UTILITY ON THE
8 IDENTIFIED PROPERTY.

9 SECTION 705. ENTRY.

10 THE PROPERTY OWNER MUST ALLOW ENTRY TO THE PROPERTY BY THE
11 DEPARTMENT OR ITS REPRESENTATIVES FOR THE PURPOSE OF TAKING ANY
12 REMEDIATION AND RESPONSE ACTIONS NEEDED TO ADDRESS CONTAMINATION
13 ON THE ADJACENT SITE AND NOT INTERFERE WITH ANY RESPONSE ACTION.

14 SECTION 706. TRANSFERABILITY.

15 A NO-ACTION DETERMINATION MAY BE TRANSFERRED BY THE PROPERTY
16 OWNER TO SUCCESSORS AND ASSIGNS IF THE SUCCESSORS AND ASSIGNS
17 ARE NOT OTHERWISE RESPONSIBLE FOR ANY CONTAMINATION ON THE
18 ADJACENT PROPERTY. A NO-ACTION DETERMINATION SHALL ALSO BE
19 EXTENDED TO THE SUCCESSORS AND ASSIGNS OF PARTIES IDENTIFIED IN
20 SECTION 704.

21 SECTION 707. THIRD PARTIES.

22 NO PERSON WHO IS THE SUBJECT OF A NO-ACTION DETERMINATION
23 ISSUED BY THE DEPARTMENT OR WHO IS GRANTED LIABILITY PROTECTION
24 UNDER SECTION 703 SHALL BE SUBJECT TO EITHER CITIZEN SUITS OR
25 OTHER CONTRIBUTION ACTIONS BROUGHT BY RESPONSIBLE PERSONS FOR A
26 RELEASE OR POTENTIAL RELEASE IDENTIFIED IN THE NO-ACTION
27 DETERMINATION.

28 CHAPTER 9

29 INDUSTRIAL LAND RECYCLING FUND

30 SECTION 901. INDUSTRIAL LAND RECYCLING FUND.

1 (A) FUND.--THERE IS HEREBY ESTABLISHED A SEPARATE ACCOUNT IN
2 THE STATE TREASURY, TO BE KNOWN AS THE INDUSTRIAL LAND RECYCLING
3 FUND, WHICH SHALL BE A SPECIAL FUND ADMINISTERED BY THE
4 DEPARTMENT.

5 (B) PURPOSE.--THE MONEYS DEPOSITED IN THIS FUND SHALL BE
6 USED BY THE DEPARTMENT FOR THE PURPOSE OF IMPLEMENTING THE
7 PROVISIONS OF THIS ACT. MONEYS FROM THE HAZARDOUS SITES CLEANUP
8 FUND SHALL ALSO BE AVAILABLE TO THE DEPARTMENT TO REMEDIATE A
9 RELEASE OR THREATENED RELEASE ON A PROPERTY COVERED BY THE
10 PROVISIONS OF THIS ACT.

11 (C) FUNDS.--IN ADDITION TO ANY FUNDS APPROPRIATED BY THE
12 GENERAL ASSEMBLY, FEDERAL FUNDS AND PRIVATE CONTRIBUTIONS AND
13 ANY FINES AND PENALTIES ASSESSED UNDER THIS ACT SHALL BE
14 DEPOSITED INTO THE FUND.

15 (D) ANNUAL REPORT.--THE DEPARTMENT SHALL ON OCTOBER 1 OF
16 EACH YEAR REPORT TO THE GENERAL ASSEMBLY ON THE EXPENDITURES AND
17 COMMITMENTS MADE FROM THE INDUSTRIAL LAND RECYCLING FUND.

18 SECTION 902. VOLUNTARY CLEANUP LOAN PROGRAM.

19 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A SEPARATE
20 ACCOUNT IN THE STATE TREASURY, TO BE KNOWN AS THE VOLUNTARY
21 CLEANUP LOAN FUND, WHICH SHALL BE A SPECIAL FUND ADMINISTERED BY
22 THE DEPARTMENT OF COMMERCE. WITHIN 60 DAYS OF THE EFFECTIVE DATE
23 OF THIS ACT, THE DEPARTMENT OF COMMERCE SHALL FINALIZE
24 GUIDELINES AND ISSUE APPLICATION FORMS TO ADMINISTER THIS FUND.

25 (B) PURPOSE.--THE VOLUNTARY CLEANUP LOAN FUND IS TO HELP
26 PROVIDE FUNDING TO PERSONS UNDERTAKING THE VOLUNTARY REMEDIATION
27 OF A PROPERTY. THE FUNDING SHALL BE IN THE FORM OF LOW-INTEREST
28 LOANS AND GRANTS FOR UP TO 75% OF THE COSTS INCURRED FOR
29 COMPLETING AN ENVIRONMENTAL STUDY AND FOR IMPLEMENTING A CLEANUP
30 PLAN FOR THE FOLLOWING CATEGORIES OF APPLICANTS:

(1) LOCAL ECONOMIC DEVELOPMENT AGENCIES SHALL BE ELIGIBLE FOR GRANTS AND FOR LOW-INTEREST LOANS AT A RATE OF NOT MORE THAN 2% 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 BY OTHER APPLICANTS.

(C) FUNDS.--IN ADDITION TO ANY FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY, AT LEAST \$5,000,000 SHALL BE TRANSFERRED ON JULY 1 OF 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.

(D) ANNUAL REPORT.--THE DEPARTMENT OF COMMERCE SHALL ON OCTOBER 1 OF EACH YEAR REPORT TO THE GENERAL ASSEMBLY ON THE GRANTS, LOANS, EXPENDITURES AND COMMITMENTS MADE FROM THE FUND. SECTION 903. FEES.

(A) AMOUNT.--THE DEPARTMENT SHALL COLLECT THE FOLLOWING FEES FOR THE REVIEW OF REPORTS REQUIRED TO BE SUBMITTED TO IMPLEMENT THE PROVISIONS OF THIS ACT:

(1) A PERSON UTILIZING THE BACKGROUND OR STATEWIDE HEALTH STANDARDS FOR ENVIRONMENTAL REMEDIATION SHALL PAY A FEE OF \$250 UPON SUBMISSION OF THE REPORT CERTIFYING COMPLIANCE WITH THE STANDARDS.

1 OPPORTUNITY FOR PUBLIC INVOLVEMENT AND UNDERSTANDING OF THE
2 REMEDIATION PROCESS.

3 SECTION 1102. PERMITS.

4 A STATE OR LOCAL PERMIT SHALL NOT BE REQUIRED FOR REMEDIATION
5 ACTIVITIES UNDERTAKEN ENTIRELY ON THE SITE IF THEY ARE
6 UNDERTAKEN PURSUANT TO THE REQUIREMENTS OF THIS ACT.

7 SECTION 1103. FUTURE ACTIONS.

8 AT ANY TIME, A REQUEST MAY BE MADE TO THE DEPARTMENT TO
9 CHANGE THE LAND USE OF THE SITE FROM NONRESIDENTIAL TO
10 RESIDENTIAL. THE DEPARTMENT SHALL ONLY APPROVE THE REQUEST UPON
11 A DEMONSTRATION THAT THE SITE MEETS ALL THE APPLICABLE CLEANUP
12 STANDARDS FOR RESIDENTIAL USE OF THE PROPERTY. ANY EXISTING DEED
13 ACKNOWLEDGMENT CONTAINED IN THE DEED PRIOR TO THE DEMONSTRATING
14 COMPLIANCE WITH THE RESIDENTIAL USE STANDARD MAY BE REMOVED.

15 SECTION 1104. RELATIONSHIP TO FEDERAL AND STATE PROGRAMS.

16 (A) FEDERAL.--THE PROVISIONS OF THIS ACT SHALL NOT PREVENT
17 THE COMMONWEALTH FROM ENFORCING SPECIFIC NUMERICAL CLEANUP
18 STANDARDS, MONITORING OR COMPLIANCE REQUIREMENTS REQUIRED TO BE
19 ENFORCED BY THE FEDERAL GOVERNMENT AS A CONDITION OF PRIMACY OR
20 TO RECEIVE FEDERAL FUNDS.

21 (B) STATE PRIORITY LIST.--ANY REMEDIATION UNDERTAKEN ON A
22 SITE INCLUDED ON THE STATE PRIORITY LIST ESTABLISHED UNDER THE
23 ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE
24 HAZARDOUS SITES CLEANUP ACT, SHALL ATTAIN THE SITE-SPECIFIC
25 STANDARD ESTABLISHED IN SECTION 304 AND SHALL BE PERFORMED IN
26 COMPLIANCE WITH THE ADMINISTRATIVE RECORD AND OTHER PROCEDURAL
27 AND PUBLIC REVIEW REQUIREMENTS OF CHAPTER 5 OF THE HAZARDOUS
28 SITES CLEANUP ACT.

29 (C) STORAGE TANKS.--THE ENVIRONMENTAL REMEDIATION STANDARDS
30 ESTABLISHED UNDER THIS ACT SHALL BE USED IN CORRECTIVE ACTIONS

1 UNDERTAKEN PURSUANT TO THE ACT OF JULY 6, 1989 (P.L.169, NO.32),
2 KNOWN AS THE STORAGE TANK AND SPILL PREVENTION ACT. HOWEVER, THE
3 PROCEDURES IN THE STORAGE TANK AND SPILL PREVENTION ACT FOR
4 REVIEWING AND APPROVING CORRECTIVE ACTIONS SHALL BE USED IN LIEU
5 OF THE PROCEDURES AND REVIEWS REQUIRED BY THIS ACT.

6 SECTION 1105. ENFORCEMENT.

7 (A) GENERAL.--THE DEPARTMENT IS AUTHORIZED TO USE THE
8 ENFORCEMENT AND PENALTY PROVISIONS APPLICABLE TO THE
9 ENVIRONMENTAL MEDIUM OR ACTIVITY OF CONCERN, AS APPROPRIATE,
10 ESTABLISHED UNDER THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),
11 KNOWN AS THE CLEAN STREAMS LAW, THE ACT OF JANUARY 8, 1960 (1959
12 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT, THE
13 ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
14 MANAGEMENT ACT, THE ACT OF JULY 13, 1988 (P.L.525, NO.93),
15 REFERRED TO AS THE INFECTIOUS AND CHEMOTHERAPEUTIC WASTE LAW,
16 THE ACT OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE
17 HAZARDOUS SITES CLEANUP ACT, OR THE ACT OF JULY 6, 1989
18 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL PREVENTION
19 ACT, TO ENFORCE THE PROVISIONS OF THIS ACT.

20 (B) FRAUD.--ANY PERSON WHO WILLFULLY COMMITS FRAUD
21 DEMONSTRATING ATTAINMENT WITH ONE OR MORE STANDARDS ESTABLISHED
22 UNDER THIS ACT SHALL, UPON CONVICTION, BE SUBJECT TO AN
23 ADDITIONAL PENALTY OF \$50,000 FOR EACH SEPARATE OFFENSE OR TO
24 IMPRISONMENT FOR A PERIOD OF NOT MORE THAN ONE YEAR FOR EACH
25 SEPARATE OFFENSE, OR BOTH. EACH DAY SHALL BE A SEPARATE OFFENSE.
26 SECTION 1106. PAST PENALTIES.

27 PERSONS WHO HAVE NO RESPONSIBILITY FOR CONTAMINATION ON A
28 SITE AND PARTICIPATE IN ENVIRONMENTAL REMEDIATION ACTIVITIES
29 UNDER THIS ACT SHALL NOT BE RESPONSIBLE FOR PAYING ANY FINES OR
30 PENALTIES LEVIED AGAINST ANY PERSON RESPONSIBLE FOR

1 CONTAMINATION ON THE PROPERTY.

2 SECTION 1107. REPEALS.

3 (A) ABSOLUTE.--SECTION 504(B) THROUGH (F) AND (H) OF THE ACT
4 OF OCTOBER 18, 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS
5 SITES CLEANUP ACT, ARE REPEALED.

6 (B) GENERAL.--ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED
7 INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT AND RELATED TO
8 ENVIRONMENTAL REMEDIATION.

9 SECTION 1108. EFFECTIVE DATE.

10 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.