
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Session of
1995

INTRODUCED BY BRIGHTBILL, PORTERFIELD, SHAFFER, LAVALLE, MUSTO,
STEWART, BELAN, JUBELIRER, LOEPER, ROBBINS, STAPLETON, STOUT,
WAGNER, BAKER, AFFLERBACH, BELL, ANDREZESKI, CORMAN, BODACK,
FISHER, FUMO, GERLACH, JONES, GREENLEAF, KASUNIC, HART,
MELLOW, O'PAKE, HELFRICK, HOLL, TARTAGLIONE, LEMMOND,
PETERSON, PUNT, RHOADES, SALVATORE, SHUMAKER, TILGHMAN,
ULIANA, WENGER, MADIGAN, DELP AND ARMSTRONG, JANUARY 17, 1995

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 26, 1995

AN ACT

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

10 TABLE OF CONTENTS

- 11 Chapter 1. General Provisions
- 12 Section 101. Short title.
- 13 Section 102. Declaration of policy.
- 14 Section 103. Definitions.
- 15 Section 104. Powers and duties.
- 16 Section 105. Cleanup Standards Scientific Advisory Board.
- 17 Section 106. Scope.

1 Section 107. Existing standards.

2 Chapter 3. Remediation Standards and Review Procedures

3 Section 301. Remediation standards.

4 Section 302. Background standard.

5 Section 303. Statewide health standard.

6 Section 304. Site-specific standard.

7 Section 305. Special industrial areas.

8 ~~Section 306. Privatization.~~ <—

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

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

11 Section ~~309~~ 308. Appealable actions. <—

12 Chapter 5. Cleanup Liability Protection

13 Section 501. Cleanup liability protection.

14 Section 502. Special industrial areas.

15 Section 503. Existing exclusions.

16 Section 504. New liability.

17 Section 505. Reopeners.

18 Section 506. Authority reserved.

19 Chapter 7. Industrial Land Recycling Fund

20 Section 701. Industrial Land Recycling Fund.

21 Section 702. Voluntary Cleanup Loan Program.

22 SECTION 703. INDUSTRIAL SITES CLEANUP FUND. <—

23 Section ~~703~~ 704. Fees. <—

24 Chapter 9. Miscellaneous Provisions

25 Section 901. Plain language.

26 Section 902. Permits and other requirements.

27 Section 903. Future actions.

28 Section 904. Relationship to Federal and State programs.

29 Section 905. Enforcement.

30 Section 906. Past penalties.

1 Section 907. Evaluation.

2 Section 908. Repeals.

3 Section 909. Effective date.

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

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Section 101. Short title.

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

11 Section 102. Declaration of policy.

12 The General Assembly finds and declares as follows:

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

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

28 (3) Public health and environmental hazards cannot be
29 eliminated without clear, predictable environmental
30 remediation standards and a process for developing those

1 standards. Any remediation standards adopted by this
2 Commonwealth must provide for the protection of public health
3 and the environment.

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

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

20 ~~(5)~~ (6) Cleanup plans should be based on the actual risk <—
21 that contamination on the site may pose to public health and
22 the environment, taking into account its current and future
23 use and the degree to which contamination can spread offsite
24 and expose the public or the environment to risk, not on
25 cleanup policies requiring every site in this Commonwealth to
26 be returned to a pristine condition.

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

30 ~~(6)~~ (8) The Department of Environmental Resources now <—

1 routinely through its permitting policies determines when
2 contamination will and will not pose a significant risk to
3 public health or the environment. Similar concepts should be
4 used in establishing cleanup policies.

5 ~~(7)~~ (9) The public is entitled to understand how ←
6 remediation standards are applied to a site through a plain
7 language description of contamination present on a site, the
8 risk it poses to public health and the environment and any
9 proposed cleanup measure.

10 Section 103. Definitions.

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

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

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

26 "Aquifer." A geologic formation, group of formations or part
27 of a formation capable of a sustainable yield of significant
28 amount of water to a well or spring.

29 "Background." The concentration of a regulated substance
30 determined by appropriate statistical methods that is present at

1 the site, but is not related to the release of regulated
2 substances at the site.

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

9 "Board." The Cleanup Standards Scientific Advisory Board
10 established in section 105.

11 "Carcinogen." A chemical, biological or physical agent
12 defined by the Environmental Protection Agency as a human
13 carcinogen.

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

20 "Contaminant." A regulated substance released into the
21 environment.

22 "Control." To apply engineering measures, such as capping or
23 treatment, or institutional measures, such as deed restrictions,
24 to sites with contaminated media.

25 "Department." The Department of Environmental Resources of
26 the Commonwealth or its successor agency.

27 "Engineering controls." Remedial actions directed
28 exclusively toward containing or controlling the migration of
29 regulated substances through the environment. These include, but
30 are not limited to, slurry walls, liner systems, caps, leachate

1 collection systems and groundwater recovery trenches.

2 "EPA." The Environmental Protection Agency or its successor
3 agency.

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

8 "Groundwater." Water below the land surface in a zone of
9 saturation.

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

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

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

20 "Health advisory levels" or "HALs." The health advisory
21 levels published by the United States Environmental Protection
22 Agency for particular substances.

23 "Industrial activity." Commercial, manufacturing, public
24 utility, mining or any other activity done to further either the
25 development, manufacturing or distribution of goods and
26 services, intermediate and final products and solid waste
27 created during such activities, including, but not limited to,
28 administration of business activities, research and development,
29 warehousing, shipping, transport, remanufacturing, stockpiling
30 of raw materials, storage, repair and maintenance of commercial

1 machinery and equipment and solid waste management.

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

8 "Medium-specific concentration." The concentration
9 associated with a specified environmental medium for potential
10 risk exposures.

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

14 "Municipality." A township, borough, city, incorporated
15 village or home rule municipality. This term shall not include a
16 county.

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

28 "Person." An individual, firm, corporation, association,
29 partnership, consortium, joint venture, commercial entity,
30 authority, nonprofit corporation, interstate body or other legal

1 entity which is recognized by law as the subject of rights and
2 duties. The term includes the Federal Government, State
3 government, political subdivisions and Commonwealth
4 instrumentalities.

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

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

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

19 "Regulated substance." The term shall include hazardous
20 substances and contaminants regulated under the act of October
21 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
22 Act, and substances covered by the act of June 22, 1937
23 (P.L.1987, No.394), known as The Clean Streams Law, the act of
24 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
25 Pollution Control Act, the act of July 7, 1980 (P.L.380, No.97),
26 known as the Solid Waste Management Act, the act of July 13,
27 1988 (P.L.525, No.93), referred to as the Infectious and
28 Chemotherapeutic Waste Law, and the act of July 6, 1989
29 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
30 Act.

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

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 originating within the
26 property boundaries and all areas in close proximity to the
27 contamination necessary for the implementation of remediation
28 activities to be conducted under this act.

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

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

4 Section 104. Powers and duties.

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

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

17 Section 105. Cleanup Standards Scientific Advisory Board.

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

26 (b) Membership.--Five members shall be appointed by the
27 secretary and two members each by the President pro tempore of
28 the Senate, the Minority Leader of the Senate, the Speaker of
29 the House of Representatives and the Minority Leader of the
30 House of Representatives. Members shall have a background in

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

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

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

21 (e) Support.--The department shall provide the appropriate
22 administrative and technical support needed by the board in
23 order to accomplish its purpose, including support for surveys
24 and technical studies the board may wish to undertake. The
25 department shall publish a notice of meeting dates, times and
26 locations and a list of topics to be discussed at any meeting no
27 less than 14 days prior to the meeting, published in the same
28 manner as required by the act of July 3, 1986 (P.L.388, No.84),
29 known as the Sunshine Act.

30 (f) Interested persons list.--The department shall maintain

1 a mailing list of persons interested in receiving notice of
2 meetings and the activities of the board. The department shall
3 name a contact person to be responsible for board meetings and
4 to serve as a contact for the public to ask questions and get
5 information about the board.

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

10 Section 106. Scope.

11 (A) REMEDIATION STANDARDS.--The environmental remediation ←
12 standards established under this act shall be used whenever site
13 remediation is voluntarily conducted or is required under the
14 act of June 22, 1937 (P.L.1987, No.394), known as The Clean
15 Streams Law, the act of January 8, 1960 (1959 P.L.2119, No.787),
16 known as the Air Pollution Control Act, the act of July 7, 1980
17 (P.L.380, No.97), known as the Solid Waste Management Act, the
18 act of July 13, 1988 (P.L.525, No.93), referred to as the
19 Infectious and Chemotherapeutic Waste Law, the act of October
20 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
21 Act, and the act of July 6, 1989 (P.L.169, No.32), known as the
22 Storage Tank and Spill Prevention Act, to be eligible for
23 cleanup liability protection under Chapter 5. In addition, the
24 remediation standards established under this act shall be
25 considered as applicable, relevant and appropriate requirements
26 for this Commonwealth under the Comprehensive Environmental
27 Response, Compensation, and Liability Act of 1980 (Public Law
28 96-510, 94 Stat. 2767) and the Hazardous Sites Cleanup Act.

29 (B) DISCLAIMER.--NOTHING IN THIS ACT IS INTENDED TO NOR ←
30 SHALL IT BE CONSTRUED TO AMEND, MODIFY, REPEAL OR OTHERWISE

1 ALTER ANY PROVISION OF ANY ACT CITED IN THIS SECTION RELATING TO
2 CIVIL AND CRIMINAL PENALTIES OR ENFORCEMENT ACTIONS AND REMEDIES
3 AVAILABLE TO THE DEPARTMENT, OR, IN ANY WAY, TO AMEND, MODIFY,
4 REPEAL OR ALTER THE AUTHORITY OF THE DEPARTMENT TO TAKE
5 APPROPRIATE CIVIL AND CRIMINAL ACTION UNDER THESE STATUTES.

6 Section 107. Existing standards.

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

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

29 CHAPTER 3

30 REMEDIATION STANDARDS AND REVIEW PROCEDURES

1 Section 301. Remediation standards.

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

8 (1) a background standard which achieves background as
9 further specified in section 302;

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

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

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

27 (c) Determining attainment.--For the purposes of determining
28 attainment of any one or a combination of remediation standards,
29 the concentration of a regulated substance shall not be required
30 to be less than the practical quantitation limit for a regulated

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

11 (a) Standard.--Persons selecting the background standard
12 shall meet background for each regulated substance in each
13 environmental medium.

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

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

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

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

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

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

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

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

27 (d) Deed notice.--Persons attaining and demonstrating
28 compliance with the background standard for all regulated
29 substances ~~throughout a site~~ shall not be subject to the deed ←
30 acknowledgment requirements of the act of July 7, 1980 (P.L.380,

1 No.97), known as the Solid Waste Management Act, or the act of
2 October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites
3 Cleanup Act. An existing acknowledgment contained in a deed
4 prior to demonstrating compliance with the background standard
5 may be removed.

6 (e) Notice and review provisions.--Persons utilizing the
7 background standard shall comply with the following requirements
8 for notifying the public and the department of planned
9 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, to the extent known,
14 provides a brief description of the location of the site,
15 a 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 background standard shall be

1 given to the municipality in which the remediation site is
2 located, published in a newspaper of general circulation
3 serving the area and in the Pennsylvania Bulletin.

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

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

20 Section 303. Statewide health standard.

21 (a) Standard.--The Environmental Quality Board shall
22 promulgate Statewide health standards for regulated substances
23 for each environmental medium. The standards shall include any
24 existing numerical residential and nonresidential health-based
25 standards adopted by the department and by the Federal
26 Government by regulation or statute, and health advisory levels.
27 For those health-based standards not already established by
28 regulation or statute, the Environmental Quality Board shall, by
29 regulation, propose residential and nonresidential standards as
30 medium-specific concentrations within 12 months of the effective

1 date of this act. The Environmental Quality Board shall also
2 promulgate, along with the standards, the methods used to
3 calculate the standards. Standards adopted under this section
4 shall be no more stringent than those standards adopted by the
5 Federal Government.

6 (b) Medium-specific concentrations.--The following
7 requirements shall be used to establish a medium-specific
8 concentration:

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

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

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

29 (4) For the residential standard, the concentration of a
30 regulated substance in soil shall not exceed either the

1 direct contact soil medium-specific concentration based on
2 residential exposure factors within a depth of up to 15 feet
3 from the existing ground surface, or the soil-to-groundwater
4 pathway numeric value throughout the soil column, the latter
5 to be determined by any one of the following methods:

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

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

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

22 (5) For the nonresidential standard, the concentration
23 of a regulated substance in soil shall not exceed either the
24 direct contact soil medium-specific concentration based on
25 nonresidential exposure factors within a depth of up to 15
26 feet from the existing ground surface using valid scientific
27 methods reflecting worker exposure or the soil to groundwater
28 pathway numeric value determined in accordance with paragraph
29 (4).

30 (6) Exposure scenarios for medium-specific

1 concentrations for nonresidential conditions shall be
2 established using valid scientific methods reflecting worker
3 exposure.

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

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

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

24 (d) Relationship to background.--The concentration of a
25 regulated substance in an environmental ~~media~~ MEDIUM of concern ←
26 on a site where the Statewide health standard has been selected
27 shall not be required to meet the Statewide health standard if
28 the Statewide health standard is numerically less than the
29 background standard. In such cases, the background standard
30 shall apply.

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

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

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

30 (3) Institutional controls such as fencing and future

1 land use restrictions on a site may not be used to attain the
2 Statewide health standard. Institutional controls may be used
3 to maintain the Statewide health standard after remediation
4 occurs.

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

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

22 (h) Notice and review provisions.--Persons utilizing the
23 Statewide health standard shall comply with the following
24 requirements for notifying the public and the department of
25 planned 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 provides, to the extent
30 known, a brief description of the location of the site, a

1 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 Statewide health standard
17 shall be given to the municipality in which the remediation
18 site is located, published in a newspaper of general
19 circulation serving the area and in the Pennsylvania
20 Bulletin.

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

27 (4) The notices provided for in paragraphs (1) and (2)
28 are not required to be made or published if the person
29 conducting the remediation submits the final report
30 demonstrating attainment of the Statewide health standard as

1 required by this section within 90 days of the release. If
2 the final report demonstrating attainment is not submitted to
3 the department within 90 days of the release, all notices and
4 procedures required by this section shall apply. This
5 paragraph is only applicable to releases occurring after the
6 effective date of this act.

7 Section 304. Site-specific standard.

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

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

20 (c) Systemic toxicants.--For systemic toxicants, soil and
21 groundwater cleanup standards shall represent levels to which
22 the human population could be exposed on a daily basis without
23 appreciable risk of deleterious effect to the exposed
24 population. Where several systemic toxicants affect the same
25 target organ or act by the same method of toxicity, the hazard
26 index shall not exceed one. The hazard index is the sum of the
27 hazard quotients for multiple systemic toxicants acting through
28 a single-medium exposure pathway or through multiple-media
29 exposure pathways.

30 (d) Groundwater.--Cleanup standards for groundwater shall be

1 established in accordance with subsections (b) and (c) using the
2 following considerations:

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

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

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

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

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

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

26 (e) Soil.--Concentrations of regulated substances in soil
27 shall not exceed: values calculated in accordance with
28 subsections (b) and (c) based on human ingestion of soil where
29 direct contact exposure to the soil may reasonably occur; values
30 calculated to protect groundwater in aquifers at levels

1 determined in accordance with subsections (b), (c) and (d); and
2 values calculated to satisfy the requirements of subsection (g)
3 with respect to discharges or releases to surface water or
4 emissions to the outdoor air. Such determinations shall take
5 into account the effects of institutional and engineering
6 controls, if any, and shall be based on sound scientific
7 principles, including fate and transport analysis of the
8 migration of a regulated substance in relation to receptor
9 exposures.

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

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

18 (2) Use of appropriate statistical techniques,
19 including, but not limited to, Monte Carlo simulations, to
20 establish statistically valid cleanup standards.

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

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

27 (g) Air and surface water.--Any regulated discharge into
28 surface water or any regulated emissions to the outdoor air
29 which occur during or after attainment of the site-specific
30 standard shall comply with applicable laws and regulations

1 relating to surface water discharges or emissions into the
2 outdoor air.

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

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

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 commercially 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.

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

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

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

13 (1) Soil, groundwater, surface water and air emission
14 standards as determined under subsections (a) through (h)
15 have been attained.

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

26 (l) Site investigation and remedy selection.--Any person
27 selecting to comply with site-specific standards established by
28 this section shall submit the following reports and evaluations,
29 as required under this section, for review and approval by the
30 department:

1 (1) A remedial investigation report which includes:

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

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

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

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

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

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

29 (3) A cleanup plan which evaluates the relative
30 abilities and effectiveness of potential remedies to achieve

1 the requirements for remedies described in subsection (k)
2 when considering the evaluation factors described in
3 subsection (j). The plan shall select a remedy which achieves
4 the requirements for remedies described in subsection (k).
5 The department may require a further evaluation of the
6 selected remedy or an evaluation of one or more additional
7 remedies in response to comments received from the community
8 surrounding the site as a result of the community involvement
9 plan established in subsection (o) which are based on the
10 factors described in subsection (j) or as a result of its own
11 analysis which are based on the evaluation factors described
12 in subsection (j).

13 (4) A final report demonstrating that the approved
14 remedy has been completed in accordance with the cleanup
15 plan.

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

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

29 (n) Notice and review provisions.--Persons utilizing the
30 site-specific standard shall comply with the following

1 requirements for notifying the public and the department of
2 planned remediation activities:

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

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

27 (2) The following notice and review provisions apply
28 each time a remedial investigation report, risk assessment
29 report, cleanup plan and final report demonstrating
30 compliance with the site-specific standard is submitted to

1 the department:

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

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

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

25 (o) Community involvement.--Persons using site-specific
26 standards are required to develop a public involvement plan
27 which involves the public in the cleanup and use of the property
28 if the municipality requests to be involved in the remediation
29 and reuse plans for the site. The plan shall propose measures to
30 involve the public in the development and review of the remedial

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

14 Section 305. Special industrial areas.

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

25 (b) Baseline report.--A baseline remedial investigation
26 shall be conducted on the property based on a work plan approved
27 by the department and a baseline environmental report shall be
28 submitted to the department to establish a reference point
29 showing existing contamination on the site. The report shall
30 describe the proposed remediation measures to be undertaken

1 within the limits of cleanup liability found in section 502. The
2 report shall also include a description of the existing or
3 potential public benefits of the use or reuse of the property
4 for employment opportunities, housing, open space, recreation or
5 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 municipality can request to be involved in the
24 development of the remediation and reuse plans for the site.
25 If requested by the municipality, the person undertaking the
26 remediation shall develop and implement a public involvement
27 program plan which meets the requirements of section 304(o).
28 Persons undertaking the remediation are encouraged to develop
29 a proactive approach to working with the municipality in
30 developing and implementing remediation 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 public involvement
6 plan developed under section 304(o) shall also be considered by
7 the department. The department shall notify the person
8 submitting the report of deficiencies within 90 days. If the
9 department does not respond within 90 days, the report is
10 considered 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 ~~required under this act. As part of the program, the department~~
30 ~~may:~~

1 threatens public health or the environment. The final
2 remediation of the site shall comply with the provisions of this
3 chapter which shall not be prejudiced by the mitigation measures
4 undertaken to that point.

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

17 Section ~~309~~ 308. Appealable actions. ←

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

22 CHAPTER 5

23 CLEANUP LIABILITY PROTECTION

24 Section 501. Cleanup liability protection.

25 (a) General.--Any person demonstrating compliance with the
26 environmental remediation standards established in Chapter 3
27 shall be relieved of further liability for the remediation of
28 the site under the statutes outlined in section 106 for any
29 contamination identified in reports submitted to and approved by
30 the department to demonstrate compliance with these standards

1 and shall not be subject to citizen suits or other contribution
2 actions brought by responsible persons. The cleanup liability
3 protection provided by this chapter applies to the following
4 persons:

5 (1) The current or future owner of the identified
6 property or any other person, who participated in the
7 remediation of the site.

8 (2) A person who develops or otherwise occupies the
9 identified site.

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

12 (4) A public utility to the extent the public utility
13 performs activities on the identified site.

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

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

27 Section 502. Special industrial areas.

28 (a) Agreement.--The department and the person undertaking
29 the reuse in a special industrial area under section 305 shall
30 enter into an agreement based on the environmental report which

1 outlines cleanup liability for the property. Any person included
2 in such an agreement shall not be subject to a citizen suit,
3 other contribution actions brought by responsible persons not
4 participating in the remediation of the property or other
5 actions brought by the department with respect to the property
6 except those which may be necessary to enforce the terms of the
7 agreement.

8 (b) Liability.--The cleanup liabilities for the person
9 undertaking the reuse of the property shall include the
10 following:

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

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

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

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

26 (d) Successor or assign.--A successor or assign of any
27 person to whom cleanup liability protection applies for a
28 property shall not be considered a responsible person for
29 purposes of assigning cleanup liability, provided the successor
30 or assign is not a person responsible for contamination on the

1 property who did not participate in the environmental
2 remediation action.

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

9 Section 503. Existing exclusions.

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

13 Section 504. New liability.

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

20 Section 505. Reopeners.

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

24 (1) fraud was committed in demonstrating attainment of a
25 standard at the site that resulted in avoiding the need for
26 further cleanup of the site;

27 (2) new information confirms the existence of an area of
28 previously unknown contamination which contains regulated
29 substances that have been shown to exceed the standards
30 applied to previous remediation at the site;

1 (3) the remediation method failed to meet one or a
2 combination of the three cleanup standards; or

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

14 Section 506. Authority reserved.

15 Except for the performance of further remediation of the
16 site, nothing in this act shall affect the ability or authority
17 of any person to seek any relief available against any party who
18 may have liability with respect to this site. This act shall not
19 affect the ability or authority to seek contribution from any
20 person who may have liability with respect to the site and did
21 not receive cleanup liability protection under this chapter.

22 CHAPTER 7

23 INDUSTRIAL LAND RECYCLING FUND

24 Section 701. Industrial Land Recycling Fund.

25 (a) Fund.--There is hereby established a separate account in
26 the State Treasury, to be known as the Industrial Land Recycling
27 Fund, which shall be a special fund administered by the
28 department.

29 (b) Purpose.--The moneys deposited in this fund shall be
30 used by the department for the purpose of implementing the

1 provisions of this act.

2 (c) Funds.--In addition to any funds appropriated by the
3 General Assembly, Federal funds and private contributions and
4 any fines and penalties assessed under this act shall be
5 deposited into the fund. Moneys in the fund are hereby
6 appropriated, upon the approval of the Governor, for the
7 purposes of this act.

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

11 Section 702. Voluntary Cleanup Loan Program.

12 (a) Establishment.--There is hereby established a separate
13 account in the State Treasury, to be known as the Voluntary
14 Cleanup Loan Fund, which shall be a special fund administered by
15 the Department of Commerce. Within 60 days of the effective date
16 of this act, the Department of Commerce shall finalize
17 guidelines and issue application forms to administer this fund.
18 The Department of Commerce, in conjunction with the Department
19 of Environmental Resources may establish funding priorities
20 under this program.

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

27 (1) Local economic development agencies, public agencies
28 and local governments and persons not responsible for
29 contamination on a site shall be eligible for grants for the
30 purpose of completing environmental studies and implementing

1 cleanup plans.

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

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

21 (d) Annual report.--The Department of Commerce shall on
22 October 1 of each year report to the General Assembly on the
23 grants, loans, expenditures and commitments made from the fund.

24 SECTION 703. INDUSTRIAL SITES CLEANUP FUND. ←

25 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A SEPARATE
26 ACCOUNT IN THE STATE TREASURY, TO BE KNOWN AS THE INDUSTRIAL
27 SITES CLEANUP FUND, WHICH SHALL BE A SPECIAL FUND ADMINISTERED
28 BY THE DEPARTMENT OF COMMERCE. WITHIN 60 DAYS OF THE EFFECTIVE
29 DATE OF THIS ACT, THE DEPARTMENT OF COMMERCE SHALL FINALIZE
30 GUIDELINES AND ISSUE APPLICATION FORMS TO ADMINISTER THIS FUND.

1 (B) PURPOSE.--THE INDUSTRIAL SITES CLEANUP FUND IS TO
2 PROVIDE FINANCIAL ASSISTANCE TO PERSONS WHO DID NOT CAUSE OR
3 CONTRIBUTE TO THE CONTAMINATION ON PROPERTY USED FOR INDUSTRIAL
4 ACTIVITY ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT AND WHO
5 PROPOSE TO UNDERTAKE A VOLUNTARY CLEANUP OF THE PROPERTY. THE
6 FINANCIAL ASSISTANCE SHALL BE IN AN AMOUNT OF UP TO 75% OF THE
7 COSTS INCURRED FOR COMPLETING AN ENVIRONMENTAL STUDY AND
8 IMPLEMENTING A CLEANUP PLAN BY AN ELIGIBLE APPLICANT. FINANCIAL
9 ASSISTANCE MAY BE IN THE FORM OF GRANTS AS PROVIDED IN THIS
10 SECTION OR LOW-INTEREST LOANS, TO BE LENT AT A RATE NOT TO
11 EXCEED 2%.

12 (C) GRANTS.--GRANTS MAY BE MADE TO POLITICAL SUBDIVISIONS OR
13 THEIR INSTRUMENTALITIES OR LOCAL ECONOMIC DEVELOPMENT AGENCIES
14 FOR THE PURPOSES OF THIS SECTION IF THE GRANTEE OWNS THE SITE ON
15 WHICH THE CLEANUP IS BEING CONDUCTED AND THE GRANTEE IS
16 OVERSEEING THE CLEANUP. THE TOTAL AMOUNT OF GRANTS AWARDED UNDER
17 THIS SECTION IN ANY ONE FISCAL YEAR SHALL NOT EXCEED 20% OF THE
18 TOTAL AMOUNT OF THE INDUSTRIAL SITES CLEANUP FUND.

19 (D) LOANS.--LOANS MEETING THE REQUIREMENTS OF SUBSECTION (B)
20 MAY BE MADE TO THE FOLLOWING CATEGORIES OF APPLICANTS:

- 21 (1) LOCAL ECONOMIC DEVELOPMENT AGENCIES.
- 22 (2) POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES.
- 23 (3) OTHER PERSONS DETERMINED TO BE ELIGIBLE BY THE
24 DEPARTMENT OF COMMERCE.

25 (E) PRIORITY FOR FINANCIAL ASSISTANCE.--THE DEPARTMENT OF
26 COMMERCE SHALL TAKE ALL OF THE FOLLOWING FACTORS INTO
27 CONSIDERATION WHEN DETERMINING WHICH APPLICANTS SHALL RECEIVE
28 FINANCIAL ASSISTANCE UNDER THIS SECTION:

- 29 (1) THE BENEFIT OF THE REMEDY TO PUBLIC HEALTH, SAFETY
30 AND THE ENVIRONMENT.

1 (2) THE PERMANENCE OF THE REMEDY.

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

4 (4) THE FINANCIAL CONDITION OF THE APPLICANT.

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

7 (6) THE POTENTIAL FOR ECONOMIC DEVELOPMENT.

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

10 (F) TERMS AND CONDITIONS.--THE DEPARTMENT OF COMMERCE SHALL
11 HAVE THE POWER TO SET TERMS AND CONDITIONS APPLICABLE TO LOANS
12 AND GRANTS IT DEEMS APPROPRIATE. THE DEPARTMENT OF COMMERCE MAY
13 CONSIDER SUCH FACTORS AS IT DEEMS RELEVANT, INCLUDING CURRENT
14 MARKET INTEREST RATES AND THE NECESSITY TO MAINTAIN THE MONEYS
15 IN THIS FUND IN A FINANCIALLY SOUND MANNER. LOANS MAY BE MADE
16 BASED UPON THE ABILITY TO REPAY FROM FUTURE REVENUE TO BE
17 DERIVED FROM THE CLEANUP, BY A MORTGAGE OR OTHER COLLATERAL, OR
18 ON ANY OTHER FISCAL MATTERS WHICH THE DEPARTMENT OF COMMERCE
19 DEEMS APPROPRIATE.

20 (G) FUNDS.--IN ADDITION TO ANY FUNDS APPROPRIATED BY THE
21 GENERAL ASSEMBLY, \$15,000,000 SHALL BE TRANSFERRED FROM THE
22 HAZARDOUS SITES CLEANUP FUND ESTABLISHED BY THE ACT OF OCTOBER
23 18, 1988 (P.L.756, NO.108), KNOWN AS THE HAZARDOUS SITES CLEANUP
24 ACT, TO THE INDUSTRIAL SITES CLEANUP FUND FOR THE PURPOSE OF
25 IMPLEMENTING THE PROGRAM ESTABLISHED IN THIS SECTION. MONEYS
26 RECEIVED BY THE DEPARTMENT OF COMMERCE AS REPAYMENT OF
27 OUTSTANDING LOANS SHALL BE DEPOSITED IN THE FUND. ANY INTEREST
28 EARNED BY MONEYS IN THIS FUND SHALL REMAIN IN THIS FUND. THE
29 FIRST TRANSFER OF MONEYS FROM THE HAZARDOUS SITES CLEANUP FUND
30 REQUIRED BY THIS SUBSECTION SHALL OCCUR WITHIN 60 DAYS OF THE

1 EFFECTIVE DATE OF THIS ACT. MONEYS IN THE FUND ARE HEREBY
2 APPROPRIATED TO THE DEPARTMENT OF COMMERCE FOR THE PURPOSE OF
3 IMPLEMENTING THIS SECTION.

4 (H) ANNUAL REPORT.--THE DEPARTMENT OF COMMERCE SHALL ON
5 OCTOBER 1 OF EACH YEAR REPORT TO THE GENERAL ASSEMBLY ON THE
6 GRANTS, LOANS, EXPENDITURES AND COMMITMENTS MADE FROM THIS FUND.
7 THE ANNUAL REPORT SHALL INCLUDE AN EVALUATION OF THE
8 EFFECTIVENESS OF THIS FUND IN RECYCLING INDUSTRIAL AND
9 COMMERCIAL SITES. THE EVALUATION SHALL INCLUDE ANY
10 RECOMMENDATIONS FOR ADDITIONAL CHANGES, IF NECESSARY TO IMPROVE
11 THE EFFECTIVENESS OF THIS FUND IN RECYCLING SUCH SITES.

12 Section ~~703~~ 704. Fees. ←

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

16 (1) A person utilizing the background or Statewide
17 health standards for environmental remediation shall pay a
18 fee of \$250 upon submission of the report certifying
19 compliance with the standards.

20 (2) A person utilizing site-specific standards for
21 environmental remediation shall pay a fee of \$250 each upon
22 the submission of a remedial investigation, risk assessment
23 and cleanup plan and an additional \$500 at the time of
24 submission of the final report certifying compliance with the
25 standards.

26 (3) A person utilizing a combination of background,
27 Statewide and site-specific standards shall pay the fees
28 required by paragraphs (1) and (2), as applicable.

29 (4) No fee shall be charged for corrective actions
30 undertaken under the act of July 6, 1989 (P.L.169, No.32),

1 known as the Storage Tank and Spill Prevention Act.

2 (b) Deposit.--Fees imposed under this section shall be
3 deposited in the Industrial Land Recycling Fund established
4 under section 701.

5 CHAPTER 9

6 MISCELLANEOUS PROVISIONS

7 Section 901. Plain language.

8 Remedial investigation, risk assessment, cleanup plans and
9 other reports and notices required to be submitted to implement
10 the provisions of this act shall contain a summary or special
11 section that includes a plain language description of the
12 information included in the report in order to enhance the
13 opportunity for public involvement and understanding of the
14 remediation process.

15 Section 902. Permits and other requirements.

16 (a) General rule.--A State or local permit or permit
17 revision shall not be required for remediation activities
18 undertaken entirely on the site if they are undertaken pursuant
19 to the requirements of this act.

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

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

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

30 (3) The proposed remedial action will attain a standard

1 of performance that is equivalent to that required under the
2 otherwise applicable requirement through the use of an
3 alternative method or approach.

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

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

8 Section 903. Future actions.

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

16 Section 904. Relationship to Federal and State programs.

17 (a) Federal.--The provisions of this act shall not prevent
18 the Commonwealth from enforcing specific numerical cleanup
19 standards, monitoring or compliance requirements specifically
20 required to be enforced by the Federal Government as a condition
21 to receive program authorization, delegation, primacy or Federal
22 funds.

23 (b) State priority list.--Any remediation undertaken on a
24 site included on the State priority list established under the
25 act of October 18, 1988 (P.L.756, No.108), known as the
26 Hazardous Sites Cleanup Act, shall be performed in compliance
27 with the administrative record and other procedural and public
28 review requirements of the Hazardous 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 (d) Agricultural chemical facilities.--The environmental
7 remediation standards and procedures established under this act
8 shall be used in any remediation undertaken at an agricultural
9 chemical facility. The Department of Agriculture shall have the
10 power and its duty shall be to promulgate regulations providing
11 for the option of safely reusing soil and groundwater
12 contaminated with agricultural chemicals generated as a result
13 of remediation activities at agricultural chemical facilities
14 through the land application of these materials on agricultural
15 lands. Such regulations shall provide for the appropriate
16 application rates of such materials, either alone or in the
17 combination with other agricultural chemicals, prescribe
18 appropriate operations controls and practices to protect the
19 public health, safety and welfare and the environment at the
20 site of land application.

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

26 Section 905. Enforcement.

27 (a) General.--The department is authorized to use the
28 enforcement and penalty provisions applicable to the
29 environmental medium or activity of concern, as appropriate,
30 established under the act of June 22, 1937 (P.L.1987, No.394),

1 known as The Clean Streams Law, the act of January 8, 1960 (1959
2 P.L.2119, No.787), known as the Air Pollution Control Act, the
3 act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste
4 Management Act, the act of July 13, 1988 (P.L.525, No.93),
5 referred to as the Infectious and Chemotherapeutic Waste Law,
6 the act of October 18, 1988 (P.L.756, No.108), known as the
7 Hazardous Sites Cleanup Act, or the act of July 6, 1989
8 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
9 Act, to enforce the provisions of this act.

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

16 ~~(b)~~ (C) Fraud.--Any person who willfully commits fraud <—
17 demonstrating attainment with one or more standards established
18 under this act shall, upon conviction, be subject to an
19 additional penalty of \$50,000 for each separate offense or to
20 imprisonment for a period of not more than one year for each
21 separate offense, or both. Each day shall be a separate offense.

22 (D) CRIMINAL CONVICTIONS.--IF A PERSON IS CONVICTED IN A <—
23 COURT OF COMPETENT JURISDICTION OF A VIOLATION OF THE CRIMINAL
24 PROVISIONS OF AN ACT IDENTIFIED IN SECTION 106 IN THE DEGREE OF
25 MISDEMEANOR OR FELONY AND THE VIOLATION ARISES FROM UNLAWFUL
26 CONDUCT WHICH RESULTS IN A RELEASE AT A SITE, THE COURT MAY, IN
27 ADDITION TO ANY FINES, IMPRISONMENT OR OTHER PENALTIES IMPOSED
28 UNDER THE APPROPRIATE ACT, ORDER THE PERSON TO PERFORM
29 REMEDIATION AT THE SITE CONSISTENT WITH THE PROVISIONS AND
30 STANDARDS ESTABLISHED UNDER SECTION 302 OR 303.

1 Section 906. Past penalties.

2 Persons who have no responsibility for contamination on a
3 site and participate in environmental remediation activities
4 under this act shall not be responsible for paying any fines or
5 penalties levied against any person responsible for
6 contamination on the property.

7 Section 907. Evaluation.

8 Beginning three years after the effective date of this act
9 and every two years thereafter, the department shall conduct and
10 submit to the General Assembly an evaluation of the
11 effectiveness of this act in recycling existing industrial and
12 commercial sites. The evaluation shall include any
13 recommendations for additional incentives or changes, if needed,
14 to improve the effectiveness of this act in recycling such
15 sites.

16 Section 908. Repeals.

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

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

23 Section 909. Effective date.

24 This act shall take effect in 60 days.