

BY: Environmental Matters Committee

AMENDMENTS TO SENATE BILL NO. 205
(Third Reading File Bill - Second Printing)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute:

“Brownfields - Voluntary Cleanup and Revitalization Programs

On pages 1 and 2, strike in their entirety the lines beginning with line 3 on page 1 through line 22 on page 2, inclusive, and substitute:

FOR the purpose of establishing a Voluntary Cleanup Program in the Maryland Department of the Environment (MDE); establishing a Voluntary Cleanup Fund administered by MDE; requiring MDE to adopt certain regulations; requiring certain moneys in the Fund to be used for certain purposes; requiring MDE to maintain a certain balance in the Fund for certain purposes; authorizing MDE to seek cost recovery under certain circumstances; authorizing MDE to allocate moneys to maintain a certain reserve balance in the Fund under certain circumstances; providing that certain recovered moneys shall be used to maintain a certain balance; requiring an applicant to the Program to submit certain information to MDE and pay a certain fee; authorizing MDE to reimburse an applicant under certain circumstances; requiring an applicant to pay a certain oversight fee by a certain time; requiring MDE to notify an applicant within a certain time whether the applicant is eligible under the Program; requiring a proposed response action plan to include certain information; authorizing an applicant to select certain criteria when proposing a response action plan; authorizing an applicant to withdraw from the Program; requiring an applicant who withdraws to notify MDE and forfeit certain fees; authorizing a certain applicant to withdraw from the Program in a certain time period; providing that certain letters are void with certain exceptions; requiring MDE to approve a response action plan under certain circumstances; requiring MDE to adopt regulations developing standards for certain criteria; requiring MDE to consider certain factors when approving a certain response action plan; requiring MDE to

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review certain standards in a certain time period and authorizing MDE to revise the standards; authorizing MDE to approve the use of certain remedies; requiring MDE to notify the applicant of a certain decision within a certain time period after taking into account certain written comments; requiring MDE to consider certain factors before notifying an applicant of a certain decision; authorizing MDE to issue letters of assurance for certain purposes; requiring MDE to issue a certain letter which contains a liability release after the approval of a response action plan and within a certain time period; requiring the applicant to notify MDE that a response action plan has been completed; requiring MDE to issue a certain letter which contains a liability release after the completion of a response action plan and under certain circumstances; providing that a certain requirement will not delay the issuance of a certain letter; authorizing an applicant to receive a certain letter under certain circumstances; providing that an applicant that receives a certain letter is not liable to MDE or other persons for certain costs at an eligible property under certain circumstances; providing that certain letters will not prevent certain actions and will not remain in effect under certain circumstances; requiring an applicant to record a certain letter in the land records in a certain time period; providing that an owner of eligible property is responsible for certain costs under certain circumstances; requiring public notification by the applicant after the submission of a completed response action plan; providing that certain sections of the Environment Article shall apply to enforce certain violations; requiring MDE to appoint an environmental liaison; providing that this Act does not affect the planning and zoning authority of a county or municipal corporation, certain tort actions, and the ability of certain applicants to seek cost recovery against certain persons; establishing a Brownfields Revitalization Program in the Department of Business and Economic Development (DBED); authorizing DBED to select Brownfields sites based on certain criteria; requiring DBED to publish a list of Brownfields sites; requiring DBED to consult with certain persons during a certain time; establishing a property tax credit for a certain period of time and for a certain amount; authorizing a taxing jurisdiction to grant a property tax credit up to a certain amount; authorizing a taxing jurisdiction to extend a property tax credit in a designated enterprise zone for an additional time period; requiring a taxing jurisdiction to contribute to the Voluntary Cleanup Fund for a certain period of time and for a certain amount; requiring MDE to report to the Governor and the General Assembly on the status of the Program by a certain date; requiring MDE to report to the General Assembly on fees and the use of the Voluntary Cleanup Fund by a certain date; defining certain terms; and generally relating to the establishment of a Voluntary Cleanup Program and Brownfields Revitalization Program.

BY repealing and reenacting, without amendments,

Article - Environment

Section 7-201(x)

Annotated Code of Maryland

(1993 Replacement Volume and 1995 Supplement)

BY adding to

Article - Environment

Section 4-405(d)

Annotated Code of Maryland

(1993 Replacement Volume and 1995 Supplement)

BY adding to

Article - Environment

Section 7-501 through 7-518, inclusive, to be under the new subtitle
“Subtitle 5. Voluntary Cleanup Program”

Annotated Code of Maryland

(1993 Replacement Volume and 1995 Supplement)

BY adding to

Article 83A - Department of Business and Economic Development

Section 3-901 through 3-904, inclusive, to be under the new subtitle
“Subtitle 9. Brownfields Revitalization Program”

Annotated Code of Maryland

(1995 Replacement Volume)

BY adding to

Article - Tax - Property

Section 9-109

Annotated Code of Maryland

(1994 Replacement Volume and 1995 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:”.

AMENDMENT NO. 2

On pages 2 through 22, strike in their entirety the lines beginning with line 23 on page 2 through line 2 on page 22 and substitute:

“Article - Environment

4-405.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING LIMITATIONS ON THE LIABILITY OF BANKS, AFFILIATES AND SUBSIDIARIES OF BANKS, THE STATE, AND COUNTIES AND MUNICIPAL CORPORATIONS UNDER SUBTITLES 4 AND 7 OF THIS TITLE, WHICH ARE EQUIVALENT TO THE LIMITATIONS SET FORTH IN § 7-517 OF THIS ARTICLE.

7-201.

(x) (1) “Responsible person” means any person who:

(i) Is the owner or operator of a vehicle or a site containing a hazardous substance;

(ii) At the time of disposal of any hazardous substance, was the owner or operator of any site at which the hazardous substance was disposed;

(iii) By contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by such person, by any other party or entity, at any site owned or operated by another party or entity and containing such hazardous substances; or

(iv) Accepts or accepted any hazardous substance for transport to a disposal or

treatment facility or any sites selected by the person.

(2) “Responsible person” does not include:

(i) A person who can establish by a preponderance of the evidence that at the time the person acquired an interest in a site containing a hazardous substance the person did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in, or at the site; however, any person claiming an exemption from liability under this subparagraph must establish that the person had no reason to know, in accordance with § 101(35)(B) of the federal act, and that the person satisfied the requirements of § 107(b)(3)(a) of the federal act;

(ii) A person who acquired a property containing a hazardous substance by inheritance or bequest at the death of the transferor;

(iii) A person who, without participating in the day-to-day management of a site containing a hazardous substance, holds indicia of ownership in the site or in property located on the site primarily to protect a valid and enforceable lien unless that person directly causes the discharge of a hazardous substance on or from the site;

(iv) A holder of a mortgage or deed of trust on a site containing a hazardous substance or a holder of a security interest in property located on the site who does not participate in the day-to-day management of the site unless that holder directly causes the discharge of a hazardous substance on or from the site;

(v) A fiduciary who has legal title to a site containing a hazardous substance or to property located on the site containing a hazardous substance for purpose of administering an estate or trust of which the site or property located on the site is a part unless the fiduciary:

1. Participates in the day-to-day management of the site or property; or
2. Directly causes the discharge of a hazardous substance on or from the site;

(vi) A holder of a mortgage or deed of trust who acquires title to a site containing a hazardous substance through foreclosure or deed in lieu of foreclosure who:

1. Does not participate in the day-to-day management of the site; and
2. Does not directly cause the discharge of a hazardous substance on or from the site; or

(vii) Except in the case of gross negligence or willful misconduct, an owner or operator who is:

1. A State, county, or municipal government;
2. Any other political subdivision of the State; or
3. Any unit of a State, county, or municipal government or any other political subdivision.

(3) (i) Paragraph (2)(i) of this subsection does not affect the liability of a previous owner or previous operator of a site containing a hazardous substance if the previous owner or previous operator is a responsible person under paragraph (1)(ii) of this subsection.

(ii) Notwithstanding paragraph (2)(i) of this subsection, a person shall be treated as a responsible person if the person:

1. Obtained actual knowledge of the release or threatened release of a hazardous substance at a site when the person owned the real property; and
2. Transferred ownership of the property after June 30, 1991 without disclosing this knowledge to the transferee.

(iii) Nothing in paragraph (2)(i) of this subsection shall affect the liability under this subtitle of a person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance at a site which is the subject of the action relating to the site if at the time of the act or omission the person knew or had reason to know that the act or

omission would cause or contribute to the release or threatened release of a hazardous substance.

(4) Notwithstanding paragraph (2)(ii) of this subsection, a person shall be treated as a responsible person if the person:

(i) Knew or had reason to know of the release or threatened release of a hazardous substance at the site; and

(ii) Transferred ownership of the property after June 30, 1991 without disclosing this knowledge to the transferee.

(5) (i) For purposes of paragraph (2)(iii), (iv), (v), and (vi) of this subsection, “management” means directing or controlling operations, production or treatment of a hazardous substance, storage or disposal of a hazardous substance, or remediation of a hazardous substance release.

(ii) “Management” does not include rendering advice on financial matters, rendering financial assistance, or actions taken to protect or secure the site or property located on the site if the advice, assistance, or actions do not involve the treatment, storage, or disposal of a hazardous substance or remediation of a hazardous substance release.

SUBTITLE 5. VOLUNTARY CLEANUP PROGRAM.

7-501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “APPLICANT” MEANS A PERSON WHO APPLIES TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM.

(C) (1) “ASSURANCE LETTER” MEANS A LETTER FROM THE DEPARTMENT AVAILABLE TO AN APPLICANT AS PROVIDED IN § 7-509 OF THIS SUBTITLE.

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(2) AN ASSURANCE LETTER MAY INCLUDE A LIMITATION ON THE PERMISSIBLE USES OF THE PROPERTY.

(D) "BACKGROUND LEVEL" MEANS THE LEVEL OF A SUBSTANCE OCCURRING NATURALLY AT THE SITE PRIOR TO ANY MANMADE SPILL OR RELEASE.

(E) "CONTAMINATION" MEANS A RELEASE, DISCHARGE, OR THREATENED RELEASE OF A CONTROLLED HAZARDOUS SUBSTANCE, AS DEFINED IN § 7-201 OF THIS TITLE.

(F) "COST AFFIDAVIT" MEANS AN AFFIDAVIT SIGNED BY THE APPLICANT AND THE PERSON MANAGING THE VOLUNTARY CLEANUP PROJECT CERTIFYING, TO THE BEST OF EACH PERSON'S KNOWLEDGE AND BELIEF, THE AMOUNT PAID FOR ANY ENGINEERING, SCIENTIFIC, OR TECHNICAL WORK PERFORMED DURING A VOLUNTARY CLEANUP PROJECT.

(G) (1) "ELIGIBLE PROPERTY" MEANS PROPERTY THAT IS SUSPECTED TO BE CONTAMINATED OR THAT IS CONTAMINATED.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, "ELIGIBLE PROPERTY" DOES NOT INCLUDE PROPERTY THAT IS:

(I) ON THE NATIONAL PRIORITIES LIST UNDER § 105 OF THE FEDERAL ACT;

(II) UNDER AN UNRESOLVED ENFORCEMENT ACTION AGAINST AN APPLICANT TAKEN UNDER THIS TITLE;

(III) LISTED ON THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY INFORMATION SYSTEM (CERCLIS) UNDER THE FEDERAL ACT; OR

(IV) A REGULATED UNIT UNDER A CONTROLLED HAZARDOUS SUBSTANCE PERMIT.

(3) “ELIGIBLE PROPERTY” INCLUDES PROPERTY DETERMINED BY THE DEPARTMENT TO BE ELIGIBLE UNDER § 7-505(B) OF THIS SUBTITLE.

(H) “FEDERAL ACT” HAS THE MEANING STATED IN § 7-201(K) OF THIS TITLE.

(I) (1) “LETTER” MEANS A STATEMENT ISSUED BY THE DEPARTMENT UNDER § 7-510 OR § 7-511 OF THIS SUBTITLE:

(I) ACKNOWLEDGING THE NATURE AND THE PURPOSE OF THE WORK PLANNED OR COMPLETED BY A PARTICIPANT IN THE VOLUNTARY CLEANUP PROGRAM IN CONNECTION WITH A CONTAMINATED PROPERTY; AND

(II) STATING THAT THE DEPARTMENT MAY NOT REQUIRE ADDITIONAL ACTIVITIES AND MAY NOT SEEK COST RECOVERY FOR ACTIVITIES CONDUCTED BY THE DEPARTMENT EXCEPT AS PROVIDED IN § 7-512 OF THIS SUBTITLE .

(2) A LETTER MAY INCLUDE A LIMITATION ON THE PERMISSIBLE USES OF THE PROPERTY.

(J) “PREVIOUSLY UNDISCOVERED CONTAMINATION” MEANS CONTAMINATION AT AN ELIGIBLE PROPERTY WHICH WAS NOT ADDRESSED OR DESCRIBED IN THE RESPONSE ACTION PLAN.

(K) “PROGRAM” MEANS THE VOLUNTARY CLEANUP PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

(L) “RESPONSIBLE PERSON” HAS THE MEANING STATED IN § 7-201(X) OF THIS TITLE.

7-502.

IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS ARTICLE, THE DEPARTMENT MAY:

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(1) ACCEPT AND ADMINISTER LOANS AND GRANTS FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES, PUBLIC OR PRIVATE, TO CARRY OUT ANY OF ITS FUNCTIONS UNDER THIS SUBTITLE;

(2) ENTER INTO WRITTEN AGREEMENTS IN ACCORDANCE WITH THIS SUBTITLE TO REQUIRE APPLICANTS TO FULFILL THEIR OBLIGATIONS; AND

(3) ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

7-503.

(A) THERE IS A VOLUNTARY CLEANUP FUND.

(B) ALL APPLICATION FEES AND OTHER MONEYS COLLECTED BY THE DEPARTMENT UNDER § 7-505 OF THIS SUBTITLE FROM APPLICANTS IN THE PROGRAM SHALL BE PAID TO THE VOLUNTARY CLEANUP FUND.

(C) MONEYS APPROPRIATED, GRANTED, LOANED, OR OTHERWISE PROVIDED TO THE DEPARTMENT FOR THE SUPPORT OF THE PROGRAM SHALL BE PAID TO THE VOLUNTARY CLEANUP FUND.

(D) THE DEPARTMENT MAY USE THE MONEYS IN THE VOLUNTARY CLEANUP FUND FOR PROGRAM DEVELOPMENT, REVIEW OF PROPOSED VOLUNTARY CLEANUP PROJECTS, AND THE DIRECT ADMINISTRATIVE OVERSIGHT OF VOLUNTARY CLEANUP PROJECTS.

(E) (1) THE MONEYS IN THE VOLUNTARY CLEANUP FUND COLLECTED UNDER § 9-109 OF THE TAX - PROPERTY ARTICLE SHALL BE:

(I) USED BY THE DEPARTMENT FOR ACTIVITIES DIRECTLY ASSOCIATED WITH A VOLUNTARY CLEANUP PROJECT IF AN APPLICANT FAILS TO COMPLETE A VOLUNTARY CLEANUP PROJECT OR § 7-512(B) OR (C) APPLIES AND AN

APPLICANT OR A RESPONSIBLE PERSON IS UNAVAILABLE; AND

(II) USED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT FOR FINANCIAL INCENTIVES AS PROVIDED FOR IN ARTICLE 83A, § 3-903(D) OF THE CODE.

(2) IF THE DEPARTMENT USES MONEYS IN THE VOLUNTARY CLEANUP FUND AS PROVIDED FOR IN PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY SEEK COST RECOVERY, INCLUDING LEGAL EXPENSES AND INTEREST, FROM ANY RESPONSIBLE PERSON FOR THESE ACTIVITIES.

(3) THE DEPARTMENT SHALL RETAIN AN AMOUNT OF MONEY UP TO \$1 MILLION IN THE VOLUNTARY CLEANUP FUND AS A RESERVE BALANCE TO BE USED FOR VOLUNTARY CLEANUP PROJECTS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

(4) IF THE RESERVE BALANCE IN THE FUND FALLS BELOW \$500,000, THE DEPARTMENT MAY ALLOCATE MONEYS FROM PARAGRAPH (1)(II) OF THIS SUBSECTION TO MAINTAIN THE RESERVE BALANCE IN PARAGRAPH (3) OF THIS SUBSECTION.

(5) ANY MONEYS RECOVERED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE USED TO MAINTAIN THE RESERVE BALANCE IN PARAGRAPH (3) OF THIS SUBSECTION AND THE REMAINDER FOR FINANCIAL INCENTIVES AS PROVIDED FOR IN PARAGRAPH (1)(II) OF THIS SUBSECTION.

7-504.

(A) THERE IS A VOLUNTARY CLEANUP PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE VOLUNTARY CLEANUP PROGRAM IS TO:

(1) ENCOURAGE THE INVESTIGATION OF ELIGIBLE PROPERTIES WITH

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KNOWN OR SUSPECTED CONTAMINATION;

(2) PROTECT PUBLIC HEALTH AND THE ENVIRONMENT WHERE CLEANUP PROJECTS ARE BEING PERFORMED OR NEED TO BE PERFORMED;

(3) ACCELERATE CLEANUP OF ELIGIBLE PROPERTIES; AND

(4) PROVIDE PREDICTABILITY AND FINALITY TO THE CLEANUP OF ELIGIBLE PROPERTIES.

7-505.

(A) TO PARTICIPATE IN THE PROGRAM, A PERSON SHALL:

(1) SUBMIT TO THE DEPARTMENT A SPECIFIC REQUEST FOR THE TYPE OF LETTER AS PROVIDED IN § 7-510 OR § 7-511 OF THIS SUBTITLE OR ASSURANCE LETTER AS PROVIDED IN § 7-509 OF THIS SUBTITLE, THAT THE PERSON SEEKS, TOGETHER WITH INFORMATION SUFFICIENT FOR THE DEPARTMENT TO MAKE THE REQUESTED DETERMINATION UNDER §§ 7-509, 7-510, AND 7-511 OF THIS SUBTITLE;

(2) PROVIDE INFORMATION DEMONSTRATING TO THE SATISFACTION OF THE DEPARTMENT THAT THE CONTAMINATION DID NOT RESULT FROM ANY VIOLATION BY THE APPLICANT OF ANY LAW OR REGULATION CONCERNING THE CONTROL OF HAZARDOUS SUBSTANCES WHICH WOULD SUBJECT THE APPLICANT TO CRIMINAL PENALTIES;

(3) PROVIDE INFORMATION DEMONSTRATING THAT THE PROPERTY IS AN ELIGIBLE PROPERTY AS DEFINED IN § 7-501 OF THIS SUBTITLE;

(4) DESCRIBE, IN SUMMARY FORM, A PROPOSED VOLUNTARY CLEANUP PROJECT THAT INCLUDES THE PROPOSED CLEANUP CRITERIA UNDER § 7-507 OF THIS SUBTITLE AND THE PROPOSED FUTURE USE OF THE PROPERTY; AND

(5) PAY TO THE DEPARTMENT AN APPLICATION FEE OF:

(I) \$5,000, IF THE APPLICANT SEEKS A NO FURTHER ACTION LETTER AND A NO ACTION LETTER AS PROVIDED FOR IN §§ 7-510 AND 7-511 OF THIS SUBTITLE; OR

(II) \$1,000, IF THE APPLICANT ONLY SEEKS AN ASSURANCE LETTER AS PROVIDED FOR IN § 7-509 OF THIS SUBTITLE OR A NO ACTION LETTER AS PROVIDED FOR IN § 7-511(E) OF THIS SUBTITLE.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE DEPARTMENT SHALL DETERMINE WHETHER PROPERTY IS AN ELIGIBLE PROPERTY UNDER SUBSECTION (A)(3) OF THIS SECTION IF THE PROPERTY IS:

(1) LISTED ON CERCLIS AND DESIGNATED AS “NO FURTHER ACTION REMEDIAL ACTION PLANNED”;

(2) THAT PORTION OF THE PROPERTY THAT IS NOT A REGULATED UNIT UNDER THE CONTROLLED HAZARDOUS SUBSTANCE PERMIT; OR

(3) BEING ACTIVELY INVESTIGATED UNDER THIS TITLE.

(C) THE DEPARTMENT SHALL NOTIFY AN APPLICANT IN WRITING WHEN AN APPLICATION IS COMPLETE.

(D) (1) THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING, WITHIN 30 DAYS AFTER THE DATE OF THE NOTIFICATION OF A COMPLETE APPLICATION, WHETHER THE APPLICATION MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM.

(2) IF THE APPLICATION IS NOT APPROVED, THE DEPARTMENT SHALL RETURN TO THE APPLICANT, WITHIN 45 DAYS, THAT PART OF THE APPLICATION FEE THAT IS NOT USED TO COVER THE COSTS OF THE DEPARTMENT IN REVIEWING THE APPLICATION.

(E) THE DEPARTMENT SHALL REJECT AN APPLICATION IF THE APPLICANT OR THE PROPERTY IS NOT ELIGIBLE UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

(F) (1) AFTER AN APPLICATION HAS BEEN APPROVED, THE APPLICANT SHALL:

(I) SUBMIT A COST AFFIDAVIT EVERY 6 MONTHS AFTER AN APPLICATION HAS BEEN APPROVED, CERTIFYING THE COSTS INCURRED DURING A VOLUNTARY CLEANUP PROJECT;

(II) SUBMIT A COST AFFIDAVIT EVERY 6 MONTHS CERTIFYING THE COSTS INCURRED SINCE THE LAST COST AFFIDAVIT WAS SUBMITTED; AND

(III) WITHIN 30 DAYS AFTER THE SUBMITTAL OF A COST AFFIDAVIT UNDER THIS SUBSECTION, PAY TO THE FUND AN OVERSIGHT FEE EQUAL TO 10% OF THE AMOUNT OF COSTS INCURRED DURING A VOLUNTARY CLEANUP PROJECT AS SET FORTH IN THE COST AFFIDAVIT.

(2) AN APPLICANT MAY NOT BE REQUIRED TO PAY AN OVERSIGHT FEE FOR COSTS INCURRED FOR CONSTRUCTION, EQUIPMENT, MATERIALS, OR LABORATORY ANALYSES.

(3) FEES PAID UNDER THIS SECTION SHALL BE IN LIEU OF, AND NOT IN ADDITION TO, ANY OTHER OBLIGATION THAT THE APPLICANT MAY HAVE TO THE DEPARTMENT TO REIMBURSE OVERSIGHT OR OTHER COSTS RELATED TO THE OVERSIGHT INCURRED AFTER THE DATE THE APPLICATION IS FILED.

(4) THE DEPARTMENT MAY REQUIRE AN APPLICANT TO SUBMIT FURTHER PROOF OF THE AMOUNTS PAID TO ANY CONSULTANTS AND CONTRACTORS, INCLUDING COPIES OF ALL INVOICES RECEIVED AND ALL CANCELED CHECKS ISSUED.

(G) THE DEPARTMENT SHALL USE THE FEES COLLECTED UNDER THIS SECTION TO COVER COSTS OF ADMINISTRATION OF THE PROGRAM, LEGAL COSTS, OTHER DIRECT COSTS RELATED TO THE IMPLEMENTATION OF THE PROGRAM, AND

THE COSTS OF OVERSEEING THE VOLUNTARY CLEANUP PROJECTS.

7-506.

(A) (1) AFTER THE DEPARTMENT APPROVES THE APPLICATION, THE APPLICANT SHALL PROPOSE A RESPONSE ACTION PLAN THAT WILL ACHIEVE THE CLEANUP CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE.

(2) THE PROPOSED RESPONSE ACTION PLAN SHALL INCLUDE:

(I) A DETAILED REPORT WITH ALL AVAILABLE RELEVANT INFORMATION ON ENVIRONMENTAL CONDITIONS INCLUDING CONTAMINATION AT THE ELIGIBLE PROPERTY KNOWN TO THE APPLICANT AT THE TIME OF THE APPLICATION;

(II) ALL ENVIRONMENTAL SITE EVALUATIONS;

(III) A PLAN FOR ALL WORK NECESSARY TO PERFORM THE PROPOSED RESPONSE ACTION PLAN, INCLUDING LONG-TERM MONITORING, OPERATION, AND MAINTENANCE OF THE SITE, IF NECESSARY;

(IV) A DEMONSTRATION THAT THE PROPOSED RESPONSE ACTION PLAN:

1. WILL REASONABLY BE ANTICIPATED TO ACHIEVE CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE;

2. WILL INCLUDE AN IDENTIFICATION AND EVALUATION OF THE NATURE AND EXTENT OF ANY RELEASES; AND

3. WILL REASONABLY BE ANTICIPATED TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT ONCE COMPLETED;

(V) A CERTIFIED WRITTEN STATEMENT THAT THE PROPERTY

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MEETS ALL APPLICABLE COUNTY OR MUNICIPAL ZONING REQUIREMENTS; AND

(VI) ANY OTHER INFORMATION DIRECTLY RELATED TO THE PROPOSED RESPONSE ACTION PLAN THAT THE DEPARTMENT REQUIRES.

(3) AN APPLICANT SHALL SELECT ONE OR MORE OF THE CRITERIA IN § 7-507 OF THIS SUBTITLE WHEN PROPOSING A RESPONSE ACTION PLAN.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN APPLICANT MAY WITHDRAW AN APPLICATION OR RESPONSE ACTION PLAN AT ANY TIME UNDER THE PROGRAM AND MAY NOT BE OBLIGATED TO COMPLETE AN APPLICATION OR A RESPONSE ACTION PLAN.

(2) IF AN APPLICANT WITHDRAWS AN APPLICATION OR A RESPONSE ACTION PLAN, THE APPLICANT SHALL:

(I) PROMPTLY NOTIFY THE DEPARTMENT IN WRITING; AND

(II) FORFEIT ANY APPLICATION AND OVERSIGHT FEES.

(3) WITHIN 30 DAYS OF RECEIVING NOTIFICATION OF PLAN APPROVAL AND EXPLANATORY DOCUMENTS, AN APPLICANT WHO IS A RESPONSIBLE PERSON SHALL:

(I) SIGN A WRITTEN AGREEMENT WITH THE DEPARTMENT; OR

(II) PROMPTLY NOTIFY THE DEPARTMENT IN WRITING THAT THE APPLICATION OR RESPONSE ACTION PLAN HAS BEEN WITHDRAWN.

(4) IF AN APPLICANT WHO IS A RESPONSIBLE PERSON DOES NOT NOTIFY THE DEPARTMENT OF WITHDRAWAL OR SIGN A WRITTEN AGREEMENT, THE APPLICATION OR THE RESPONSE ACTION PLAN WILL BE DEEMED TO BE WITHDRAWN.

(5) IF AN APPLICATION OR A RESPONSE ACTION PLAN IS WITHDRAWN,

ANY LETTERS ISSUED TO AN APPLICANT UNDER THIS SUBTITLE SHALL BE VOID EXCEPT FOR AN ASSURANCE LETTER ISSUED UNDER § 7-509(2), (3), OR (4) OF THIS SUBTITLE.

7-507.

(A) THE DEPARTMENT SHALL APPROVE A RESPONSE ACTION PLAN IF THE DEPARTMENT DETERMINES, AFTER REVIEW, THAT EACH CRITERION SELECTED PROTECTS PUBLIC HEALTH AND THE ENVIRONMENT AND CONDITIONS AT THE ELIGIBLE PROPERTY CAN REASONABLY BE ANTICIPATED TO ACHIEVE ONE OR MORE OF THE FOLLOWING CRITERIA UPON TIMELY COMPLETION OF THE RESPONSE ACTION PLAN:

(1) NUMERIC RISK-BASED STANDARDS;

(2) STANDARDS BASED ON SITE-SPECIFIC RISK ASSESSMENTS;

(3) BACKGROUND LEVELS; OR

(4) ANY RELEVANT MARYLAND STATE STANDARDS.

(B) THE DEPARTMENT SHALL ADOPT NUMERIC RISK-BASED STANDARDS BY REGULATION BASED ON RESIDENTIAL AND INDUSTRIAL USES UNDER SUBSECTION (A)(1) OF THIS SECTION.

(C) IN APPROVING A RESPONSE ACTION PLAN BASED ON SITE-SPECIFIC RISK ASSESSMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS:

(1) PROTECTION OF THE PUBLIC HEALTH AND THE ENVIRONMENT;

(2) COST EFFECTIVENESS;

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(3) TECHNICAL PRACTICABILITY; AND

(4) THE PROPOSED USE OF THE PROPERTY.

(2) THE DEPARTMENT SHALL REVIEW NUMERIC RISK-BASED STANDARDS EVERY 2 YEARS AND MAY REVISE THE STANDARDS.

(D) THE DEPARTMENT MAY APPROVE THE USE OF PRESUMPTIVE AND GENERIC REMEDIES TO ACHIEVE THE CRITERIA LISTED IN SUBSECTION (A) OF THIS SECTION.

(E) THE FAILURE OF THE DEPARTMENT TO ADOPT FINAL REGULATIONS UNDER THIS SUBTITLE MAY NOT PREVENT THE DEPARTMENT FROM IMPLEMENTING THE VOLUNTARY CLEANUP PROJECT ON AN INDIVIDUAL PROJECT BASIS.

7-508.

(A) TO THE MAXIMUM EXTENT PRACTICABLE, WITHIN 60 DAYS AFTER THE DEPARTMENT HAS RECEIVED A PROPOSED RESPONSE ACTION PLAN, THE DEPARTMENT, AFTER TAKING INTO ACCOUNT ANY WRITTEN COMMENTS THE DEPARTMENT HAS RECEIVED UNDER § 7-514 OF THIS SUBTITLE, SHALL NOTIFY THE APPLICANT IN WRITING THAT:

(1) THE RESPONSE ACTION PLAN HAS BEEN APPROVED;

(2) THE RESPONSE ACTION PLAN HAS BEEN REJECTED; OR

(3) MODIFICATIONS OF THE RESPONSE ACTION PLAN ARE NECESSARY TO RECEIVE THE DEPARTMENT'S APPROVAL.

(B) PRIOR TO NOTIFYING AN APPLICANT THAT MODIFICATIONS ARE NECESSARY UNDER SUBSECTION (A)(3) OF THIS SECTION, THE DEPARTMENT SHALL

CONSIDER COST EFFECTIVENESS AND TECHNICAL PRACTICABILITY.

7-509.

ON REQUEST FROM AN APPLICANT WHO HAS COMPLIED WITH § 7-505(A) OF THIS SUBTITLE, THE DEPARTMENT MAY ISSUE AN ASSURANCE LETTER CONFIRMING THAT:

(1) WORK PLANS, ENVIRONMENTAL SITE EVALUATIONS, OR OTHER TECHNICAL DOCUMENTS ARE ADEQUATE FOR THE PURPOSES FOR WHICH THEY ARE SUBMITTED;

(2) CONTAMINATION AT AN ELIGIBLE PROPERTY WAS CAUSED BY A RELEASE FROM A PROPERTY OTHER THAN THE ELIGIBLE PROPERTY;

(3) A PERSON OTHER THAN AN APPLICANT CAUSED CONTAMINATION AT THE ELIGIBLE PROPERTY; OR

(4) THE ELIGIBLE PROPERTY IS NOT CONTAMINATED.

7-510.

(A) AFTER APPROVAL BY THE DEPARTMENT OF A PROPOSED RESPONSE ACTION PLAN, THE DEPARTMENT SHALL ISSUE A NO FURTHER ACTION LETTER WHICH CONTAINS A LIABILITY RELEASE WITHIN 30 DAYS, OR WITHIN 30 DAYS AFTER THE SIGNING OF A WRITTEN AGREEMENT UNDER § 7-506(B)(3)(I) OF THIS SUBTITLE.

(B) THE NO FURTHER ACTION LETTER SHALL STATE THAT, SUBJECT TO THE REQUIREMENTS OF § 7-512(B) OF THIS SUBTITLE, NO FURTHER ACTION WILL BE REQUIRED TO ACCOMPLISH THE OBJECTIVES SET FORTH IN THE APPROVED RESPONSE ACTION PLAN OTHER THAN THOSE ACTIONS DESCRIBED IN THE APPROVED RESPONSE ACTION PLAN.

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7-511.

(A) UPON COMPLETION OF THE REQUIREMENTS OF THE RESPONSE ACTION PLAN, THE APPLICANT SHALL NOTIFY THE DEPARTMENT IN WRITING THAT THE RESPONSE ACTION PLAN HAS BEEN COMPLETED.

(B) WITHIN 60 DAYS AFTER RECEIVING THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION, IF THE DEPARTMENT DETERMINES THAT THE REQUIREMENTS OF THE RESPONSE ACTION PLAN HAVE BEEN COMPLETED TO THE SATISFACTION OF THE DEPARTMENT AND THE RESPONSE ACTION PLAN HAS ACHIEVED THE CLEANUP CRITERIA, THE DEPARTMENT SHALL ISSUE A NO ACTION LETTER WHICH CONTAINS A LIABILITY RELEASE WITHIN 30 DAYS .

(C) THE NO ACTION LETTER SHALL STATE THAT, SUBJECT TO THE REQUIREMENTS OF § 7-512(C) OF THIS SUBTITLE, THE REQUIREMENTS OF THE RESPONSE ACTION PLAN HAVE BEEN COMPLETED AND THE APPLICANT HAS DEMONSTRATED THAT THE CONTAMINATION AT THE ELIGIBLE PROPERTY HAS ACHIEVED THE CLEANUP CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE.

(D) A REQUIREMENT FOR LONG-TERM OPERATION AND MAINTENANCE IN THE APPROVED RESPONSE ACTION PLAN MAY NOT DELAY THE ISSUANCE OF THE NO ACTION LETTER UNDER SUBSECTION (B) OF THIS SECTION.

(E) IF THE DEPARTMENT DETERMINES THAT AN ELIGIBLE PROPERTY IS NOT CONTAMINATED, AN APPLICANT MAY RECEIVE A NO ACTION LETTER UNDER THIS SECTION.

7-512.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, AN APPLICANT IS NOT LIABLE TO THE DEPARTMENT OR ANY OTHER PERSON FOR ANY CLEANUP COSTS OF THE CONTAMINATION AT THE ELIGIBLE PROPERTY ADDRESSED IN THE RESPONSE ACTION PLAN IF THE APPLICANT:

(1) RECEIVES A NO FURTHER ACTION LETTER OR A NO ACTION LETTER;

AND

(2) HAS PAID ALL THE FEES REQUIRED UNDER THIS SUBTITLE.

(B) A NO FURTHER ACTION LETTER DOES NOT:

(1) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY RESPONSIBLE PERSON TO PREVENT OR ABATE AN IMMINENT OR SUBSTANTIAL THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT AT THE ELIGIBLE PROPERTY;

(2) REMAIN IN EFFECT IF THE NO FURTHER ACTION LETTER IS OBTAINED THROUGH FRAUD OR A MATERIAL MISREPRESENTATION;

(3) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY PERSON WHO DOES NOT COMPLY WITH CONDITIONS ON THE PERMISSIBLE USE OF THE ELIGIBLE PROPERTY CONTAINED IN THE NO FURTHER ACTION LETTER;

(4) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING NEW CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO FURTHER ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT; OR

(5) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST A RESPONSIBLE PERSON CONCERNING PREVIOUSLY UNDISCOVERED CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO FURTHER ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT.

(C) A NO ACTION LETTER DOES NOT:

(1) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY RESPONSIBLE PERSON TO PREVENT OR ABATE AN IMMINENT OR SUBSTANTIAL

(Over)

THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT AT THE ELIGIBLE PROPERTY;

(2) REMAIN IN EFFECT IF THE NO ACTION LETTER IS OBTAINED THROUGH FRAUD OR A MATERIAL MISREPRESENTATION;

(3) PREVENT THE DEPARTMENT FROM REQUIRING A RESPONSIBLE PERSON TO TAKE FURTHER ACTION IF THE ELIGIBLE PROPERTY FAILS TO MEET THE APPLICABLE CLEANUP CRITERIA SET FORTH IN THE RESPONSE ACTION PLAN APPROVED BY THE DEPARTMENT;

(4) PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY PERSON WHO DOES NOT COMPLY WITH CONDITIONS ON THE PERMISSIBLE USE OF THE ELIGIBLE PROPERTY CONTAINED IN THE NO ACTION LETTER;

(5) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING NEW CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT;

(6) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST ANY PERSON CONCERNING PREVIOUSLY UNDISCOVERED CONTAMINATION AT AN ELIGIBLE PROPERTY AFTER A NO ACTION LETTER HAS BEEN ISSUED BY THE DEPARTMENT; OR

(7) AFFECT THE AUTHORITY OF THE DEPARTMENT TO TAKE ANY ACTION AGAINST A RESPONSIBLE PERSON IF THE LONG-TERM OPERATION AND MAINTENANCE SET FORTH IN THE APPROVED RESPONSE ACTION PLAN HAS NOT BEEN PERFORMED.

(D) A NO FURTHER ACTION LETTER OR A NO ACTION LETTER MAY BE TRANSFERRED TO ANY PERSON WHOSE ACTIONS DID NOT CAUSE THE CONTAMINATION.

(E) IF A NO FURTHER ACTION LETTER OR A NO ACTION LETTER IS CONDITIONED ON THE PERMISSIBLE USE OF THE PROPERTY FOR INDUSTRIAL OR

COMMERCIAL PURPOSES, THE APPLICANT SHALL RECORD THE LETTER IN THE LAND RECORDS OF THE LOCAL JURISDICTION WITHIN 30 DAYS AFTER RECEIVING THE LETTER.

(F) IF AN OWNER OF AN ELIGIBLE PROPERTY, THE PERMISSIBLE USES OF WHICH ARE LIMITED, WANTS TO CHANGE THE USE OF THE ELIGIBLE PROPERTY, THE OWNER IS RESPONSIBLE FOR THE COST OF CLEANING UP THE ELIGIBLE PROPERTY TO THE APPROPRIATE NUMERIC RISK-BASED STANDARD OR A STANDARD BASED ON A REVISED SITE-SPECIFIC RISK ASSESSMENT.

7-513.

(A) THE DEPARTMENT SHALL DEVELOP AND USE STANDARDIZED NOTICES OF ELIGIBILITY, ASSURANCE LETTERS, NO FURTHER ACTION LETTERS, NO ACTION LETTERS, AND WRITTEN AGREEMENTS.

(B) THE DEPARTMENT SHALL ESTABLISH CRITERIA FOR ENVIRONMENTAL SITE EVALUATIONS TO ASSESS ELIGIBLE PROPERTIES.

7-514.

(A) AFTER THE SUBMISSION OF A COMPLETED PROPOSED RESPONSE ACTION PLAN, THE APPLICANT SHALL PUBLISH A PROPOSED RESPONSE ACTION PLAN ONCE A WEEK FOR 2 CONSECUTIVE WEEKS IN A DAILY OR WEEKLY NEWSPAPER OF GENERAL CIRCULATION IN THE GEOGRAPHICAL AREA IN WHICH THE ELIGIBLE PROPERTY IS LOCATED.

(B) THE DEPARTMENT SHALL RECEIVE WRITTEN COMMENTS FROM THE PUBLIC FOR 30 DAYS AFTER PUBLICATION REQUIRED UNDER THIS SECTION.

7-515.

(A) THE PROVISIONS OF §§ 7-256 THROUGH 7-268 OF THIS TITLE SHALL BE USED

(Over)

AND SHALL APPLY TO ENFORCE VIOLATIONS OF:

(1) THIS SUBTITLE; OR

(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) A VIOLATION OF ANY WRITTEN AGREEMENT ENTERED INTO UNDER THIS SUBTITLE SHALL CONSTITUTE A VIOLATION OF THIS SUBTITLE.

7-516.

(A) THE DEPARTMENT SHALL APPOINT A PERSON TO SERVE AS AN ENVIRONMENTAL LIAISON FOR THE VOLUNTARY CLEANUP PROGRAM.

(B) THE ENVIRONMENTAL LIAISON SHALL:

(1) ENCOURAGE COORDINATION AMONG FEDERAL, STATE, AND LOCAL JURISDICTIONS CONCERNING ENVIRONMENTAL AND FINANCIAL ISSUES AFFECTING ELIGIBLE PROPERTIES; AND

(2) COORDINATE AND PROVIDE INFORMATION ON FINANCING OPPORTUNITIES THAT ARE AVAILABLE TO ADDRESS ENVIRONMENTAL CONCERNS AND REDEVELOP ELIGIBLE PROPERTIES.

7-517.

(A) (1) THIS SECTION APPLIES TO AN ELIGIBLE PROPERTY FOR WHICH THE DEPARTMENT HAS ISSUED A NOTICE OF COMPLETED APPLICATION UNDER § 7-505(D)(1) OF THIS SUBTITLE.

(2) NOTWITHSTANDING § 7-201(X) OF THIS TITLE AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A BANK, AN AFFILIATE OR SUBSIDIARY OF A BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION MAY NOT BE DEEMED TO BE A RESPONSIBLE PERSON AS DEFINED UNDER SUBTITLE

2 OF THIS TITLE, AS THE RESULT OF AN ACTION TAKEN AFTER NOTIFICATION TO THE DEPARTMENT:

(I) TO CONTAIN, STABILIZE, OR REMOVE HAZARDOUS SUBSTANCES FOR THE PURPOSE OF PROTECTING OR SECURING THE ELIGIBLE PROPERTY OR PROPERTY LOCATED ON THE ELIGIBLE PROPERTY IN THE COURSE OF THE VOLUNTARY CLEANUP PROJECT INCLUDING ANY LONG-TERM OPERATION AND MAINTENANCE REQUIRED BY THE RESPONSE ACTION PLAN; OR

(II) TO COMPLETE A RESPONSE ACTION PLAN.

(B) A BANK, AN AFFILIATE OR SUBSIDIARY OF A BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION SHALL BE A RESPONSIBLE PERSON AND MAY BE LIABLE UNDER SUBTITLE 2 OF THIS TITLE SOLELY FOR CONTAMINATION THAT THE BANK, THE AFFILIATE OR SUBSIDIARY OF THE BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION CAUSES ON THE ELIGIBLE PROPERTY.

(C) A STATE, COUNTY, OR MUNICIPAL CORPORATION SHALL BE LIABLE UNDER SUBSECTION (B) OF THIS SECTION, ONLY IF THE STATE, COUNTY, OR MUNICIPAL CORPORATION IS ALSO LIABLE UNDER § 7-201(X)(VII) OF THIS TITLE.

7-518.

(A) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

(B) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, ANY TORT ACTION FOR PERSONAL INJURY AGAINST ANY APPLICANT.

(C) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, AN APPLICANT WHO IS NOT A RESPONSIBLE PERSON FROM SEEKING

(Over)

COST RECOVERY AGAINST A RESPONSIBLE PERSON.

Article 83A - Department of Business and Economic Development

SUBTITLE 9. BROWNFIELDS REVITALIZATION PROGRAM.

3-901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "BROWNFIELDS SITE" MEANS:

(I) AN ELIGIBLE PROPERTY, AS DEFINED IN § 7-501 OF THE ENVIRONMENT ARTICLE; OR

(II) PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR THREATENED RELEASE OF OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.

(2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS OWNED OR OPERATED BY A RESPONSIBLE PERSON THAT CAUSED CONTAMINATION ON THE PROPERTY.

(C) "RESPONSIBLE PERSON" HAS THE MEANING STATED IN § 7-201 OF THE ENVIRONMENT ARTICLE.

3-902.

(A) THERE IS A BROWNFIELDS REVITALIZATION PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE BROWNFIELDS REVITALIZATION PROGRAM IS TO:

(1) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF

PROPERTIES PREVIOUSLY USED FOR COMMERCIAL OR INDUSTRIAL PURPOSES;

(2) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF PROPERTIES WITHIN LOCALLY DESIGNATED GROWTH AREAS;

(3) PREVENT URBAN SPRAWL;

(4) ENCOURAGE ECONOMIC REVITALIZATION;

(5) EXPAND EMPLOYMENT OPPORTUNITIES; AND

(6) PROVIDE FINANCIAL INCENTIVES FOR LISTED BROWNFIELDS SITES.

3-903.

(A) (1) BY OCTOBER 1, 1997, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL PUBLISH A LIST OF BROWNFIELDS SITES THAT QUALIFY FOR FINANCIAL INCENTIVES.

(2) THE DEPARTMENT MAY SELECT BROWNFIELDS SITES BASED ON THE LOCATION OF THE SITE IN:

(I) A FINANCIALLY DISTRESSED URBAN AREA;

(II) A LOCALLY DESIGNATED GROWTH AREA; OR

(III) A RURAL AREA NOT ON PUBLIC WATER.

(3) THE DEPARTMENT MAY CONSIDER THE FOLLOWING CRITERIA WHEN SELECTING A BROWNFIELDS SITE:

(I) THE FEASIBILITY OF REDEVELOPMENT;

(Over)

(II) THE PUBLIC BENEFIT PROVIDED TO THE COMMUNITY AND THE STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

(III) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR OTHER ECONOMIC BASE-TYPE EMPLOYERS;

(IV) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT RESPONSIBLE PERSONS; OR

(V) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO ECONOMIC DEVELOPMENT.

(B) DURING THE COURSE OF EVALUATING POTENTIAL BROWNFIELDS SITES, THE DEPARTMENT SHALL CONSULT WITH:

(1) RELEVANT STATE AND LOCAL OFFICIALS;

(2) THE NEIGHBORING COMMUNITY AND ANY CITIZEN GROUPS LOCATED IN THE COMMUNITY;

(3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL ORGANIZATIONS;

(4) PUBLIC HEALTH EXPERTS; AND

(5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

(C) (1) THE DEPARTMENT SHALL PUBLISH A FINAL LIST OF BROWNFIELDS SITES IN THE MARYLAND REGISTER.

(2) AT LEAST ANNUALLY, THE DEPARTMENT SHALL UPDATE THE FINAL LIST BY ADDING OR DELETING BROWNFIELDS SITES AS APPROPRIATE.

(3) THE FINAL LIST MAY NOT CONTAIN MORE THAN 125 SITES DURING A 12-MONTH PERIOD.

(D) (1) THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL INCENTIVES, INCLUDING LOW-INTEREST LOANS AND GRANTS, TO ASSIST PERSONS WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION PROGRAM.

(2) ANY BROWNFIELDS SITE ON THE FINAL LIST SHALL BE GIVEN PRIORITY FOR FINANCIAL INCENTIVES.

(E) THE FINAL LIST OF BROWNFIELDS SITES IS NOT SUBJECT TO JUDICIAL REVIEW UNDER THIS ARTICLE OR ANY OTHER PROVISION IN LAW.

3-904.

THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS AFFECTING, THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

Article - Tax - Property

9-109.

(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BROWNFIELDS SITE" HAS THE MEANING STATED IN ARTICLE 83A, § 3-901(B) OF THE CODE.

(C) "TAXING JURISDICTION" MEANS:

(1) THE STATE;

(2) A COUNTY OR BALTIMORE CITY; OR

(Over)

(3) A MUNICIPAL CORPORATION.

(D) FOR EACH OF THE 5 TAXABLE YEARS IMMEDIATELY FOLLOWING THE FIRST REVALUATION OF THE PROPERTY AFTER COMPLETION OF A VOLUNTARY CLEANUP OF A BROWNFIELDS SITE, EACH TAXING JURISDICTION WHERE A BROWNFIELDS SITE IS LOCATED SHALL:

(1) GRANT A PROPERTY TAX CREDIT AGAINST THE PROPERTY TAX IMPOSED ON THE BROWNFIELDS SITE IN AN AMOUNT EQUAL TO 50% OF THE PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, OVER THE ASSESSMENT OF THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, BEFORE THE VOLUNTARY CLEANUP; AND

(2) CONTRIBUTE TO THE VOLUNTARY CLEANUP FUND ESTABLISHED UNDER § 7-503 OF THE ENVIRONMENT ARTICLE 30% OF THE PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, OVER THE ASSESSMENT OF THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, BEFORE THE VOLUNTARY CLEANUP.

(E) A TAXING JURISDICTION MAY GRANT A PROPERTY TAX CREDIT UP TO AN ADDITIONAL 20% OF THE REMAINING PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE BROWNFIELDS SITE INCLUDING IMPROVEMENTS ADDED TO THE SITE OVER THE ASSESSMENT OF THE BROWNFIELDS SITE BEFORE THE VOLUNTARY CLEANUP.

(F) (1) A CREDIT UNDER THIS SECTION MAY NOT BE CALCULATED ON AN INCREASE IN ASSESSMENT DUE TO THE TERMINATION OF A USE VALUE UNDER §§ 8-209 THROUGH 8-217 OR §§ 8-220 THROUGH 8-225 OF THIS ARTICLE.

(2) IF THE BROWNFIELDS SITE ON WHICH THE VOLUNTARY CLEANUP IS COMPLETED HAD A USE VALUE IMMEDIATELY BEFORE THE CLEANUP, THE CREDIT SHALL BE CALCULATED ON AN ASSESSMENT AS IF THE PARCEL HAD BEEN VALUED AT MARKET VALUE.

(G) IN A DESIGNATED ENTERPRISE ZONE, THE STATE OR A TAXING JURISDICTION MAY EXTEND THE TAX CREDIT AUTHORIZED UNDER THIS SECTION UP TO AN ADDITIONAL 5 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment, on or before July 1, 2000, shall report to the Governor and, subject to § 2-1312 of the State Government Article, to the General Assembly on the status of the Voluntary Cleanup Program established under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the Environment shall report to the General Assembly on or before November 30, 1997 on the reasonableness of the fees and the use of the Voluntary Cleanup Fund established by this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Subtitle 5 of the Environment Article does not affect, and may not be construed as affecting, any civil action pending against any applicant in the Voluntary Cleanup Program on the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1996.”.